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Brazil Argues Control of Media

by LADB Staff

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A deteriorating relationship between President Luiz Inacio Lula da Silva (Lula) and the Brazilian media has fallen to new lows as the executive has sent the congress a bill that would create a Conselho Federal de Jornalismo (CFJ), a Federal Journalism Council. The measure would give the government broad powers to "orient, discipline, and supervise" the practice of journalism, and would include the power to oust individuals from the profession. At the heart of the matter lies a labor issue, but the controversy reaches deeply into the nation's past.

According to the text of the bill, the CFJ could influence the content of journalistic education. Under its provisions, a new reporter would have to be registered with a regional journalism council, 90 days after which the Federacao Nacional dos Jornalistas Profissionais (Fenaj), the journalists' professional association, would issue a permanent license. Left out of the proposal was the requirement that the reporters have a journalism degree, an issue now before the courts.

Fenaj would also choose ten professional journalists and an equal number of alternates to form the first Council. These appointees would in turn "have the time necessary" to elect five regional Councils. It was Fenaj that first called for these councils in December 2002.

The bill culminates a rift between government and media summed up in official statements last year, "News is what we don't want published; the rest is publicity," or what Secretary of Communication Luiz Gushiken has repeatedly called, "negativism" in the news. The issue spilled into the international press when Lula briefly revoked the reporting privilege of a US reporter for having published on the subject of the President's drinking habits.

The decision was reversed following a hailstorm of criticism from the world press. Justifying the need for this law, Labor Minister Ricardo Berzoini said, "Now there is no institution with legal competence to normalize, supervise, or punish the deficient conduct of journalists." He said, "The Council will be able to protect, in an indirect way, the journalist himself (sic), today subject to summary dismissal in the case of failure to obey superior orders, where [the orders] are unethical or destined to produce false or partial reports."

Some working journalists in the Brazilian media see the plan as disastrous for the future of their profession. The general tone is that journalists don't need to be protected by the Executive; they need to be protected from the Judiciary. Calling it a farce, opinion pieces focus on the bill's fissures and faults, not the least of which being that the new law might be unconstitutional, since, says the publication Brazzil, "the Brazilian Constitution considers working an unalienable right which can only be suspended by a judicial sentence."

*It could break down at the gate*
Reports also doubt that, no matter how it is written, the chamber of deputies and senate will not pass the bill. Many in the opposition, as well as in the official Partido dos Trabalhadores (PT) have publicly scorned the project. They have also observed that with municipal elections coming up, the real intent is to prevent disclosure of charges against ministers and high-level officials caught in a variety of corrupt acts.

Seasoned journalists recall the military dictatorship (1964-1985) when a national security law was the means by which reporters could be sued. Some were killed and others jailed, but the most propitious effect from the government point of view was intimidation and the resulting self-censorship. That is the effect the government seeks now, say critics.

Other opponents looking for historical precedent reach both backward and forward from the days of the dictatorship, invoking the Estado Novo regime of Getulio Vargas from the 1930s to the 1950s, and touching on Mussolini, Hugo Chavez, and George W. Bush. Other names popping up to give the discussion not only historical, but geographical context, are Montesquieu and the founders of the United States of America on the issues of balance of powers and the birth of the fourth estate, and Franklin Delano Roosevelt for creating the Federal Communications Commission (FCC).

An FCC for Brazil Commentators do acknowledge a problem in the media, pointing not to journalists, however, but to the concentration of media outlets, cross-ownership, and new organizations seeking privilege rather than a responsible social role, all phenomena seen elsewhere in the hemisphere and in the world (see NotiCen, 2004-08-12). They charge the Lula government with finding exactly the wrong solution.

Carlos Shagas, a Rio de Janeiro journalist, advocates the creation of an FCC for Brazil, noting that in the US, Democratic presidential candidate John Kerry has promised to use the FCC to battle the concentration of media conglomerates.

Another systemic diagnosis of the current state of Brazil's media ailments indicts the Central Unica dos Trabalhadores (CUT), one of the nation's most powerful unions, which controls Fenaj. The argument is complex, but in the end, the charge is that CUT wants to control the profession of journalism in the country. Other critics assert the government is shooting itself in the foot with a wrongheaded scheme just as its fortunes have begun to improve.

Doubts about 3.5% GDP growth are now largely dispelled, and the country will probably end the year with a US$30 billion trade surplus, bettering the US$24 billion last year.

**Why, ask detractors, twist the press's arm now?**

Those numbers have kept the national currency, the real, stable and will mitigate strictures imposed by the International Monetary Fund (IMF), giving Lula greater flexibility in dealing with domestic problems that have gone begging as the president attended to his fiscal credentials. If Lula is able to walk away from the IMF when Brazil's agreement with the lender expires this year, he will have pulled off something of an economic coup (see NotiSur, 2004-02-06).
The shot-to-the-foot theory received a boost from Lula himself, when he took the opportunity in the Dominican Republic, where he attended the inauguration of President Leonel Fernandez, to berate Brazilian journalists for not supporting the CFJ. He said to them at a press conference, "You are a bunch of cowards. You didn't have the courage to defend the conselho nacional de jornalistas."

Lula continued with a harangue that ended only when a microphone was placed in front of him, allowing him to rethink the wisdom of broadcast coverage of his invective. Some of his venting might have been due to the hypocrisy of Fenaj itself having asked him to submit the bill as recently as last May.

To avoid further clashes over the government's role in creation of the CFJ, PT president Jose Gomoino has recommended that the executive branch withdraw its explicit support and let Fenaj deal directly with the congress. But even then, in May, there was an outcry against it, rich in the historical antecedents of restrictive press law, and including reference to Brazil's daily "notice to navigators" (small boat advisories) whose content is "there is no notice." These contentless advisories came to be symbolic of a muzzled press, where the news is that there is no news.

**Labor in support**

The CFJ is not without defenders. The Sindicato dos Jornalistas Profissionais no Estado de Sao Paolo (SSJP) published a letter reiterating that the issue has been under debate for more than 20 years, and likening it to the bar association, medical association, or other such organization that has power to oversee professional practice and ethics to safeguard society. It takes the position that the CSJ will be an autonomous organization, and for that reason charges of government manipulation or interference are ill founded.

"The CFJ will be able to take complaints from any citizen. It will work to improve the journalism practiced in the country. What is the problem? Censorship? Impediment to freedom of the press or expression? No one is talking here of licenses to publish or bring a program on the air, or condemnations for crime against honor, subjects already contemplated by legislation.... Professional journalists do not want any businessman deciding who should or should not appear in the media. They want democratic plenitude with freedom of expression for all. Including in the media, with an ethical journalism and of good quality. We are confident and certain that the majority of Brazilian parliamentarians have this same understanding," concluded the SSJP.

-- End --