



CRIMINALIA

Organo de la Academia Mexicana de Ciencias Penales



**Conclusions of the
1st National Forum on Freedom of Expression and of the Press:
Case Law and International Standards
August 12-14, 2009
Mexico City, Mexico**

Whereas the Supreme Court of Mexico and the Inter American Press Association, in conjunction with the National Bar of Circuit Court Judges and District Court Judges of the Federal Judiciary and the magazine *Criminalia*, publication of the Mexican Academy of Criminal Sciences, convene judges and magistrates, prosecutors, investigation agents of the Attorney General's Office, journalists, law professionals, legislators and representatives of non-governmental organizations of the United States of Mexico;

Whereas the objective of the Forum is to foster the study and analysis of international standards on freedom of expression and of the press in modern societies and awareness of inter-American case law on the matter, with the aim of improving the administration of justice, providing lawyers with facts for judgment and apprising journalists of experiences and democratic advances in this area;

Considering that the Inter-American Democratic Charter, adopted by the General Assembly of the Organization of American States, holds that "the effective exercise of representative democracy is the basis for the rule of law and of constitutional regimes" of its member states, and that freedom of

expression and of the press is a fundamental component of the exercise of democracy;

Holding that freedom of expression is a human right, and as such is an essential element of representative democracy as well as essential to define and give practical form to the other human rights and all those guarantees recognized and established by international treaties (Universal Declaration of Human Rights; American Declaration of the Rights and Duties of Man; American Convention on Human Rights; Resolution 59(I) of the United Nations General Assembly; Resolution 104 adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO); International Covenant on Civil and Political Rights, among others), in addition to national Constitutions, which represent the highest legal framework to which the members of the United Nations and of the Organization of American States are subject;

Underscoring that the Declaration of the Ibero-American Summit of Supreme Court Chief Justices and the Ibero-American Meeting of Judicial Councils in Copan/San Salvador in 2004, states that “a justice system and a press that are independent and impartial and carry out their activities with acceptable levels of professionalism and ethics are essential for the strengthening of a democratic society;”

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

Considering that in several conferences on “The Press, Violence and Organized Crime,” convened by the IAPA in recent years in Tijuana, Nuevo Laredo, Hermosillo, Guadalajara and Mexico City journalists, editors and publishers expressed their concern at the risk and danger that surround freedom of expression and create conduct and attitudes of self-censorship that have a dramatically adverse effect upon the people’s right to know;

Underscoring that the Declaration of Mexico of June 27, 2008, issued by Mexican editors, publishers and journalists in response to a call by the IAPA, calls on the Mexican Federal Congress for action and political will to create legal instruments and strengthen those already in existence to advance the battle against the impunity surrounding attacks upon and the murder of journalists while carrying out their duties;

Considering that a basic function of the Judiciary, as defined in constitutional codes, is to protect the rights of citizens against actions, omissions and legal excesses by the authorities and by criminals who break the law, thus protecting the guarantees of the victim during and following the conclusion of proceedings;

Insisting that international standards on freedom of expression and of the press are established and developed by the Inter-American Commission on Human Rights and Human Rights Court, based on and as agencies of the American Convention on Human Rights, of which Mexico is a signatory state;

Recognizing that the Inter-American Human Rights Court has established that effective legal protection “is one of the basic pillars not only of the American Convention but of government by law in a democratic society in the sense of the Convention” (case of Claude Reyes vs. Chile, 2006, para. 131) and that freedom of expression and of the press “is a cornerstone of the very existence of a democratic society” (Advisory Opinion OC-5/85 on the Obligatory Membership of Journalists in a Guild, para. 70);

It is agreed:

To urge the Mexican government to encourage and support the application of inter-American standards concerning freedom of expression and of the press, such as access to information, the content of treaties signed and ratified by Mexico itself, and in particular invite its Judiciary to bear in mind the standards of the American Convention on Human Rights and respective case law emanating from the Inter-American Human Rights Court when developing its rulings and judgments;

To create awareness of the need to implement a federal and state legal system in accordance with the stipulations of the American Convention on

Human Rights and inter-American case law, in order to have a more vigorous defense of the public's right to know and to be well informed, and in this manner strengthen democracy as a right of the people according to the terms of the Inter-American Democratic Charter; and to subsequently turn the systems into conceptual and executor tools that enable improved defense and promotion of the principles of freedom of expression and of the press;

To promote national and regional forums and seminars for members of the judicial branch and communication media to provide a space for the opportunity to share experiences towards mutual understanding and dialogue on the state of law, democracy and the values of freedom of expression and the press;

To foster public awareness campaigns to raise citizen knowledge of the issues of free speech and press freedom, on the privileges of both freedoms and how to employ existing tools such as civic participation, access to public information legislation and others, to integrate these rights into everyday life.

To support the education of journalists, preparing them with precise and comprehensible information on facts and decisions of legal or judicial content to avoid misinterpretation by the public of such facts and decisions.

To maintain and open dialogue with the legislative and executive branches of the Federation and of the States on the standards established in the American Convention on Human Rights and inter-American case law, in particular that which refers to freedom of expression and the press and impunity, in order to expand and harmonize its application within the United States of Mexico.