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Freedom Of The Press - Argentina (2011)

Status: Partly Free
Legal Environment: 12
Political Environment: 23
Economic Environment: 16
Total Score: 51

In 2010, tensions continued to increase between the Argentine government and news media outlets perceived to be hostile to the current administration. Critics charged that a new media law was designed to be used against these outlets, and attacks continued against independent journalists.

The constitution provides for freedom of the media and of expression. Since 2009, libel and slander by journalists are no longer punishable by imprisonment, although fines can still be issued in cases of "real malice." However, 2010 saw at least one case in which this crucial reform was ignored by the courts. In February, an appeals court in Salta Province upheld a decision by a lower court sentencing journalist José Acho to two years in prison and a \$5,000 fine as a result of criminal defamation charges filed by a local artist. The case stemmed from a story written by Acho about alleged murky dealings by the plaintiff related to the acquisition of public lands. The six members of the appeals tribunal ignored the new law, which excludes matters of public interest from any criminal defamation proceedings.

On the other hand, there were several positive verdicts issued by the country's courts, and the Argentine Supreme Court continued to show true appreciation for the fundamental tenets of press freedom. In May, the court rejected two criminal defamation cases against the *La Mañana* newspaper by invoking the real malice principle, under which a plaintiff in a case that involves a public official or the public interest must prove that the defendant knew that the published information was false and had acted maliciously in publishing it. The Supreme Court also overturned a criminal defamation case against La Plata's *El Día* newspaper. The daily published a story using as its source police reports that eventually turned out to be incorrect. The court ruled that *El Día* did its best to get the story right and that the plaintiff's demands of accuracy were too extreme. Press freedom also prevailed in a case involving the editor in chief of the *Río Negro* newspaper, Italo Pisani, and its publisher, when relatives of the victims of a deadly traffic accident filed civil charges, demanding \$80,000 in compensation for "moral damages" and "invasion of privacy" caused by the publication of an award-winning photo of the aftermath of the accident that showed relatives grieving over two dead bodies. The judge ruled in May that due to the fact that the photo showed a scene of public interest, the invasion of privacy claims were invalid, and acquitted both Pisani and the publisher of the newspaper. The same month, an appeals court in Quilmes acquitted journalist Adrián Di Nucci of criminal defamation charges filed by a local lawyer. Di Nucci published in the weekly *El Suburbano* a series of e-mails by plaintiff Mónica Frade who felt her privacy was invaded and her reputation damaged. The court ruled that the e-mails

dealt with a matter of public interest and that the defendant never expressed any intention to libel the plaintiff. The judges overturned the decision of a lower court that had ordered Di Nucci to pay \$3,700 in damages.

In 2009, the legislature passed a controversial Law on Audiovisual Communication Services, which aimed to diversify ownership in the media sector. Fears that the law would be used against the government's opponents in the media prompted lawsuits that delayed implementation for about a year, but in September 2010 the law came into effect. While the law could potentially lead to further diversification of the broadcast sector, critics raised concerns regarding the composition, independence, and powers of a new broadcast regulatory body. Observers believe it will be used against media companies hostile to the government, who often come into conflict with the administration and progovernment media outlets.

There are also concerns that authorities restrict access to information. The site Perfil.com was denied information about the use of private planes by President Cristina Fernández de Kirchner and her predecessor and husband, Néstor Kirchner, from 2007 to 2010, despite having fulfilled all the bureaucratic requirements to receive the information, according to the Argentine Association of Journalistic Entities (ADEPA). In late September, the Senate passed a right to information bill, but the Chamber of Deputies had not yet passed an equivalent bill at the end of 2010. Advocates warned against a repeat of the previous attempt to pass a right to information bill, which won approval from the Chamber of Deputies in 2003 but languished in the Senate for two years before being abandoned.

The hostile relationship between the government and media has become an important obstacle to the practice of journalism in Argentina and to the public's right to be duly informed about matters of social interest. ADEPA has denounced this dangerous conflict and called on the government to accept the press's role as the watchdog of democracy and to stop its attacks on the news media, warning that this attitude is putting Argentine journalists in vulnerable positions and even physical danger. No other example illustrates this dangerous relationship of the government and the news media better than the administration's open hostility toward the country's largest media conglomerate, Grupo Clarín (and to a lesser extent toward the newspaper *La Nación*). This antagonism intensified in 2009 when 200 tax agents raided the offices of *Clarín* newspaper after it ran a cover story alleging that the government improperly granted a farm subsidy. When the paper called the raid a government intimidation tactic, the tax agency claimed that it was a mistake, and promised to investigate the incident and fire the officials responsible. A judicial probe was started in 2010 but had yielded no results by year's end. In 2010, the administration used several tactics to silence Grupo Clarín, including blocking the distribution of the newspaper and interfering with the supply of newsprint to *Clarín* and other "hostile" publications by means of illegal strikes by a progovernment union. Senior members of the administration and federal legislators also conducted verbal and judicial attacks against *Clarín* journalists. Journalists from the paper were charged with criminal publication of information from an ongoing criminal investigation; excluded from official press conferences (even

those held in foreign countries) because of articles deemed "too aggressive" against the government; charged with civil defamation after accusing a public official of corruption; wiretapped; and compared to Nazis by a government minister. Tensions between President Kirchner and the independent media have increased, and in October she upped the ante by calling for the nationalization of the news media so they would "acquire a national conscience and defend the country's interests."

Argentina also saw a worsening of physical and other types of attacks on members of the media, including the murder of community journalist Adams Ledesma Valenzuela, who was stabbed to death outside his home in the Villa 31 shantytown north of Buenos Aires in September; his wife was also threatened following the murder. Ledesma, a Bolivian immigrant, had organized several social and cultural activities for the community, including journalism and photography classes, and was the founder and owner of *Mundo Villa* newspaper and its associated local TV station. The attack was condemned by local press freedom group El Foro de Periodismo Argentino (FOPEA), but the perpetrators and motives remained unclear.

A number of lesser incidents of violence were also reported during the year, mostly affecting reporters as they attempted to cover the news or in retaliation for airing stories critical of local officials. In Loncopué, in Neuquén Province, Norberto Guerrero, owner of FM Arco Iris radio station, blamed local officials for vandalizing his broadcast equipment in January, which took him off the air. Guerrero had been very critical of allegedly illegal mine-stripping operations around his town. In August, an intentional fire destroyed part of the studio of FM Cerrillos radio station, which also served as the home of station owner Carlos Villanueva. Villanueva's car was also destroyed by the fire, and some of his broadcast equipment was stolen, temporarily forcing the station off the air. Villanueva blamed the incident on the head of the local government, who had been the target of his criticism. Three months later, several shots were fired at Villanueva's house, nearly hitting his wife. In the western town of Andalgalá, a Canal 10 reporter and his camera operator were beaten and their video equipment stolen while covering a protest by miners in February; the same day, an FM La Perla radio reporter received death threats while reporting on the disturbances. Also in February in the northern town of Las Palmas, Dante Fernández, owner of the FM Frontera radio station, was repeatedly beaten by two supporters of José Ramón Carbajal, head of the local government, while Fernández was getting ready to cover a story about alleged poisoning of the town's water supply. In the town of Salta, *Nuevo Diario* photographer Rolando Díaz was covering a fire in April when a policeman grabbed him by his neck and took him to his car. Other journalists covering the incident kept the policeman from taking Díaz away. Just south of Salta, a day later, the head of the local municipal council punched *E Tribuno* newspaper reporter Jaime Barrera in the head. These incidents are illustrative of a number of similar attacks recorded by ADEPA on members of the news media in 2010, including in Buenos Aires, Rosario, Tucumán, La Rioja, Salta, and Junín.

Argentina has a large private media sector, with more than 150 daily newspapers, hundreds of commercial radio stations, and dozens of television stations. The dominant

television networks are privately owned. Many radio stations operate on temporary licenses pending regulatory reform. As in past years, the government was accused of manipulating the distribution of official advertising to limit free speech, a practice termed "soft censorship" that had been institutionalized by Néstor Kirchner. In 2010, according to *La Nación*, Cristina Kirchner's administration spent \$27 million on official ads, of which 67.5 percent went to programs broadcasted by Canal 9, a TV channel whose owner is closely linked to the government. The problem has persisted even though the Supreme Court ruled in 2007 that "the government may not manipulate advertising by giving it to or taking it away from media outlets on the basis of discriminatory criteria." In 2009, a federal appeals court ruled that the government violated constitutional freedom of the press when it withheld advertising from Editorial Perfil, the country's largest magazine publisher. The case was appealed to the Supreme Court, which had not yet announced a decision at the end of the year. As noted above, official attempts to regulate the production and distribution of newsprint represented an additional onslaught on media freedom during 2010.

About 36 percent of Argentines accessed the internet in 2010, the third-highest usage rate in Latin America, after Brazil and Mexico. There are no government restrictions on the internet, although Argentina has sometimes censored search results to protect the privacy of celebrities.