



Some reflections on the selection of a new Special Rapporteur on Freedom of Expression of the IACtHR

By: the DPLF Team

On December 19, 2013, the Inter-American Commission on Human Rights (IACtHR) announced that it would be accepting applications for the position of Special Rapporteur for Freedom of Expression. From May 1-31, 2014, the names and backgrounds of those selected as finalists will be published on its website, and during that period member States and civil society will be able to comment. Once the public consultation phase has concluded, the IACtHR will select, during its 151th session, the person who will hold the position of Special Rapporteur for the next three years, beginning in October 2014. That term may be renewed one time only.

Article 15 of the Rules of Procedure of the IACtHR states that the Special Rapporteur is selected with the affirmative vote of an absolute majority of its members and that the grounds for the decision must be made public. The same article establishes that the person selected must satisfy the conditions of suitability for the position and meet the requirements provided for in the respective call for applications, including especially: high moral standards and independence; a university degree in law, journalism or other relevant branch of social science, preferably graduate study or specialization in international human rights law or human rights; demonstrated experience in issues related to freedom of expression and human rights in the Americas; experience with fundraising and project supervision; and fluency in at least two of the official languages of the OAS.

The Office of the Special Rapporteur was created in October of 1997 as a permanent and independent office that acts within the framework and with the support of the

IACHR. Its main function is to support the IACHR in carrying out its mandate of promoting and protecting freedom of expression in the region. From the initial years of its operation, it has had the full backing of the OAS Member States, expressed in the statements of foreign ministers at General Assemblies, as well as heads of State and government at Summits of the Americas. Unlike the other Rapporteurships and thematic Units, which are under the responsibility of the Commissioners themselves, the Office of the Special Rapporteur is the only one headed by an independent expert permanently and exclusively dedicated to the issue.

In spite of the fact that the majority of the OAS Member States continue to support for the work of the Office of the Special Rapporteur, in recent years some governments have criticized it harshly. Ecuador and Venezuela have maintained that the IACHR's agenda on freedom of expression has been limited to issues of interest to the owners of large media outlets. They have also insisted on the redistribution of the funds of the Office of the Special Rapporteur to other thematic Rapporteurships, asserting that the voluntary donations received by it would somehow shape its position against certain governments. These and other criticisms have been made from the highest levels of power of those States, in a context in which the IACHR and its Office of the Special Rapporteur have condemned the progressive undermining of freedom of expression by the Executive Branch, upheld by the Judiciary in both Ecuador and Venezuela.

In this scenario with respect to the issue of freedom of expression, it is important to underscore the following points:

- i) The model of technical support to the IACHR that began with the creation of the Office of the Special Rapporteur has yielded significant results in the development of standards and the optimization of the capacity to monitor and promote the right to freedom of expression, which is why it should be supported. The format of having the Office of the Special Rapporteur headed by a permanently dedicated independent expert could actually be replicated by other thematic Rapporteurships of the IACHR—a possibility that is backed

by the very countries that criticize the distinct status of the Office of the Special Rapporteur.

- ii) The criticism suggesting that the IACHR provides excessive resources to the Office of the Special Rapporteur to the detriment of other thematic Rapporteurships could be resolved through the effective funding of each one of the Rapporteurships and thematic Units by the OAS Member States. Until this becomes a reality, the IACHR itself could create a voluntary fund to uniformly finance all of its Rapporteurships, including the Office of the Special Rapporteur. It is important to make clear that, according to public information from the Special Rapporteur's office itself, it does not have resources that come from the OAS regular fund, and that although the United States has historically been one of the countries that has provided it with the most financial support, in recent years most of its budget has come from donations from the European Commission and European countries, with Chile and Costa Rica being two other countries in the region that currently provide it with economic support.
- iii) The criticism that the Office of the Special Rapporteur gives priority to matters pertaining to large media outlets can be effectively dealt with by placing greater emphasis on issues such as community radio broadcasting, the concentration of media ownership, and freedom of expression and poverty—which are already on the institutional agenda of the Office of the Special Rapporteur. A better balance among the issues addressed by the Office of the Special Rapporteur would respond not only to the criticism of Member States but would also broaden the field for the participation and response of all of the civil society actors engaged in the defense and promotion of freedom of expression, from the Inter American Press Association to the media workers' and community broadcasters' associations.

In view of the criticism directed at the Office of the Special Rapporteur during the recent IACtHR reform process and the insistence of some governments that its status should be changed and its sources of funding should be reduced, the selection process for the new Rapporteur is especially relevant for the users of the Inter-American System. It is essential for civil society organizations to follow up and define their position so that the most suitable candidates, with demonstrated independence and technical ability, are the ones that are on the list of finalists. The participation of civil society must be focused on the public nature and transparency of the process, and therefore, it must present essential observations, promote public debates with the individuals selected as finalists, and help ensure that their profiles and academic and professional backgrounds are broadly disseminated.