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Bolivia's Anti-discrimination Legislation Criticized by Opposition

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Forty years after signing the International Convention on the Elimination of all Forms of Racial Discrimination, Bolivia fulfilled its 1970 commitment to the UN by passing, on Oct. 8, a law to punish racism and all forms of discrimination. During those four decades, Bolivia had 27 presidents—21 of them military or civilian dictators, the most dramatic sign of the country's institutional fragility before Evo Morales became president in January 2006. Not one of those presidents fulfilled the commitment to justice and human rights that was also an international mandate, even though 89% of the nearly 11 million Bolivians are indigenous (18%), mestizo (70%), or Afro-Bolivian (1%).

The law, which the Congreso Nacional approved by an overwhelming majority and which was rejected only by rightist lawmakers, established civil, criminal, and economic penalties for media that disseminate or encourage racist or discriminatory actions. Nevertheless, owners of newspapers, radio stations, and TV channels—in large part opponents of the policies of the constitutional and democratic government—unleashed a furious campaign to discredit the president, whom they accuse of violating freedom of speech.

Spokespersons and rightist ideologues counted on support from the Sociedad Interamericana de Prensa (SIP), a powerful organization that includes corporate-media owners throughout the region, from Canada to Argentina. They were joined by dozens of journalists who waged a brief hunger strike, which news agencies around the world dutifully reported.

Nevertheless, the government has the support and admiration of the UN High Commissioner for Human Rights (UNHCHR) and the Organization of American States (OAS).

Objections focus on two articles

The media and the right reject the law in its entirety, especially two articles that set the penalties for those violating the law and fomenting racism. Under Article 16, media that authorize and publish racist and discriminatory ideas will be subject to economic sanctions and the suspension of their operating license. Thus, radio stations and TV channels that use the airwaves, which are the property of the state, and do not comply with the law will lose the right to broadcast.

Article 23 stipulates that media employees or owners who commit racist or discriminatory acts cannot claim immunity or seek protection. Thus, those whose actions are discriminatory or who encourage such actions could be sentenced to up to seven years in prison.

Media owners and the few journalists who joined the law's opponents say that both business and labor groups have their own self-regulation mechanisms—codes of ethics—and therefore the law "curtails freedoms of the press and speech."

Those codes of conduct have numerous critics. "The violence, the morbid curiosity, the self-serving use of situations and persons, the blending of information and opinion, the indifference or ignorance regarding authentically ethical principles are daily practices in a media system that tries
to continue operating at the edge of criminal responsibility. The professed self-regulation does not exist," said Fernando Andrade, a university communications professor.

An Oct. 1 story filed by German news agency Deutsche Presse-Agentur (DPA), datelined La Paz, without expressing an opinion regarding the underlying issue, says that "the improvisation of radio and TV hosts has caused a gradual and systematic deterioration of content, in which the lack of ethics and self-regulation is well-known."

**President victim of racist discrimination**

The agency said that President Morales has complained in various forums that, despite his high office, he is the victim of racism and discrimination. That is why he has publically censured the owners of newspapers and radio and TV stations in the eastern department of Santa Cruz as well as the Catholic Church, which owns print, radio, and audiovisual media.

DPA says that the appearance in recent years of newspaper columnists and radio and TV commentators who make "denigrating references to the president—an Aymara Indian, the first indigenous person to become president in the country’s 185 year history—is the best argument for those who back the law." It cites the case of Iván Castro Aruzamen, a columnist for the daily Opinión in Cochabamba department, who wrote in the Aug. 25 edition that in the government there are those who are "a cross between a mule and the devil (Vice President Álvaro García Linera) and between a llama and Lucifer (President Morales)." On Aug. 28, the newspaper apologized for the remarks of its star columnist.

In the same story, DPA said that "it is common, a daily occurrence, that radio hosts Arturo Mendívil and Jorge Melgar make racist remarks about the president, and the same is true of Carlos Valverde, a former police-intelligence agent who became a TV commentator."

At that point, DPA made a very serious statement, explaining why the media owners denounced the hypothetical threat to freedom of speech: "Besides the absence of ethics and self-regulation in the media, the fact that they occupy the space belonging to political parties, becoming their ideologues and clients, has meant that the press has veered from its true function."

Using other words, the opposition morning newspaper La Razón complemented what DPA said. On Oct. 9, 15 of the 18 dailies with national circulation appeared with blank front pages and a common headline in huge letters: "There is no democracy without freedom of speech." La Razón explained why it was among the three that did not join the action: "Aware that an information medium’s first responsibility is to society, La Razón decided to respect on its front page the obligation of the journalistic office—to provide news."

"Kill the Indian," was the right's slogan in Santa Cruz during the large offensive in 2008 to promote that rich department's secession from the rest of the country. The "Indian" was Morales, and newspapers such as El Deber published the slogan on their front pages.

El Deber director and owner Pedro Rivera Jordán, who owns ten other newspapers in the country, said that the slogan did not come from the paper but that it had only repeated "a phrase said in various places." Under the new law, that slogan would have warranted a jail sentence.

On Oct. 6, when the bill was still being debated in Congress, Santa Cruz Deputy Adriana Gil again alluded to the possible death of the president. Wearing a striped shirt to symbolize a political
prisoner, Gil said that it was unfortunate that Morales did not remember that the press made him well-known and enhanced his image, and she proposed an information boycott. "If he doesn't see himself in the media, he'll have a heart attack and die of rage," she said. "So, what should be done to give him the heart attack is to not give him press coverage."

**SIP support fizzes**

Since the hunger strike got little attention, the editorial writers and columnists of the dailies owned by Rivera Jordán said they would suspend the measure and look for support from the SIP. They said that they would present a formal complaint to the OAS and the UN and would gather a million signatures to submit the law to a referendum.

Four weeks later, the arduous task of getting signatures had not begun, and the move to win SIP support backfired. Juan Javier Zeballos, executive director of the Asociación Nacional de Prensa (ANP), a Bolivian ally of the SIP, admitted in a fuzzy statement that, after the organization's 2009 visit and the one that began on Oct. 17, the SIP has "recognized that freedom of the press does exist in Bolivia, although freedom of speech is not guaranteed."

The opposition received a preview of the OAS reaction that they will not talk about. On Oct. 25, OAS Secretary-General José Miguel Insulza received a copy of the text of the law, which he praised and said that it will be one of the documents that the OAS will incorporate into the debate regarding a future project of the Convention Against Racism and All Forms of Intolerance and Discrimination that is under study.

The UN's backing was unambiguous, but not for the media owners or their journalists. High Commissioner for Human Rights David Racicot hit where it hurt the most. The Canadian UN official said on Oct. 11 that rules such as those approved in Bolivia exist in most of the world, and he expressly referred to the laws providing jail terms for racism, "particularly in Spain, a leader on this issue."

Racicot mentioned the significance of the two articles that critics say endanger freedom of speech, and he praised Bolivia for taking the lead, even ahead of the European Union (EU), which just called on its members to adopt legislation as severe and above all democratic as that which Bolivia and Spain imposed on racist and discriminatory media.

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