

LESSONS FROM LATIN AMERICA ON PRESS FREEDOM

Key findings from the Inter American Press Association's visit to Washington, D.C.

**REPORTERS
COMMITTEE**
FOR FREEDOM OF THE PRESS



Washington, D.C. • October 2018

Introduction

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As journalists in the United States have experienced an onslaught of verbal attacks and hostility from politicians in recent years, journalists in Latin America have taken notice. These tactics are all too familiar to them and raise alarm bells coming from the home of the First Amendment. The U.S. has historically served as a beacon of free speech and free press rights for the rest of the hemisphere, if not the world. But at a conference last fall in Salt Lake City, the Inter American Press Association (IAPA)—a Miami-based nonprofit dedicated to press freedom and free expression in the Americas—resolved to send a delegation to Washington, D.C.,¹ to express concerns with U.S. authorities about the state of press freedoms in this country.

The delegation came to D.C. in early February 2018 and included prominent journalists from Argentina, Mexico, Peru, Venezuela, and the U.S.² They met with members of Congress and their staff,³ current and former members of the executive branch,⁴ a federal appeals court judge, and several academics and journalists.⁵ The delegation sought to learn about the state of press freedom in the U.S. and to offer their perspectives, based on their experiences abroad with press censorship. The Reporters Committee for Freedom of the Press hosted the delegation and helped facilitate these meetings. This report summarizes the delegation's findings and insights.⁶

¹ IAPA resolution, 73rd Gen. Assembly (Oct. 27-30, 2017), <https://en.sipiapa.org/notas/1211870-united-states>; Bruce D. Brown, *America Is No Longer the Standard Bearer for a Free Press*, TIME (Feb. 5, 2018), <http://time.com/5133507/press-freedom-united-states/>.

² IAPA President Gustavo Mohme, publisher of *La Republica* in Lima, Peru, led the delegation. He was joined by Marcel Granier, president and CEO of RCTV in Venezuela; Anders Gyllenhaal, senior editor and director of leadership at McClatchy and past editor of *The Miami Herald*; Marcela Noble Herrera, co-owner of the media conglomerate Clarín Group in Argentina; Roberto Rock, editor of *La Silla Rota*, a news outlet that focuses on Mexican politics; and Ricardo Trotti, executive director of IAPA and former editor-in-chief of *El Liberal*, a newspaper in Argentina.

³ This included Senator Amy Klobuchar and staffers for Senators Richard Blumenthal, Jeff Flake, Marco Rubio, and Congressman Adam Schiff.

⁴ This included FCC Commissioner Jessica Rosenworcel and Bill Baer, currently a partner at Arnold & Porter and formerly Assistant Attorney General in charge of the Antitrust Division at the Justice Department.

⁵ Specifically, the delegation met with the Honorable David S. Tatel from the U.S. Court of Appeals for the D.C. Circuit; Charles Lewis, a professor at American University, investigative journalist, and founder of two Pulitzer Prize-winning nonprofit news organizations; Marvin Kalb, an author, journalist, founding director of the Shorenstein Center, and professor emeritus at Harvard Kennedy School of Government; Charlie Savage, a reporter for the *New York Times* and RCFP board member; and multiple journalists and executives at CNN, including RCFP board member Wolf Blitzer and Ramon Escobar. The delegation also met with Luis Almagro, Secretary General of the Organization of American States.

⁶ IAPA also issued a preliminary report and press release. *Preliminary Report – IAPA Mission in Washington*, IAPA, Feb. 8, 2018, <https://en.sipiapa.org/notas/1212072-preliminary-report-iapa-mission-in-washington>.

The Delegation's Findings

The IAPA delegates' meetings with current and former government officials, academics, and journalists in D.C., as well as their experiences in Latin America, set forth below, informed these findings.

1. Unprecedented verbal attacks

The U.S. news media has come under relentless verbal attacks from prominent politicians, most notably President Donald Trump, in response to news coverage of the Trump campaign's alleged ties to Russia and other stories he perceives as unfavorable or unfair. Trump has routinely sought to delegitimize the free press with epithets like “fake news,” “sick people,”⁷ the “enemy of the people,”⁸ “our country's biggest enemy,”⁹ and “almost treasonous.”¹⁰ He has even told the public that “what you're seeing and what you're reading is not what's happening,” prompting comparisons to George Orwell's dystopian novel *1984*.¹¹ As Charles Lewis, a prominent investigative journalist and professor at American University told the delegation, “there is no precedent in U.S. history for this level” of verbal attacks. “The excess of his statements is alarming.” This rhetoric has had an impact.

According to a recent Quinnipiac University poll, 26% of American voters—and 51% of Republicans—described the media as the enemy of the people, though 65% recognized that the news media is an important part of democracy.¹² Journalists told the delegation that Trump's rhetoric has had a global impact that is very disturbing. For example, after CNN exposed slavery in Libya last fall, Libyan media tried to discredit the report by pointing to Trump's claim that CNN is “fake news.”¹³

⁷ Daniel Victor, *Trump Calling Journalists “Sick People,” Puts Media on Edge*, *N.Y. Times* (Aug. 23, 2017), <https://www.nytimes.com/2017/08/23/business/media/trump-rally-media-attack.html>.

⁸ Trump calls “fake news” the “enemy of the people,” *U.S. Press Freedom Tracker* (Feb. 24, 2017), <https://pressfreedomtracker.us/all-incidents/trump-calls-fake-news-enemy-people/>.

⁹ @realDonaldTrump (Jun. 13, 2018, 6:30am), <https://twitter.com/realDonaldTrump/status/1006891643985854464>.

¹⁰ D.A. Banks, *Watch: Trump Says News Media “Almost Treasonous” for North Korea Deal Coverage*, *Roll Call* (Jun. 21, 2018), https://www.rollcall.com/video/watch_trump_says_news_media_almost_treasonous_for_north_korea_deal_coverage.

¹¹ Mahita Gajanan, “What You're Seeing... Is Not What's Happening.” *People Are Comparing This Trump Quote to George Orwell*, *TIME* (July 24, 2018), <http://time.com/5347737/trump-quote-george-orwell-vfw-speech/>.

¹² *U.S. Voters Dislike Trump Almost 2-1, Quinnipiac University National Poll Finds; Media Is Important To Democracy, 65% of Voters Say*, *Quinnipiac University Poll* (Aug. 14, 2018), <https://poll.qu.edu/national/release-detail?ReleaseID=2561>.

¹³ Patrick Wintour, “Fake news”: Libya seizes on Trump tweet to discredit CNN slavery report, *The Guardian* (Nov. 28, 2017), <https://www.theguardian.com/world/2017/nov/28/libya-slave-trade-cnn-report-trump-fake-news>.

2. Creeping authoritarianism

As Venezuela’s and Ecuador’s recent history (described below) demonstrates, verbal attacks on the press are often a prelude to a shift away from democratic norms. Marvin Kalb, a journalist, author, and founding director of the Shorenstein Center on Media, Politics, and Public Policy at Harvard University, told the delegation that he views Trump’s anti-press rhetoric as a sign of “creeping authoritarianism.” Kalb pointed to polls showing that only 41% of Americans trust the press¹⁴ and noted that “if Trump succeeds in poisoning the well and making enough people question the press, then the concept of freedom of the press loses its meaning.” If truth is unknowable, the public cannot hold politicians accountable. Kalb posited that the country is currently in a critical transition period, and it is important for the press and public to stand up and challenge these attacks. On August 16, more than 350 news outlets across the country published editorials denouncing the president’s attacks and affirming the value of a free press.¹⁵ *The New York Times*’ editorial read: “insisting that truths you don’t like are ‘fake news’ is dangerous to the lifeblood of democracy. And calling journalists the ‘enemy of the people’ is dangerous, period.”¹⁶

3. Surveillance of journalists

In June, the public learned that federal law enforcement had seized years’ worth of emails and phone records from a *New York Times* journalist without her knowledge or consent.¹⁷ This seizure occurred not long after she broke a story about former Trump campaign advisor Carter Page’s ties to the Kremlin. This is the first known seizure of a reporter’s records by the Trump administration. Charlie Savage, a *New York Times* reporter and Reporters Committee board member, told the delegation that leak investigations are particularly suspect because they can be used as a “backdoor attack” on a particular reporter. Journalists could face greater surveillance in the future, as the Justice Department said it has tripled the number of leak investigations from the previous administration.¹⁸

¹⁴ Art Swift, *Democrats’ Confidence in Mass Media Rises Sharply From 2016*, Gallup (Sept. 21, 2017), <https://news.gallup.com/poll/219824/democrats-confidence-mass-media-rises-sharply-2016.aspx>.

¹⁵ JOURNALISTS ARE NOT THE ENEMY, *Bos. Globe* editorial (Aug. 16, 2018), <http://apps.bostonglobe.com/opinion/graphics/2018/08/freepress/>.

¹⁶ A FREE PRESS NEEDS YOU, *N.Y. Times* editorial (Aug. 15, 2018), <https://www.nytimes.com/interactive/2018/08/15/opinion/editorials/free-press-local-journalism-news-donald-trump.html>.

¹⁷ Gabe Rottman, *Everything we know about the Trump Administration’s first records seizure from a reporter*, RCFP (Aug. 9, 2018), <https://www.rcfp.org/browse-media-law-resources/news/everything-we-know-about-trump-administrations-first-records-seizure>.

¹⁸ Matt Apuzzo & Nicholas Fandos, *Jeff Sessions Denies Lying to Congress on Contacts With Russia*, *N.Y. Times* (Nov. 14, 2017), <https://www.nytimes.com/2017/11/14/us/politics/sessions-russia-trump-putin-judiciary-hearing.html>.

4. Threats to physical safety

In June, a shooting occurred at the *Capital Gazette*, a newspaper in Annapolis, Maryland, killing four journalists and a sales assistant. Although there are no known links to Trump's anti-press rhetoric, the shooting has put journalists on edge and prompted news organizations to provide increased security for their reporters at Trump rallies.¹⁹ As the president has continued to attack the media, reporters have increasingly received threats of violence, particularly when they publish critical stories about Trump or he targets them on Twitter.²⁰ After the *Boston Globe* announced it would coordinate an editorial response to political attacks on the media, it began receiving calls from a California man who threatened to kill "every" *Globe* employee and called the newspaper "the enemy of the people."²¹ Multiple journalists advised the delegation that they felt Trump's attacks have emboldened members of the public to make such threats, pointing to recent threats made against CNN.²² Savage told the delegation that he believes Trump's rhetoric has created a dangerous climate, increasing the risk that someone will assault journalists.

5. Financial woes

Although a handful of national outlets like *The New York Times* and *Washington Post* have seen a "Trump bump" in their subscriber bases since Trump's election in 2016,²³ local newspapers continue to face an existential financial crisis. As Lewis noted, state-level journalism was "debilitated" and "anemic" even before Trump's attacks, with the loss of hundreds of newspapers and 35,000 newsroom employees since 2006.²⁴ As Knight Foundation CEO Alberto Ibargüen explained, this "threat to local news is rooted in the collapse of the ad-based

¹⁹ Jason Schwartz, *Media boost security as Trump ramps up "enemy" rhetoric*, POLITICO (Aug. 9, 2018),

<https://www.politico.com/story/2018/08/09/media-boosts-security-as-trump-ramps-up-enemy-rhetoric-768666>.

²⁰ Mark Follman, *Trump's "Enemy of the People" Rhetoric is Endangering Journalists' Lives*, Mother Jones (Sept. 13, 2018),

<https://www.motherjones.com/politics/2018/09/trump-enemy-of-the-people-media-threats/>; Michael Calderone, *Journalists reveal threats amid*

"enemy" talk, POLITICO (Aug. 6, 2018), [https://www.politico.com/media/newsletters/morning-media/2018/08/06/journalists-reveal-threats-](https://www.politico.com/media/newsletters/morning-media/2018/08/06/journalists-reveal-threats-wapo-trump-book-remembering-lenfest-001579)

[wapo-trump-book-remembering-lenfest-001579](https://www.rcfp.org/sites/default/files/docs/20180403_100407_press_freedoms_in_the_us_2017.pdf); Sarah Matthews, *Press Freedoms in the United States 2017*, RCFP (Mar. 2018) at 17,

https://www.rcfp.org/sites/default/files/docs/20180403_100407_press_freedoms_in_the_us_2017.pdf.

²¹ Adam Goldman, *F.B.I. Arrests California Man After Threats to Kill Boston Globe Employees*, N.Y. Times (Aug. 30, 2018),

<https://www.nytimes.com/2018/08/30/us/politics/fbi-threat-boston-globe.html>.

²² Kyle Swenson, "Fake news. I'm coming to gun you all down": Mich. Man accused of making threatening calls to CNN, Wash. Post (Jan. 23, 2018),

https://www.washingtonpost.com/news/morning-mix/wp/2018/01/23/fake-news-im-coming-to-gun-you-all-down-mich-man-arrested-for-threatening-to-attack-cnn-hosts/?utm_term=.b2b25d8d4239.

²³ Ken Doctor, *The Times subscriber bump and the "Trump Effect"*, POLITICO (Nov. 23, 2016), <https://www.politico.com/media/story/2016/11/the-times-subscriber-bump-and-the-trump-effect-004865>.

²⁴ Charles Lewis, *The pace of nonprofit media growth is picking up*, The Conversation (July 11, 2018), <https://theconversation.com/the-pace-of-nonprofit-media-growth-is-picking-up-98376>.

business model that sustained local news for more than a century.”²⁵ According to Lewis, a proliferation of nonprofit news organizations has sought to fill the gap, growing from a handful of organizations to hundreds in recent years, but even these efforts are not enough.

6. Media mergers

As Argentina’s recent history (discussed below) demonstrates, government actors can easily repurpose antitrust laws to punish or pressure specific news organizations. In fact, Oval Office tape recordings from the early 1970s showed that President Richard Nixon plotted to use the threat of an antitrust suit against the big three television networks—ABC, CBS, and NBC—to extort favorable coverage.²⁶

Given this backdrop, some have questioned the Trump administration’s motives in opposing a deal between AT&T and Time Warner—the parent company of Trump’s frequent target in the press, CNN—while favoring a deal between pro-Trump media giant Sinclair Broadcast Group and Tribune Media.²⁷ Trump’s Justice Department sued to block the AT&T merger, while the Federal Communications Commission (FCC) initially made moves to aid Sinclair’s expansion.²⁸

Even if these actions were politically motivated, however, the regulatory and legal systems can provide important checks. An independent judge ultimately decided the legality of the AT&T merger, approving the deal after a six-week trial, though not permitting discovery into the Justice Department’s motives for bringing the suit.²⁹ The Justice Department appealed this decision, and the Reporters Committee filed a friend-of-the-court brief in September asking the appellate court to clarify that discovery is available in cases involving threats to press freedom.³⁰ In July, the FCC cited evidence indicating that Sinclair may have tried to skirt

²⁵ Alberto Ibarquén, *Support local news – it’s crucial to our lives and our democracy*, *Miami Herald* (July 3, 2018), <https://www.miamiherald.com/opinion/op-ed/article214283974.html>.

²⁶ Walter Pincus & George Lardner, Jr., *Nixon Hoped Antitrust Threat Would Sway Network Coverage*, *Wash. Post* (Dec. 1, 1997), <https://www.washingtonpost.com/wp-srv/national/longterm/nixon/120197tapes.htm>.

²⁷ Matthews, *supra*, at 14–15.

²⁸ Margaret Harding McGill & John Hendel, *How Trump’s FCC aided Sinclair’s expansion*, *POLITICO* (Aug. 6, 2017), <https://www.politico.com/story/2017/08/06/trump-fcc-sinclair-broadcast-expansion-241337>.

²⁹ Cecilia Kang, Edmund Lee, & Emily Cochrane, *AT&T Wins Approval for \$85.4 Billion Time Warner Deal in Defeat for Justice Dept.*, *N.Y. Times* (June 12, 2018), <https://www.nytimes.com/2018/06/12/business/dealbook/att-time-warner-ruling-antitrust-case.html>; RCFP Amicus Br., *United States v. AT&T*, No. 18-5214 (D.C. Cir. filed Sept. 27, 2018), <https://www.rcfp.org/sites/default/files/RCFP%20AT&T%20Amicus%20Brief.pdf>.

³⁰ RCFP Amicus Br., *United States v. AT&T*, No. 18-5214 (D.C. Cir. filed Sept. 27, 2018), <https://www.rcfp.org/sites/default/files/RCFP%20AT&T%20Amicus%20Brief.pdf>; Ted Johnson, *Justice Department to Appeal AT&T-Time Warner Decision*, *VARIETY* (July 12, 2018), <https://variety.com/2018/politics/news/justice-department-appeal-att-time-warner-decision-1202872023/>.

government restrictions on media ownership by divesting certain key stations in name only.³¹ The agency took steps to block the Sinclair merger, despite criticism from Trump, and the deal fell apart.³² FCC Commissioner Jessica Rosenworcel explained to the delegation that the agency's regulatory authority must not be used as a political tool to interfere with a free press and she believes that the FCC would not deny a license renewal for political reasons or in response to a station's editorial content.

7. Constitutional and institutional safeguards

Despite the adversity facing the news media, the First Amendment creates a powerful check on any attempts to regulate or limit the free press, and the judiciary safeguards these rights. The delegation met with a federal judge, the Honorable David S. Tatel on the U.S. Court of Appeals for the D.C. Circuit, who pointed to two features of the country's system of judicial independence and constitutional governance. First, federal judges are appointed for life, which insulates them from the political process. Second, the courts have the power to declare federal law unconstitutional. Thus, the courts are not only independent, but they also have the authority to ensure that the laws the legislature passes are constitutional.

As Savage noted, Trump has criticized judges but continued to obey them, and "the judiciary is withstanding the assault." In addition, the principles of free speech and a free press are deeply ingrained in U.S. culture and upheld by legislators from both parties, such as Senators Richard Blumenthal (D-CT), Jeff Flake (R-AZ), Amy Klobuchar (D-MN), Marco Rubio (R-FL), and Representative Adam Schiff (D-CA), who reaffirmed these commitments to the delegation (either directly or through staff). Senator Klobuchar told the delegation that she will continue to press Attorney General Jeff Sessions to commit to not putting reporters in jail for doing their jobs.

³¹ Brian Fung & Tony Romm, *FCC chairman has "serious concerns" about the Sinclair-Tribune merger and could see to block the deal*, Wash. Post (July 16, 2018), https://www.washingtonpost.com/technology/2018/07/16/fcc-chairman-has-serious-concerns-about-sinclair-tribune-merger-could-see-block-deal/?utm_term=.083097c6c8f7.

³² Tony Romm & Brian Fung, *Trump criticizes FCC for moving to block Sinclair-Tribune merger*, Wash. Post (July 25, 2018), https://www.washingtonpost.com/technology/2018/07/25/trump-criticizes-fcc-moving-block-sinclair-tribune-merger/?utm_term=.dea5e5f734d2.

8. A vigorous press

Argentina’s “media war” between the Clarín Group and the Kirchners (discussed below) demonstrates the importance of a vigorous press to hold government accountable, particularly when authoritarian leaders are in office. Multiple journalists told the delegation that they recognize the importance of their work at this critical time in the nation’s history, and it has inspired and reinvigorated them. Indeed, the U.S. has a robust, diverse, and independent news media that has continued to fulfill its duty of informing the public about government misconduct, despite adversity.

Throughout 2017, for example, *The Washington Post* and *The New York Times* broke numerous stories “that dramatically furthered the nation’s understanding of Russian interference in the 2016 presidential election and its connections to the Trump campaign, the President-elect’s transition team and his eventual administration.”³³ This coverage led to the appointment of special counsel Robert Mueller, who has overseen an ongoing investigation into the matter.

Lessons from Latin America

Throughout their meetings in D.C., the IAPA delegates pointed to Latin America’s history for perspective on the dangers of anti-press rhetoric and government retaliation. Some of these insights are highlighted below.

A government’s verbal attacks on the press may be a harbinger of more serious attacks on press freedom.

IAPA President Gustavo Mohme explained that in some Latin American countries, “verbal threats on the media are often a prelude to more serious attacks and targeting of journalists, who may be jailed or even killed.” Verbal aggression by government officials, even democratically elected ones, can lead to real consequences for the media, such as the enactment of laws targeting the press and self-censorship out of fear of government retaliation.

³³ This coverage won a Pulitzer Prize for National Reporting in 2018. See <http://www.pulitzer.org/winners/staffs-new-york-times-and-washington-post>.

In **Ecuador**, for example, the democratically elected former president Rafael Correa began by verbally attacking the media and later adopted incredibly repressive legal measures aimed at censoring the press. Although Correa took office in January 2007 with substantial support from Ecuador’s mainstream news media, he quickly took an adversarial stance against the press after vowing to fight what he deemed Ecuador’s corrupt elite.³⁴ He called his critics in the press “ignorant,” “trash talking,” “liars,” “unethical,” “mediocre,” “ink-stained hit men,” and “political actors who are trying to oppose the revolutionary government.”³⁵

During his ten years in office, Correa turned Ecuador into “one of the hemisphere’s most restrictive nations for the press.”³⁶ He used criminal defamation laws to silence his critics, smear campaigns to delegitimize them, and ballot measures to restrict news content and media ownership.³⁷ He expanded state media from a single radio network to an extensive operation of several television stations, radio stations, newspapers, magazines, and a news agency, and then used these outlets to discredit journalists who opposed his policies.³⁸ Correa also repeatedly forced broadcasters to air lengthy government rebuttals to critical news reports and frequently pre-empted broadcast programming nationwide for his presidential addresses.³⁹ In 2013, Ecuador adopted a communications law that granted the government significant powers to regulate and censor independent news outlets and punish them for coverage that officials deemed incomplete, inaccurate, or damaging to their reputations.⁴⁰ The law even criminalized the failure to cover events of “public interest,” as defined by the government.⁴¹ This led to hundreds of lawsuits and hefty fines against news organizations, police raids of newsrooms, publications being shut down, and at least one journalist being forced into exile.⁴²

Also in 2013, Correa issued a presidential decree that empowered the government to shut down NGOs if it determined that they had “move[d] away from the objectives for which [they

³⁴ Carlos Lauria, *Confrontation, repression in Correa’s Ecuador*, CPJ (Sep. 1, 2011), <https://cpj.org/reports/2011/09/confrontation-repression-correa-ecuador.php>.

³⁵ Lauria, *supra*; Joel Simon, *What does Trump have in common with Hugo Chavez? A media strategy*, CJR (Feb. 17, 2017), <https://www.cjr.org/opinion/trump-chavez-media.php>.

³⁶ Lauria, *supra*.

³⁷ Lauria, *supra*.

³⁸ Lauria, *supra*.

³⁹ Lauria, *supra*.

⁴⁰ Wilkinson, *supra*; Dan Collins & Jonathan Watts, *Ecuador’s journalists pin hope on new president after Correa’s war on media*, *The Guardian* (May 29, 2017), <https://www.theguardian.com/world/2017/may/29/ecuador-journalists-lenin-moreno-correa-press-freedom>.

⁴¹ Simon, *supra*.

⁴² Collins & Watts, *supra*.

were] created” or “compromise[d] public peace.”⁴³ The administration used this power to punish environmentalists and free speech groups that voiced criticism of the regime or raised awareness about environmental problems. After Correa stepped down in 2017, human rights advocates called on Ecuador to “distance itself from authoritarian rule by guaranteeing a genuine transfer of presidential power” and electing a president “commit[ed] to reining in this power and ensuring that Ecuadoreans can speak their minds without fear.”⁴⁴

Even neutral laws—such as those regulating competition—can be used to retaliate against the news media for critical coverage.

In addition to Ecuador’s communications law, other Latin American countries have adopted laws that restrict the news media’s independence and ability to aggressively cover the government’s activities. Even a neutral law that does not target the media on its face can be used by the government to retaliate against particular entities in the press. Marcela Noble Herrera, a member of the IAPA delegation to D.C. and co-owner of the Clarín Group, Argentina’s largest media conglomerate, witnessed this first hand.

In 2007, Christina Fernandez de Kirchner was democratically elected president of **Argentina**, following her late husband Nestor Kirchner’s tenure as president from 2003–07.⁴⁵ The Kirchner administration increased export taxes on agriculture in 2008, and Clarín’s coverage sided with the farmers striking in protest.⁴⁶ Over the course of the next seven years, Clarín would continue to investigate and expose corruption and incompetence within the Kirchner government.

Christina Kirchner attempted to undermine this coverage by adopting a propaganda campaign with the slogan “Clarín Lies!”⁴⁷ Pro-Kirchner lawmakers then passed a controversial antitrust law designed, they claimed, to curb monopolies and democratize ownership and access to radio and television stations.⁴⁸ The government argued that the law was necessary to protect freedom of the press, which was being undermined by consolidation in the media sector. In

⁴³ *Wilkinson, supra.*

⁴⁴ *Wilkinson, supra.*

⁴⁵ John Otis, *How Argentine broadcast law rewards friendly outlets and discriminates against critics*, CPJ (Nov. 6, 2015), <https://cpj.org/blog/2015/11/how-argentine-broadcast-law-rewards-friendly-outle.php>.

⁴⁶ Sarah Rafsky, *In government-media fight, Argentine journalism suffers*, CPJ (Sept. 27, 2012), <https://cpj.org/reports/2012/09/amid-government-media-fight-argentine-journalism-suffers.php>.

⁴⁷ *Id.*

⁴⁸ *Otis, supra.*

fact, the law shared similarities with U.S. laws that restrict the fraction of the market that a single company can control. Supporters of the law included United Nations functionary Frank Larue and Reporters Without Borders, who felt the new law would benefit “media pluralism.”⁴⁹

Yet despite the benefits of these asserted goals in principle, the media law in practice looked dangerously like a political tool aimed at silencing government critics.⁵⁰ Clarín said the law was “a politicized attempt to destroy the only press that openly criticized the Kirchners.”⁵¹ The law would have required Clarín to divest a significant chunk of its assets, “cutting its profits so sharply that it likely would not have been able to continue printing its less-profitable newspaper.”⁵² Clarín sued to stop the law’s enforcement, and after a lengthy court battle, the Argentina Supreme Court upheld the law in 2013.⁵³ Clarín and about 20 other media groups were forced to reorganize and give up TV and radio licenses and divest some of their holdings.⁵⁴

Media analysts reported in 2015 that while the law ultimately had little impact on Clarín, whose media properties maintain their dominant presence and editorial independence, it “transformed the airwaves.”⁵⁵ A government regulatory body created by the new law reportedly granted over 1,000 TV and radio licenses or authorizations. Many of these recipients depended on either government funding or advertising dollars, so they tended to “shy away from hard-hitting news reports about the Kirchner administration.”⁵⁶ At the same time, as media owners divested under the media law’s anti-monopoly provisions, allies of the Kirchner administration took over these properties and licenses. Two Argentine academics who studied the media law described it as “a system designed to reward submissiveness and punish criticism.”⁵⁷ A prominent Argentine editor and columnist remarked that all of the new media properties had “assumed a pro-government line.”⁵⁸

⁴⁹ *Driver, supra.*

⁵⁰ *Driver, supra.*

⁵¹ *Driver, supra.*

⁵² *Driver, supra.*

⁵³ *Otis, supra.*

⁵⁴ *Otis, supra.*

⁵⁵ *Otis, supra.*

⁵⁶ *Otis, supra.*

⁵⁷ *Id.*

⁵⁸ *Id.*

Despite the media law, even Clarín’s competitors acknowledged that Clarín had provided an important check on the Kirchners’ power during these years by investigating and revealing their corruption. “They did what the courts and justice system should have done but could not,”⁵⁹ said Mercedes Columbres, who wrote for Clarín’s competitor, *La Nacion*, during the media conflict with the Kirchners, and served as a press secretary under Argentina’s current president, Mauricio Macri. “We are not Venezuela right now because of Clarín.”⁶⁰

Delegitimizing the press weakens democracies and ultimately leads to dictatorships.

In addition to Ecuador, other Latin American countries with democratically elected leaders have seen a shift toward authoritarianism in recent years as their governments pursued efforts to restrict the news media. These attacks aim to marginalize the media and undermine its ability to serve as a check on government power.⁶¹ Marcel Granier, who joined the delegation to D.C. and is a member of IAPA’s executive committee, experienced this firsthand in his home country of **Venezuela**.⁶²

The leftist firebrand Hugo Chavez was democratically elected president in 1999. During his 14-year tenure, he used legislation, threats, and regulatory measures to gradually cripple Venezuela’s independent press while at the same time build up a state media empire.⁶³ These efforts helped weaken Venezuela’s democracy and give rise to the current authoritarian regime under Nicolas Maduro.⁶⁴

Chavez’s government extended and toughened penalties for speech that “offends” government officials, prohibited the broadcast of messages that “foment anxiety in the public,” and arbitrarily suspended TV channels, radio stations, and websites.⁶⁵ In 2004, lawmakers loyal to Chavez passed a law banning certain vaguely defined content from

⁵⁹ In fact, Kirchner had taken steps to weaken Argentina’s independent judiciary, accusing those who defended the role of the judiciary as a check on other branches of government as a “check on the people.” *Argentina Country Summary*, Human Rights Watch (Jan. 2014), <https://www.hrw.org/world-report/2014/country-chapters/argentina>.

⁶⁰ Driver, *supra*.

⁶¹ Simon, *supra*.

⁶² Zeeshan Aleem, *How Venezuela went from a rich democracy to a dictatorship on the brink of collapse*, Vox (Sept. 19, 2017), <https://www.vox.com/world/2017/9/19/16189742/venezuela-maduro-dictator-chavez-collapse>.

⁶³ Monica Campbell, *Venezuela’s private media wither under Chavez assault*, CPJ (Aug. 29, 2012), <https://cpi.org/reports/2012/08/after-years-of-assault-venezuelas-independent-pres.php>.

⁶⁴ Aleem, *supra*.

⁶⁵ *Venezuela: Chavez’s Authoritarian Legacy: Dramatic Concentration of Power and Open Disregard for Basic Human Rights*, Human Rights Watch (Mar. 5, 2013), <https://www.hrw.org/news/2013/03/05/venezuela-chavez-authoritarian-legacy>.

broadcasts (and later websites) and created a state watchdog to allow official censure of news outlets.⁶⁶ The regime pressured television station and newspaper owners to shut down or sell to friends of the government.⁶⁷ At the same time, Chavez’s state TV channel aired hours-long presidential speeches and propaganda.⁶⁸ Although claiming these measures were necessary to “democratize” the country’s airwaves, the Chavez regime used its authority to intimidate and censor its critics.⁶⁹ For example, in 2012, when news outlets covered reports of contaminated water and the federal government’s failure to respond, Chavez called this “media terrorism” and announced a federal injunction requiring journalists to base reports on water quality on a “truthful technical report backed by a competent institution” or face fines or jail time.⁷⁰

Granier, the president and CEO of RCTV, Venezuela’s oldest television network, also found himself in Chavez’s crosshairs. In 2007, Chavez revoked RCTV’s broadcasting license following the network’s critical coverage of him and support for a short-lived coup in 2002. RCTV had been the most-watched network on television and “the most powerful source of media opposition” to Chavez’s agenda.⁷¹ This closure left only one other television station critical of the government, a mainly-cable channel available to only 20% of the population.⁷² Three years later, Chavez forced RCTV off cable as well by prohibiting Venezuela’s cable providers from carrying its programming.⁷³

As his regime stifled the independent media, it also became more despotic. In 2004, Chavez and his supporters in the legislature “carried out a political takeover of Venezuela’s Supreme Court, adding 12 seats to what had been a 20-seat tribunal, and filling them with government supporters.”⁷⁴ The Supreme Court made clear it would no longer serve as a check on Chavez’s power; the justices “openly rejected the principle of separation of powers and pledged their

⁶⁶ Campbell, *supra*; Rachele Krygler & Anthony Faiola, *As it slides toward authoritarianism, Venezuela targets one of its last independent newspapers*, Wash. Post (July 5, 2018), https://www.washingtonpost.com/world/the_americas/as-it-slides-toward-authoritarianism-venezuela-targets-one-of-its-last-independent-newspapers/2018/07/03/9cb5fe22-7a2d-11e8-ac4e-421ef7165923_story.html?noredirect=on&utm_term=.e86346069260.

⁶⁷ Krygler & Faiola, *supra*.

⁶⁸ Krygler & Faiola, *supra*.

⁶⁹ *Id.*

⁷⁰ Campbell, *supra*.

⁷¹ *Freedom of the press in Venezuela: Pulling the plug*, *The Economist* (May 31, 2007), <https://www.economist.com/leaders/2007/05/31/pulling-the-plug>.

⁷² *Id.*

⁷³ *Human Rights Watch*, *supra*.

⁷⁴ *Venezuela: Chavez’s Authoritarian Legacy: Dramatic Concentration of Power and Open Disregard for Basic Human Rights*, *Human Rights Watch*, *supra*.

commitment to advancing Chavez’s political agenda.”⁷⁵ The Chavez regime also pressured lower court judges not to challenge its power. In 2009, Chavez “called for imprisonment of a judge for 30 years after she granted conditional liberty to a prominent government critic who had spent almost three years in prison awaiting trial.”⁷⁶ The judge was arrested and imprisoned for more than a year and then put under house arrest.⁷⁷ In 2010, Venezuela’s legislature gave Chavez the power to rule by decree, preempting any efforts to limit his power by the opposition party.⁷⁸

Chavez’s hand-picked successor, Nicolas Maduro, has redoubled efforts to eliminate the free press. He has shut down at least 54 radio and television stations and used criminal defamation laws to harass and silence critics in the press, such as *El Nacional*, the nation’s largest independent newspaper.⁷⁹ Maduro has arrested dissenters and quashed the political opposition; critics say he staged a fraudulent election this year to “win” another six-year term.⁸⁰ Last year, his government security forces killed at least 46 demonstrators, and he held “a rigged election for a special legislative body that supplanted the country’s parliament—the one branch of government that was controlled by his political opposition.”⁸¹ This new legislative entity now has “carte blanche to rewrite the country’s constitution” and expand Maduro’s executive powers even further.⁸² As Venezuela’s history demonstrates, without checks on executive authority, a democracy can quickly become a dictatorship.

Conclusion

IAPA and the Reporters Committee call upon the American public and policymakers to denounce recent attacks designed to undermine a free press in this country. It is vital to the nation’s democracy that journalists can do their jobs and report on public corruption and misconduct without fear of government surveillance and retaliation. The U.S. must continue to set the benchmark for freedom of speech and the press and serve as a beacon of these cherished principles abroad.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Campbell, supra.*

⁷⁹ *Krygler & Faiola, supra.*

⁸⁰ *Krygler & Faiola, supra.*

⁸¹ *Aleem, supra.*

⁸² *Aleem, supra.*