

**Human Rights Council – Universal Periodic Review
18th session, January-February 2014**

**Contribution by Reporters without Borders, an NGO with special consultative status,
concerning media freedom in Chile**

Overview of media freedom

Ranked 60th in the Reporters Without Borders World Press Freedom Index 2013¹, Chile is characterized by excessive concentration of media ownership, and consequently a marked lack of pluralism. About 95 percent of all print titles are in the hands of two privately-owned communications groups, *El Mercurio* and *Copesa*. Under a system set up during the dictatorship, these are the sole recipients of government subsidies worth a total of \$5 million a year, at the expense of independent media organizations.

Similarly, nearly 60 percent of radio stations are owned by the privately-owned Spanish group *Prisa*. Consequently independent media outlets such as community radio stations struggle to survive economically since no legal framework exists to ensure balance between the different types of broadcast media.

Community media are also criminalized under article 36B of the General Telecommunications Law No. 18.168, passed in 1982 during the dictatorship. This provides for fines and imprisonment for broadcasting without a legal frequency. Using this article, the equipment of the station *Radio Vecina* was seized and its representative **Víctor Díaz** was arrested in Collipulli in the Araucanía region last August.

Apart from having to contend with a legal system that is detrimental to freedom of information and criminalizes press offences such as defamation, journalists covering protests and demonstrations are regularly victims of police abuse. Many cases of assault and arbitrary arrests by law enforcement officers have been recorded during the student protests that have been in the news since 2011. Although brief, during such detentions equipment is often destroyed, which amounts to censorship.

Similarly, several journalists covering the protest movement in the Aysén region suffered violence at the hands of the police last year. In the light of the violence, Reporters Without Borders is concerned about the consequences of the application of the State Security Law, enacted during 1973-1990 dictatorship and unchanged since. Similarly, the 1984 Anti-Terrorism Law, which has been used against Chilean and foreign journalists in the region, is a cause for concern.

Finally, the coverage of some subjects such as human rights violations during the dictatorship or the struggle of the Mapuche Indians remains sensitive. Several journalists who have investigated the dictatorship, such as **Mauricio Weibel Barahona**, have been subjected to harassment, robberies and threats.

¹ <http://en.rsf.org/press-freedom-index-2013,1054.html>

Freedom to distribute information via the Internet

The Internet provides a free platform for the distribution of alternative information, providing an antidote to the excessive concentration of traditional outlets such as print media, radio and television.

Chile was the first country to have the principle of net neutrality written into law (Law No. 20453, enacted 18 August 2010), amending several articles of the General Telecommunications Law. This principle sets out a series of guarantees and obligations for Internet users and service providers. The latter are required to avoid discrimination regarding the source, destination or content of any information sent over the network. It guarantees users' privacy and bans the arbitrary blocking of access to any content or service.

However, the free flow of information is restricted since Internet access is not yet universal. As things stand, fewer than half the homes in Chile had a computer in 2011, according to the latest socio-economic survey by the ministry of social development.

Steps taken by the government to improve the situation

In order to establish greater balance among the various types of broadcasters, Law No. 20.433 regulating community and citizens' radio stations was enacted in April 2010. It was designed to allow community stations with a weak signal to boost their broadcasting capacity by the transfer or reassignment of some frequencies. However, this process came to a halt last August when the *Prisa* group refused to sign an agreement to this effect drawn up by the telecoms regulator Subtel. Law No. 20.433 thus has never been implemented.

Co-operation with NGOs

The Chilean government co-operates on an ad-hoc basis with some NGOs but overall pays little heed to the demands of these organizations.

Recommendations

- Reporters Without Borders urges Chile to enact new legislation to create a balance among different broadcasting outlets and to promote genuine information pluralism. To this end:

- Law No. 20.433 regulating citizens' and community radio stations should be implemented, which means the 2012 Subtel agreement on the transfer or re-assignment of some frequencies should also be applied.
- The system of government subsidies, from which only two communications groups benefit, should be completely revamped to allow independent media outlets to receive aid that is essential for their survival.
- Article 36B of the General Telecommunications Law No. 18.168, which criminalizes community broadcasters, must be rescinded.

- The organization calls on the Chilean government to decriminalize press offences, defamation in particular.

- Reporters Without Borders urges law enforcement bodies to respect both the work and the physical integrity of journalists during popular protests. Media staff must be allowed access to locations, to shoot film, to take photos and to interview those taking part without being subjected to violence or arbitrary detention.

- It is the responsibility of the interior ministry to ensure law enforcement officers treat journalists correctly and, if necessary, to punish those responsible for abuses by introducing systematic prosecutions and establishing penal and disciplinary sanctions for those who assault journalists or violate the right to information. Reporters Without Borders calls on Chile, therefore, to apply the recommendation on the subject² in the previous Universal Periodic Review in 2009, to which it has agreed.
- A system should be put in place for the indemnification of medical costs incurred as a result of violence against journalists and for costs of equipment seized or destroyed by law enforcement officers.
- Reporters Without Borders calls on the Chilean authorities to guarantee the safety of journalists who investigate sensitive subjects such as human rights violations during the dictatorship.
- Reporters Without Borders urges the authorities to limit the scope of the 1984 Anti-Terrorist Law, which has been used abusively against Chilean and foreign journalists in the Araucania region. The organization appeals to Chile to apply the recommendation in this respect³ to which it agreed at the previous Universal Periodic Review session in 2009.
- The organization reaffirms the need for Chile to accept and implement the recommendation made in 2009 concerning the need to “*fully investigate the alleged cases of arrest and deportation of journalists and filmmakers depicting the problems of the Mapuche people*”.

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² Recommendation No. 42 : Strengthen accountability for abuses by the police and ensure that civilian authorities investigate, prosecute and try human rights abuses by police (Netherlands).

³ Recommendation No. 70 : Take the necessary measures to prevent outlawing or penalizing legitimate and peaceful activities or social demands by indigenous organizations and peoples and reinforce the notion that the Anti-Terrorism Act is to be applied only within its scope and not to acts related to non-violent claims of indigenous peoples, taking into account the recommendations of the Human Rights Committee (Netherlands).