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## Costa Rica's Press Freedom

by LADB Staff

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In an ironic and coincidental coupling of events, Costa Rica's leading daily, La Nacion, was slammed last week with nearly US\$200,000 in libel and defamation damages based on the claim of a former Costa Rican diplomat, just in time for the arrival of a delegation from the World Press Freedom Committee (WPFC) that came to push for major media-law reform.

The polemical Jan. 24 ruling of the Supreme Court against La Nacion and one of its reporters was inevitably thrust into the spotlight, as some of the country's top media-savvy figures prepared to take a hard look at Costa Rica's press laws alongside the visiting members of the worldwide press watchdog association. The three WPFC delegates arrived in San Jose Jan. 29 and were expected to leave Feb. 2, after a busy week consisting mainly of private consultations and lunches with national media directors, politicians, and lawyers, and culminating in a meeting with President Miguel Angel Rodriguez and a press conference Thursday afternoon.

Press law shields public officials WPFC leaders told The Tico Times this week that some of Costa Rica's restrictive press laws are jeopardizing the country's reputation as a stable democracy with a strong record in human rights. The main example the WPFC cites is the country's "desacato" (insult or irreverence) law, which provides a shield for public officials who feel their honor has been damaged by media or public scrutiny. Considered a criminal offense here and in all Latin American countries except Argentina and Paraguay, a desacato conviction carries a sentence of anywhere from a month to two years in prison, or as much as three years in prison if the offended party is a high-ranking official such as the president, according to Article 307 of the Costa Rican Penal Code.

"This type of law marks a country as an undemocratic system," said WPFC executive director Marilyn Greene in an interview early in the week. "No country can call itself a democracy that puts its journalists in jail." "We came here to try to persuade legislators, judges, and journalists that the insult law should be eliminated," she added. "Once officials see that, they will have accepted the principle that public officials do not need special protection that private citizens do not have."

Not everyone is convinced, however, that the desacato law must go. "It is a mistake to keep focusing on [this law], because it is not the main issue," said Jose Miguel Villalobos, advisor to President Rodriguez on public law and press issues. "To eliminate that sanction would have no real effect here." Villalobos said the desacato law is invoked too infrequently to have any real impact on press freedom, and does not, in effect, provide any heightened protection for public figures that would not be available to any citizen.

Only one Costa Rican journalist has ever been convicted under the law. In 1994, La Nacion editor and columnist Bosco Valverde, who died in 1995, was convicted for calling three local judges "stubborn" in a 1993 column. Villalobos suggested that Congress focus instead on decriminalizing Costa Rica's other defamation-related offenses, such as libel, slander, and calumny, to comply with established norms laid out by the Inter-American Human Rights Commission.

Yet Partido Liberal Nacionalista (PLN) Deputy and human rights expert Sonia Picado, a longtime advocate of more relaxed press laws, argues that "bringing down the desacato law sends a clear message to other countries where it is still being used to keep the press down." Picado stressed that, for a country to enjoy true democracy, anything that has to do with one's free expression of opinion "must be taken out of the criminal area." Aside from the anticipated generalized debate about the strictness of Costa Rican press laws, the WPFC's meetings this week took on a heightened significance in light of the Supreme Court's recent ruling against La Nacion. "It really highlights the importance of our visit. It shows there are problems in Costa Rica that people are not necessarily aware of," said Jim Ottaway, president of the WPFC and senior vice president of Dow Jones & Company, Inc. in New York.

The court's ruling ratifies a 1999 unanimous verdict of three San Jose judges who found La Nacion and reporter Mauricio Herrera guilty of publication of offenses, calumny, and defamation for relying, in part, on European press reports of alleged wrongdoing by former Costa Rican diplomat Felix Przedborski. In their sentence, the judges imposed a US\$188,000 fine, ordered the paper to publish the court's written opinion in the same size font as used in regular stories, and sentenced Herrera to 160 days in prison, which was later reduced to 120 days and substituted by a payment. The four articles in question, written by Herrera in May and December 1995, appeared in the context of a general analysis of Costa Rican honorary diplomats. Przedborski, a businessman of Eastern European descent, was acting as Costa Rica's honorary ambassador to the International Atomic Energy Organization, headquartered in Vienna.

According to the ruling, part of the trouble arose when Herrera reported that the Belgian magazine *Le Soir Illustré* had linked Przedborski to the Russian and Italian mafias. The court also argued that Herrera reportedly had access to information that he failed to include in his articles that favored Przedborski, such as the fact that the diplomat had won a case against a Belgian publication. Despite several efforts by La Nacion to appeal the sentence, arguing principally that Costa Ricans have the right to know what the foreign press is writing about their public officials, the court adhered to the earlier decision. The case marked the second time in a year La Nacion has been hit hard by a defamation case.

Earlier in 1999, the paper lost a defamation case to former Justice and Security Minister Juan Diego Castro, and was ordered to pay him about US\$102,000 in damages and to publish the court's full ruling, which occupied 12 pages of prime news space. In the aftermath of this ruling, Costa Rica's other papers, including *The Tico Times*, published a joint editorial on the subject as a show of solidarity and protest.

The Costa Rican press blasted the more recent ruling as a setback for press freedom here and joined the Inter-American Press Association in backing La Nacion's decision to appeal the case to the

Inter-American Human Rights Commission. "This means that indispensable information, such as that coming from wire services or foreign publications, will always be risky unless we can verify the content," reads a Jan. 26 editorial in La Nacion. "Our democracy needs to shed the straitjacket in which many would like to keep it. And we, as a responsible newspaper that is indebted to the citizens and not to those in power, will continue to fight to that end."

Supreme Court Justice Daniel Gonzalez, who ruled on the Herrera case, is among those who met this week with the WPFC representatives. Contacted this week, Gonzalez was unable to comment on the specifics of the case. Speaking generally, he said he agrees with Ottaway, Greene, and WPFC project coordinator Javier Sierra, who accompanied them, that the desacato law is archaic and should be repealed. However, he said he is "not so radical" as to support decriminalizing defamation laws because, while infrequently used, they are necessary to hold journalists accountable. "We all have professional responsibility," said the justice. "If an engineer does a bad job and something goes wrong with a house he built, he faces the consequences."

Furthermore, Gonzalez pointed out, the civil court system here is too expensive and slow. Cases could drag on for many years, he said, while somebody's reputation is on the line. Retaining criminal penalties on the books, he argued, "actually guarantees the freedom of information, because it ensures that the information is true." La Nacion director Eduardo Ulibarri said the country's framework for press liberties is not improving as the years go by. "Things have not changed notably for the better over the past 20 years. In fact, in certain ways the situation has gotten worse," he told The Tico Times this week. Ulibarri said the current climate "makes it too easy for a journalist to be accused of a [defamation-related] crime."

The only possibility of a defense, he added, is to demonstrate the absolute truth of what was reported. While this may seem logical, "there are just too many details that need to be presented for the judges," he said. WPFC president Ottaway confessed to being surprised this week by the apparent reluctance to decriminalize the defamation laws. Costa Rica's press laws, he said, "do not equal the reputation or actual facts of the open democratic government and society that is so distinctive of [the country]."

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