

Adrian Ventura

Primer Foro Nacional Sobre Libertad de Expresión y Prensa

Presentation August 14, 2009

Extract

Panel: Next Steps

When the government is faced with problems concerning the issue of freedom of expression various factors come into play – on the one hand, the right of people to be informed and the right of journalists to inform us; on the other hand, the right of citizens to have access to information through information laws or other mechanisms.

When one refers to access laws, one must not think that only journalists employ them. In Argentina, for example, 66 per cent of the requests made under terms of a decree issued six years ago are non-governmental organizations and civil society...not journalists.

Another item of conflict that links the government and society is the conflict over access to information concerning agendas. It is legitimate for the government to attempt to control the public agenda or attempt to have an influence over it. It is just as legitimate for the media and other powers-that-be to attempt to do so. Access to information in modern society is opportunity, it is speed, and that is why it is not enough to have the law if one does not have efficient means to implement it. Today, to have access to information in six or eight months makes no sense.

What is the relationship between judges and the news media? To maintain a judiciary completely isolated -- from access to information, from the public -- means that although it might intend to do things correctly, that it fulfills its legitimate duty and that it performs its duties in line with the Constitution, because of its natural obscurity it ends up losing consensus and acceptance from society. The measure of a judiciary is always legitimacy of its origin and its practice, that the judges are trusted. No matter much confidence society has in the judiciary, citizen confidence in the institution does not match it. In Argentina, the Supreme Court merits confidence but the rest of the judicial branch of government does not. The Court has been unable to transmit the know-how to the rest of the judiciary so that society may regain the trust that it lost 30 or 40 years ago.

Bringing the judiciary closer to society would seem to be an important step, not only to ease the difficult work of journalists, but so that the people accept the decisions of the judges, even when they believe that the judges' decisions are wrong. It is important that people accept a judge's decision and believe, because they regard it to be the only solution possible, that there is nothing shady behind that decision. When the people have trust in the judges from that standpoint, the judicial branch of government wins the battle.

A judge should address journalists with clear and simple language; he should know whether the journalist understands what the ruling means or if he is dealing with a journalist to whom he has to explain in a minute or less what he has just ruled in language that is understandable to the public.

Can a judge learn to explain a ruling in 30 seconds? Of course he can. Judges can learn how to speak to the media, just as politicians do. And although it is said that politicians need to do so to get votes, judges need to in order to maintain their prestige before society. A judge who speaks and hesitates, is a judge who loses trust. When a judge hesitates on television, or is seen to be using up time and saying nothing, he is a judge that the audience loses trust in, he loses his own confidence and that of the audience, and in addition he loses trust for the entire judiciary. The judiciary is seen as one, no matter how many judges there are, people cannot distinguish between one man who is in a court from one in another. The television viewer has an attention span of 15 to 30 seconds. Today trust is gained in 15 seconds and lost in 15 seconds.

One problem that the judiciary presents for the people is that it does not know that inside the judiciary there is a big black hole, where a court from one day to the next might announce its decision and people are not aware of it in advance if it is not announced to them. Even those of us journalists who are in direct contact with the Supreme Court, for example, sometimes are not aware of what cases it is dealing with. And that must not be. It is important to know what cases they have, what they are discussing, what the arguments are, beyond just how a case is resolved.

To have a role in the public agenda is something that the judicial branch of government should learn to value. It is a two-way street where it is not merely a question of teaching journalists or judges, but also making all legal proceedings transparent and giving the judiciary something in return.