

POLITICAL CONFLICT AND FREEDOM OF EXPRESSION IN VENEZUELA

*Ambassador Bernardo Alvarez Herrera**

Good morning. Thank you for inviting me to speak on this important subject.

First off, let me start by saying that contrary to popular belief, the freedom of expression and the press are alive and well in Venezuela. The country's private media—forty-one television stations, more than 400 radio broadcasters, eight national newspapers, and 200 regional and local newspapers—vibrantly discuss and report on the issues of the day free from government interference. Human Rights Watch wrote the following of the Venezuelan media in 2003:

There are few obvious limits on free expression in Venezuela. The country's print and audiovisual media operate without restrictions. Most are strongly opposed to President Chávez and express their criticism in unequivocal and often strident terms. No journalists are in prison for exercising their profession, and there have been few criminal prosecutions or successful civil suits against journalists in recent years.¹

While President Chávez may not agree with what the media has to say, he does not question their right to say it, much less use government resources to punish them for saying it. We do, though, worry about how far a narrowly controlled media can go in acting against a democratic government.

The case of the media in Venezuela is of particular interest to this discussion. In few other instances has the media played such an overt political role, replacing an opposition defeated at the ballot box and paving the way for what was a brief coup against a democratically elected president. In that

* Ambassador Bernardo Alvarez Herrera earned a degree in Political Science from the School of Political Studies at Universidad Central de Venezuela; Masters degree in Development Studies from the University of Sussex in England. Ambassador Herrera is a professor at the Universidad Central de Venezuela, School of Political and Administrative Studies and the Venezuelan representative for the Energy Council of the United States of America. This article is a revised reproduction of oral remarks presented at the International Law Weekend 2005, held at the House of the Association of the Bar of the City of New York, from October 20–22, 2005.

1. HUMAN RIGHTS WATCH, *CAUGHT IN THE CROSSFIRE: FREEDOM OF EXPRESSION IN VENEZUELA* 2 (2003), available at <http://www.hrw.org/reports/2003/venezuela/venez0503.pdf> (last visited Jan. 25, 2006).

instance, privately held Venezuelan newspapers and television stations knowingly encouraged anti-democratic actions, manipulated information and events to further their cause, and refused to cover the country's return to constitutional order. While a far cry from the radio stations that helped provoke the Rwandan Genocide of 1994, the actions of the Venezuelan media raises serious questions as to how the power of the press is used, especially in countries experiencing political turmoil and where the ownership of the media is highly concentrated in few hands.

Permit me, now to pose another question: What is the proper role of the state when it is faced with a media whose power is roughly equal to that of the state, and when that power is used actively to destabilize a democratically elected government?

Venezuela's experience in this regard is instructive. Large corporate groups or families own the country's primary newspapers and television stations, which allow them substantial power in shaping public perception of events. Marta Colomina, a professor of communications at Catholic University Andrés Bello and former journalist with a critical opinion on the government of President Chávez, once said:

Media owners are very aware of their power, and they know how to use it. In the United States or Europe, there are big corporate media groups that see themselves as serving the public interest. In Venezuela, media are in the hands of small groups of owners who tend to serve their own interests.²

These interests quickly aligned against the government of President Chávez in the aftermath of his election in 1998, breaking down the walls that often separate opinion and commentary from facts and reporting. Andres Cañizalez, the head of the Institute for Press and Society in Venezuela, has said the following of this situation: "But here you had the convergence in the media of two things: grave journalistic errors—to the extreme of silencing information on the most important news events—and taking political positions to the extreme of advocating non-democratic, insurrectional path."³ The reality is that this political posturing by the private media led to the coup against President Chávez that has come to be known as the world's first "*golpe mediatico*," a media coup. Newspapers and television stations encouraged anxious crowds to march on the presidential palace, where, as they noted, the

2. JON VANDEN HEUVEL & EVERETTE E. DENNIS, CHANGING PATTERNS: LATIN AMERICA'S VITAL MEDIA 75 (1995) (quoting Marta Colomina).

3. John Dinges, *Soul Search*, 4 COLUMBIA JOURNALISM REVIEW (2005) (quoting Andres Canizalez).

“final battle” would occur. When unidentified snipers opened fire on opposition and pro-government protestors, television stations presented images that gave the impression that government supporters had done the shooting. After President Chávez was illegally detained and removed from office, the private media celebrated, with the newspaper *El Universal* going as far to loudly proclaim, “*Se Acabó!*”—“*It’s Over!*” As President Chávez was returned to office amidst widespread protests against the emerging dictatorship, newspapers and television stations remained absolutely silent—news of the return to constitutional order was only disseminated by CNN, word of mouth and online journalists

Soon after the coup, *The Economist* stated the following of the media’s role:

In a desperate bid to hold on to power, the government’s media allies conspired to suppress all news of its difficulties. A regime that had seized power while waving the flag of press freedom spent its thirty-six hours in office doing its best to keep the truth from the public.⁴

This media activism goes beyond the coup. For sixty-four days over late 2002 and early 2003, the private media openly supported a general strike that shut down the country’s vital oil industry and cost the nation almost \$14 billion in lost economic activity. They have accused President Chávez of plotting assassinations and bombings, sponsoring foreign terrorist organizations and leading anti-democratic movements across the hemisphere, and commanding an army of clandestine guerilla groups and slum militias. The lack of evidence rarely detracts from the publication of many of these fabrications, though the government is often forced to defend against them

As I asked before, “What is a democratically elected state to do when faced with an assault by a powerful private media?”

Articles 19 and 20 of the International Covenant on Civil and Political Rights and Article 13 of the American Convention on Human Rights, both of which Venezuela is party to, recognize that speech that promotes hatred, encourages violence, or threatens public order and morals can be regulated by the state. While Venezuela forbids prior censorship, it does recognize the importance of being able to regulate speech that, as happened in Venezuela, may alter the constitutional order or threaten social peace. The bar on this regulation is set extremely high, and is subject to judicial review.

The actions of the private media in Venezuela test the limits of freedom of expression and the ethical responsibilities of the press. As was the case with the radio stations that helped provoke Rwanda’s shocking genocide, the media

4. *Coup and Counter-coup*, THE ECONOMIST—GLOBAL AGENDA, Apr. 16, 2002.

in Venezuela has proved that words can have a direct and substantial impact on democratic institutions and public order. How far do we allow the media to go in promoting hatred, encouraging violence, or organizing against the constitutional order? How can we ensure that the media remains responsible, becomes more democratic, and is removed from the control of the few vested economic interests? Does Venezuela's experience provide any guidance? Does Rwanda's? Does the United States', when people like Reverend Pat Robertson appear on television and call for President Chávez's assassination?

I leave you with these questions.

Thank you very much.