

School for Judges:

Lessons in Freedom of Information and Expression
from (and for) Latin America's courtrooms



Sweden
Sverige

A UNESCO training program has attracted hundreds of judges throughout Latin America: a look at one recent course in Paraguay

by *Bill Orme*

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Asunción, Paraguay - Pedro Mayor and Carlos Ortíz Barrios, both Paraguayan judges, first met in 1995 as fellow members of the same entering class of newly inducted magistrates. Over the years since they have become almost inseparable friends, bonding not just over the shared experience of adjudicating scores of complex court cases, but also through seeing their broader judicial responsibilities evolve as their country itself evolved from a ruthless autocracy into an increasingly open democracy.

“It was a different Paraguay then,” Mayor said, looking back at their first years in the courtroom. “The real changes started later, after we came in, when we entered a new era of what we could call ‘constitutionalism.’ In the past, we had laws that clearly contradicted basic rights and other things that the Constitution mandated, but the thinking in the courts was that the law was the law, and that was that. Today, the thinking is different.”

From 1954 to 1989 Paraguay was ruled with an iron hand by Alfredo Stroessner, who ascended to power in a military coup and was himself deposed in a coup 35 years later. It was not until 1993 that the country held its first democratic elections, and Paraguayan courts began defending and enforcing such basic civil liberties as freedom of assembly and freedom of the press and asserting their own independence from the executive branch.

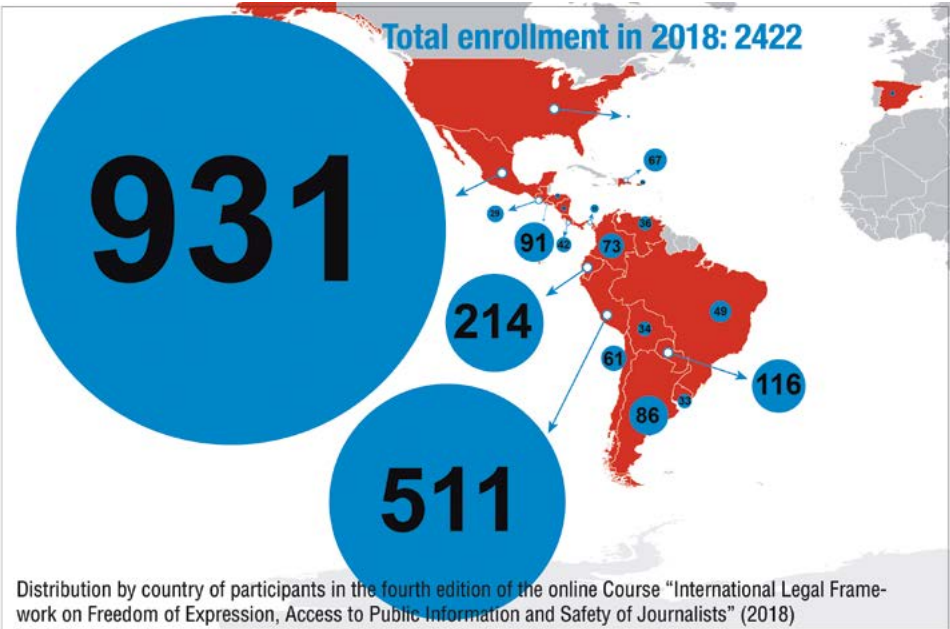
That political transformation is still underway, the two friends agreed in a conversation this past November, during a break in a course for judges here on legal issues in the fields of freedom of expression and access to information. [The latest in a series of courses organized by UNESCO’s Latin American](#)

[program for judges in the region](#), the week-long seminar took place in the airy Belle Époque manor that houses Paraguay’s judicial education institute, with expert lectures and lively case-law debates and quizzes on international legal norms.

“These UNESCO courses are a great help to us, without any doubt,” said Ortíz. “We have to overcome what we inherited from a system that was completely autocratic, with everything decided and ordered from above. We are in a new era now, where we have to learn how to become a democracy, a true democratic republic. Everything has to change – it requires a completely new mentality.”

In just a few years, the UNESCO project has grown into the most ambitious judicial training program ever undertaken in Latin America: More than 600 judges and other government legal professionals have participated in these hands-on seminars, from the first in Rio in 2014 to the November 2017 course in Asuncion, focusing on legal principles and precedents related to freedom of information and expression. [Even more impressive, nearly ten times that number took part in online courses developed by UNESCO](#) with the University of Texas Knight Center for Journalism in the Americas, a pioneer in “massive online courses” (MOOCS) for journalists in the region.

The [UNESCO program in Paraguay](#) had the active backing of three key national institutions: The Council of Magistrates School for Judges (*Escuela Judicial del Consejo de la Magistratura*); a Training Center for senior civil servants run by the Ministry of Public Administration (*Centro de Entrenamiento del Ministerio Público*); and the Paraguayan Supreme Court’s International Center for Judicial Studies (*Centro Interna-*



cional de Estudios Judiciales de la Corte Suprema de Justicia).

“This project with UNESCO represents the first time these three training institutes have collaborated formally on anything, and we are already discussing further things of this kind we could do together,” said Pepe Costa, who in his role as “Director of Transparency” for Paraguay’s Supreme Court was an early backer of the UNESCO initiative here.

Ortíz and Mayor said participation by their fellow judges in the courses has helped to strengthen a spirit of professional camaraderie in the Paraguayan judiciary, including a mutually supportive commitment to judicial independence. This kind of specialized instruction is essential, they said, as few Paraguayan judges have had either legal training or courtroom experience in cases involving freedom of information and expression.

“Some judges here haven’t yet internalized the reality that it is the citizens for whom we work, whose rights it is our job to defend,” Mayor said. “It’s difficult, because we are the children of that old autocratic system. Now we have to ‘change the chip’ in our heads to think differently, to act democratically, and UNESCO is giving us tools to do this.”

Equally important, they said, is the opportunity to build personal ties with judges and other legal professionals outside their country. Paraguay’s immediate neighbors – Argentina, Brazil and Bolivia on its borders, and Uruguay and Chile close by – have also undergone transitions from dictatorship to democracy, with increasingly independent judiciaries playing critical roles in that transformation. Judges in all those neighboring countries have also participated in these UNESCO training programs, they noted.

At the **UNESCO course in Asuncion**, about half of the 50 participants were judges from Paraguay; the others, including lecturers, hailed from across the rest of the hemisphere, including senior judges, specialists in internet governance issues, and journalists with expertise in press freedom and access to information laws.

“Meeting and interacting with judges and lawyers from other countries helps us create networks of people who we can consult with, who we can learn from, who have had similar challenges,” Mayor said.

“What UNESCO offers all of us,” he added, “is this storehouse of information, where we can see what kinds of decisions were taken in similar cases in other countries, and why.”



In this video about the UNESCO’s MOOC for judicial operators different actors of judicial society invite their colleagues to participate of the initiative. Participants in the video: Ileana Guillén Rodríguez - Director of the Judicial School “Edgar Cervantes Villalta” - Costa Rica. Director of the Center for Judicial Training for Central America and the Caribbean. David Ordóñez Solís - Magistrate, Doctor of Law, and member of the Network of Experts in Law of the European Union of the General Council of the Judicial Power of Spain. Claudia Levin - Academic Secretary of the Judicial School of Argentina. Isabelino Galeano - Executive Director of the Judicial School of Paraguay. Gervasia Valenzuela Sosa - Director National School of the Judiciary - Dominican Republic. Matías Vial - Coordinator of the Enabling Program of the Judicial Academy of Chile. Salvador Mondragón - General Director of the Federal Judicial Institute of Mexico. Sergio Alberto Palacio - Academic Director of the Judicial School of the Judicial Council of the Judicial Power of the Nation - Argentina.



From 28 to 30 November 2017, in Asuncion, Paraguay, took place an edition of the round of regional training operators judicial systems in Latin America. The theme was: "Freedom of expression, access to information public and new digital challenges"

UNESCO's project allies: the OAS and the Ibero-American Summit

An initiative conceived and led by the Latin American division of UNESCO from its headquarters in Montevideo, the training project is co-sponsored by the Ibero-American Judicial Summit, an official forum of chief justices from Spain, Portugal, Andorra and Latin America, and the Ibero-American Network for Schools of Judges, a coordinating group of 17 post-graduate judicial education institutions in 21 countries in the region.

The Organization of American States has also provided key support, with the OAS Rapporteur on Freedom of Expression giving expert guidance on relevant Inter-American legal precedents and treaty obligations. The OAS said in a later report on the project that there was a need throughout Latin America to "improve the understanding, knowledge and sensitivity" of judges and prosecutors regarding international law and standards on press freedom and access to public information.

"We have a new generation of judges who share a history of living and working under authoritarian systems, and who now have a strong shared commitment to democracy, to the rule of law, to high professional and ethical standards," said Edison Lanza, the Rapporteur for Freedom of Expression at the Organization of American States.

In planning briefs at the project's outset, UNESCO and its partners noted that legal principles involving freedom of expression and access to information were rarely "a core part of the judicial pre-service or in-service training for judges, prosecutors or attorneys" in Latin America, but approached instead as "a marginal subject" for human rights and media law

specialists. This was due, they said, both to the region's political history – in many countries democratic practices have become firmly rooted only recently – and a narrowly traditionalist approach to legal education generally in Latin American universities.

To close this instructional gap, the UNESCO program created its own textbook, a 300-page course manual or "toolkit," with detailed explanations of key legal principles and case-law histories in the courses' in three interconnected areas: freedom of expression, access to information, and the protection of journalists. Published by UNESCO in 2017, the "*Caja de Herramientas para Escuelas Judiciales Iberoamericanas*" was written by a team of Latin American experts overseen by Lanza's predecessor as the OAS Rapporteur, Catalina Botero, who now serves as dean of the law school at the Universidad de los Andes in Colombia.



The positive response from hundreds of Latin American judges to this approach – academic, yet current and practical - has demonstrated wide interest in pursuing further studies in these areas, and in applying the lessons learned in courtrooms, observers say.

"It's a revolutionary movement, in the best sense, and we need to persist in providing them this kind of training and support," Lanza said. "To consolidate democracy, the judiciary is key. Judges often have the last word."



Mr. Edison Lanza, OAS Rapporteur

Massive on-line learning: the 'democratization of judicial training'

Complementing these hands-on seminar series, each tailored to a specific national group of judges and legal professionals, UNESCO's online "MOOC" courses have provided in-depth instruction on regional treaty obligations and other provisions in international pertinent to the defense of free expression and public access to information.

Inscription is free, but participants must have professional credentials to participate – and "they are expected to do the work," stressed Rosental Alves, the Brazilian journalism veteran and University of Texas professor who runs the Knight Center programs.

Each online course featured a series of "thematic modules" – one a week for six weeks – focused on different aspects of international law relevant to freedom of expression; public access to information; the prosecution of crimes against journalists; media regulation issues, including those designed to foster diversity and pluralism; and "new challenges to freedom of expression" on social media and other Internet forums.

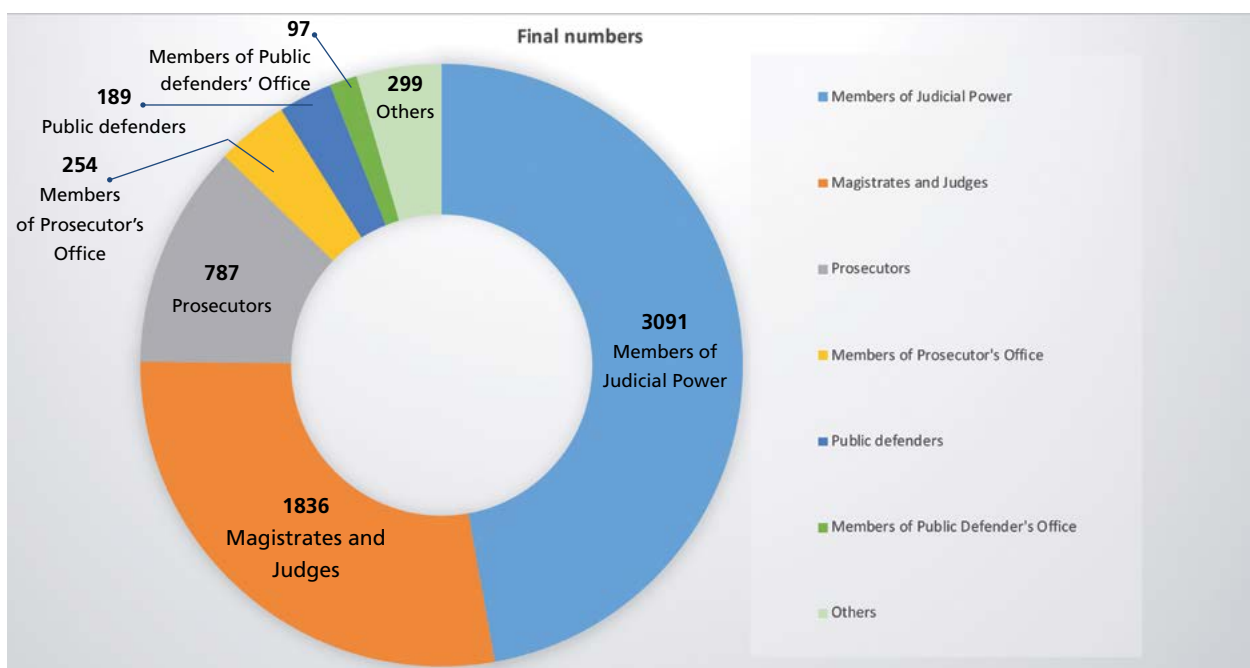
Despite some initial skepticism in sponsoring institutions and Latin American legal circles about the willingness of judges and other busy professionals to devote time to this online training, the response from the start "was tremendous, almost overwhelming," Alves said. He said, "It's almost like magic, how well it works, and how many people can participate."

The first of the MOOC programs - tailored specifically for judges and other judicial-sector professionals

in Mexico, with strong backing from the country's Supreme Court – drew more than 900 participants, far exceeding organizers' expectations for a course aimed at just one country. Subsequent regionally focused MOOCs drew thousands more, including 2200 from 19 countries for one 2017 course alone.

"The online courses have made possible what I think of as the 'democratization' of judicial training, of capacity-building, because without any kind of preferential access or insider knowledge, anyone qualified can participate, which isn't always the case with this kind of specialized instruction," said Ricardo Pérez Manrique, a former chief justice of the Uruguayan Supreme Court and an early supporter of the UNESCO program.

"Getting enrolled in these courses is not a matter of who you know, or whether someone else thinks you should do it or not," Perez noted. "It's your time, your own initiative. This is a model approach, I think. It shows that there is a genuine professional desire among many judges to strengthen their ability to be of service to people and to defend human rights."



Ibero-America: Shared Legal Traditions and Political Challenges

With its online journalism and media law courses attracting more than 100,000 participants worldwide over the past five years, the University of Texas Knight Center has seen that MOOCs “are now well past the ‘hype’ phase” and are on their way to becoming a major force in global education, including in post-graduate professional instruction, Alves said.

“People adapt to this kind of long-distance instruction very quickly,” Alves noted. “Lifelong learning through electronic media will become a normal part of many professions in the future, I’m completely convinced.”

Almost as important as the courses themselves, participants say, are the cross-border networks of colleagues and experts that they encourage, as participants self-identify online by nationality and professional profile, and continue conferring for months or years afterwards through email or social media platforms on specific national, regional and thematic issues. This informal individual “South-South cooperation” may be the project’s most enduring contribution, some believe, in helping to create a sense of community and collegial support for progressive-minded judges and attorneys throughout the region.

One such group, calling itself ‘*Abogados de las Americas*,’ or ‘Lawyers of the Americas,’ with about 70 active members in a dozen countries, uses WhatsApp texts to keep in touch, with participants sharing information about new cases and legal issues in their respective countries.

“We communicate with each other every day,” said Sandra Flores, a lawyer and member of the Human Rights Commission of Honduras, who joined the online group after taking a UNESCO course.

“We are there for each other, to help and support each other, in a diverse group with a lot of experience. We are dealing with matters that are highly sensitive, in different countries with a variety of laws in these areas. Some are similar, some are different, but we try to share what we know and keep each other up to date on these issues.”

Latin America’s legal tradition is a hybrid of inherited Spanish and Portuguese colonial law and the 1804 “Napoleonic Code” reform of the French criminal justice system, adapted as a model by newly independent countries throughout the region in the early 19th century, with a late 20th century overlay of regional treaty commitments incorporating English common law traditions of Canada, the United States, and the anglophone Caribbean, and judicial enforcement of constitutional guarantees of civil liberties on the U.S. model. The active involvement in the training program by two prestigious Ibero-American professional associations, both linking judges and legal scholars in Spain, Andorra and Portugal with their Latin American counterparts – the Ibero-America Judicial Summit and the Network of Judicial Schools -- has helped root the project in this shared legal heritage, UNESCO officials say.

The inclusion of judges from Spain and Portugal brought another valuable source of expertise: As in many Latin American countries, the Spanish and Portuguese judiciary played a key role in relatively recent transitions from military rule to modern electoral democracy. Once subordinate to an all-powerful executive, judges were now autonomously responsible for interpreting and upholding the rule of law, following constitutions and legal codes rather than the dictates of political authorities. Yet, as in many Latin American countries, those codes and constitutions include complications and contradictions from an authoritarian past, ranging from special privileges for the military and religious-based censorship of the arts to restrictions on the disclosure of government documents.

Though there are many distinct national variants of civil and criminal codes and judicial structures within this broadly shared Latin American legal culture, the similarities are more significant than the differences, judges in the region say. This is especially true as national jurisprudence on matters of basic human rights and democratic practices is increasingly influenced by OAS treaty obligations and decisions of the Inter-American Court of Human Rights, based in Costa Rica. Increasingly, national rulings constraining freedom of expression and public access to information have been successfully appealed in the Inter-American Court, creating new legal precedents which are then cited by attorneys and judges elsewhere in the region, and studied as case histories in UNESCO’s judicial training courses.

OUTCOMES: Training for Latin American judges in freedom of expression & access to information

Ten milestones in the training initiative by UNESCO and the Ibero-American Judicial Summit on legal principles and precedents for freedom of expression and access to information:

1 In November 2016, a [Memorandum of Understanding between UNESCO and the Ibero-American Judicial Summit](#) to strengthen cooperation on issues of freedom of expression, access to information, transparency and the safety of journalists was signed by UNESCO Director-General Irina Bokova, and the Chief of Justice of the Supreme Court of Uruguay, Ricardo C. Pérez Manrique, on behalf of the Ibero-American Judicial Summit.



A Memorandum of Understanding to strengthen cooperation on issues of freedom of expression, access to information, transparency and the safety of journalists was signed on 2016 by UNESCO's Director-General, Irina Bokova, and the Chief of Justice of the Supreme Court of Uruguay, Ricardo C. Pérez Manrique, on behalf of the Ibero-American Judicial Summit

2 The Ibero-American Network of Schools for Judges (a subsidiary of the Ibero-American Judicial Summit) [agreed to include Freedom of Expression, Access to Public Information and the Safety of Journalists](#) as core topics in its 'Training of Trainers' program.

3 The Chief Justices of the courts [unanimously approved continuing the partnership with UNESCO](#) and the Ibero-American Summit for these training programs.

4 The Summit group further decided to align its activities with UN Agenda 2030, especially SDG16, which calls for the promotion of "peaceful & inclusive societies," the protection of "fundamental freedoms," and universal "access to justice".

5 The Chief Justices formally endorsed the [MOOC 'International Legal Framework on Freedom of Expression, Access to Information and the Safety of Journalists'](#) and unanimously

recommended that its Member States adopt the course.

6 The Chief Justices recognized the ['Political-pedagogical guide on incorporating the subject of freedom of expression and access to public information in the training of judicial officers'](#) as pertinent to the mission of the Ibero-American Summit and recommended that Summit Member States adopt the guide.

7 In March 2017, in Santo Domingo, [the Schools for Judges of Ibero-America endorsed UNESCO's 'Toolkit of Training of Trainers on Freedom of Expression, Access to Information and Safety of Journalists'](#) for use in their own schools' curriculums.

8 In April 2017, [UNESCO and the Ibero-American Platform of Audiovisual Media Services Regulators agreed to create](#) a similar training program for media regulators.

9 In September 2017, [UNESCO and the National Police of Colombia announced a training initiative](#) for the country's Security Forces in press freedom and freedom of expression.

10 In its most recent biennial meeting, held in Ecuador in April 2018, [the Ibero-American Judicial Summit formally endorsed and encouraged the use of the UNESCO Toolkit](#) in the 'training of trainers' for judges in freedom expression, access to information and, safety of journalists.

"We are privileged in the Americas to have this Inter-American system, which is so active and important in the field of human rights, with institutions like the human rights court in San Jose' and the office of the Rapporteur for Freedom of Expression," said Alves, of the University of Texas. "It is really an example for the rest of the world."

In one of the course sessions here, a former justice of Uruguay presided over a lively discussion of a Chilean court case analyzed in the UNESCO handbook, a lawsuit successfully filed in 1997 to prevent a planned screening of Martin Scorsese's "The Last Temptation of Christ," on the grounds that it was blasphemously offensive to Roman Catholics. The suit based its argument on clauses in Chile's constitution which had been enacted under military rule but which remained in effect after the country's return to democratic government; among them were provisions for banning films deemed to be morally or politically objectionable, despite a constitutional prohibition against prior censorship.

Chileans who favored the film's public showing appealed the national court order to the Inter-American Court, which ruled that banning the film contravened both the Chilean constitution and Articles 13 ("Freedom of Thought and Expression") and 12 ("Freedom of Conscience and Religion") of the Inter-American Convention of Human Rights, to which Chile is a signatory. The "Last Temptation of Christ" decision set a region-wide precedent against censorship on religious or similarly subjective grounds – perhaps the most lasting if unintended contribution to the cause of freedom of expression by the Oscar-winning director, also famous for "Goodfellas," "Raging Bull," and "Taxi Driver," among other award-winning films.

As several participants in the class debate pointed out, the broader issue of conflicts between free speech and conceptions of public morality – including perceived disrespect for religious beliefs – remain very much a matter of debate in many Latin American countries, where the Catholic Church still enjoys special constitutional protections, and art exhibits can be closed by court order if deemed offensive to popular sensibilities. Yet because the "Last Temptation" case dealt directly and narrowly with the issue of pre-emptive censorship of a work of cinema, that is now considered a matter of settled law throughout the region.

Lanza, of the OAS, noted other such examples which are studied in the UNESCO courses as cases with a region-wide impact on freedom of expression law:

- In Argentina, a newspaper was sued by former President Carlos Menem for reporting about a child he had fathered out of wedlock, on the grounds that the story was an unjustified invasion of his and the (now-adult) child's privacy. The newspaper argued that the ex-president was still a public figure, and his personal life was a matter of legitimate public interest. An Argentine court ruling in Menem's favor was overturned on appeal by the Inter-American court in San Jose, a decision ultimately accepted as binding by Argentina's Supreme Court, and strengthening the ability of news organizations throughout the region to report on public figures without fear of protracted court battles and costly legal settlements.
- Under the pretext of protecting national security or public safety, various governments in the region have imposed financial penalties on journalists, civic activists and others for disseminating allegedly "false" and/or "injurious" information, and have in some cases restricted or banned publications, websites and broadcast outlets on similar grounds. In a series of such cases brought to the Inter-American Court, the judges in San Jose' reversed previous national court decisions upholding orders for the closure of an online blog site; the cancellation of a broadcast license for a television news network; the punitive imposition of fines and tax charges against critical news organizations; and criminal libel charges brought by a government against leaders of an indigenous rights group for accusing that government of violating their human rights.
- Working journalists in several Latin American countries had long been obligated to join national professional associations in order to practice their craft and to enjoy key legal protections, such as protecting the confidentiality of sources. A reporter who challenged that requirement in court as an infringement on his individual right to free expression, and on press freedom generally, ultimately prevailed at the Inter-American Court, in a ruling that effectively abolished this mandatory 'colegio' membership for journalists in all OAS member states.
- In nations with recent histories of military rule, the armed forces often still enjoy wide legal leeway to restrict information about military affairs and institutions, even extending to the personal opinions of current or past



Freedom of Expression Case Law Database

officers – restrictions that were eliminated in recent precedent-setting cases in the Inter-American Court. In one such case studied in the UNESCO courses, a former Venezuelan officer was found guilty of libel against the military for answering a television interviewer’s hypothetical question about the army’s treatment of prisoners. In another example, a Chilean military tribunal not only banned publication of a book by a former army officer, it ordered the destruction of all physical and electronic copies, as well as the seizure of the author’s notes and other personal computer files. In both these cases, rulings favoring this military-imposed censorship were upheld by national civilian courts, but overturned on appeal by the regional court in San Jose’.

- Despite the adoption of access-to-information laws in most countries in Latin America – Bolivia, Costa Rica, Cuba and Venezuela are the only remaining exceptions – is still common for governments to refuse public requests for official documents and data on broadly interpreted national security or personal privacy grounds, without offering specific legal rationales for withholding the requested information. As detailed in the UNESCO textbook, several court challenges to these decisions by national governments were overturned on appeal to the Inter-American Court, which recommends a “tripartite test” based on OAS norms to determine the validity of denials of requests filed under access-to-information statutes – guidelines which can also be applied to restrictions on free expression:

1. Is the claimed exemption from public disclosure obligations clearly autho-

rized by law, for the specific reasons cited by the government?

2. Is the restriction intended solely for its specifically cited purpose?
3. Finally, is it demonstrably a) necessary; b) proportionate; and c) ideally suited (“idoneo”) to achieve its declared purpose?

As these and other such examples were discussed during the week-long course here, many participants noted parallels to cases currently under review by the courts in Paraguay.

“These are subjects and issues that are very complex, that are not all resolved,” said Pérez Manrique, the former Uruguayan chief justice. “How we deal with these issues – freedom of expression, access to information, the protection of journalists – will determine nothing more and nothing less than the state of democracy in our countries.”

Access to Information: Paraguay as a case study

Laws mandating public access to information are a relatively new phenomenon, with most of the more than a hundred such statutes now in force worldwide having been adopted since the year 2000. Latin America has been in the forefront of this movement globally, both in terms of the rigor of its legislation – the access-to-information laws of Mexico, Brazil, Chile and El Salvador are considered to be among the world’s best – and in the success of its implementation, with many of the laws now used routinely by ordinary citizens as well as professional users such

as journalists, civic activists, politicians and private attorneys.

Even in Latin America, though, most laws have been in effect for less than a decade, and the judiciary is just beginning to adopt consistent enforcement standards. The UNESCO textbook looks closely at relevant recent case law, focusing especially on appeals heard by the Inter-American Court of Human Rights, with rulings which have helped to strengthen enforcement of these laws by national courts throughout the region.

*“What could be more important than freedom of expression and access to information for people to feel like they are full members of their societies?”
Costa, the Supreme Court advisor, remarked during the course in Asuncion.*

“But law schools here and in most countries in the region don’t teach this material. It’s very new. So, what do we need to do to make this work? Exactly what we’re doing here this week, in this UNESCO course – looking carefully at relevant laws and cases from other countries, and in our own country as well.”

As noted by many in the seminar, Paraguay itself offers an interesting case study of the adoption and judicial enforcement of an access to information law.

In 2014, in what democratic reformers here hailed as a historic break with the country’s authoritarian past, Paraguay became the nation 100 to pass a law requiring public access to official information. The new “Ley de Libre Acceso Ciudadano a la Informacion Publica y Transparencia Gubernamental” established procedures for the dissemination of government documents, and created dedicated websites where citizens can file individual requests for specific information from state agencies and ministries. As with most such laws, it also required government bodies to publish details of their budgets, including payrolls and the terms of public works contracts.

Though both the law and the constitutional provisions on which it was based were considered deficient by some experts – in the global ratings of 112 national right-to-information laws by the Centre for Law and Democracy, Paraguay’s law ranks #96 - “its impact was dramatic, with its effects felt almost imme-

diately,” said Isabelino Galeano, the director of Paraguay’s National School for Judges.

For the first time, he noted, information about salaries and job responsibilities of government employees was available publicly, and reporters and others took a close and critical look. *“The result was that within just a year or two, hundreds of ghost employees – people who were paid but never showed up to work, in some cases for jobs that did not even exist – were purged from the government payroll,”* Galeano said.

Not all state agencies and ministries voluntarily complied with their new obligations to disclose details of expenditures and contracts, Galeano said. Ultimately, he stressed, the law’s success depended on the willingness of Paraguay’s courts to rule against recalcitrant public officials and in favor of citizens petitioning for the release of government documents, in accordance with the law. So far, he and other knowledgeable observers say, Paraguayan citizens have been able to trust most judges to uphold their rights and enforce the law.

This confidence is well-founded, they say, because Paraguay’s judges began enforcing the constitution’s long-ignored guarantee of public access to information a few years before the 2014 statute became law. Reversing the usual history of these laws, where media and civil society groups push for passage of legislation and the judiciary starts playing its role once the law is passed, in Paraguay judges began ordering disclosure of government payrolls and contracts while the law was still being drafted and debated.

In a landmark case in 2007, a Paraguayan journalist filed a request for basic information about municipal employees in his own small town – Who were they? What did they do? How much did they get paid? – and was summarily refused. He appealed, citing a clause in the 1993 constitution on public’s right to official information, and lost again.

Then something unprecedented happened: Paraguay’s ‘Defensor del Pueblo’ – a newly created national ombudsman’s office – intervened on the plaintiff’s behalf and filed a further appeal with the Supreme Court, which overturned previous rulings and ordered the town to make its payroll information public. (To the surprise of few, relatives of town officials and others with no apparent official function were found to be receiving salaries.)

The justices based their decision both on the constitution and on a then-recent ruling by the Inter-American Court on a similarly sequentially rejected request for government contract information filed by a civic activist in Chile – the first time that the Paraguayan

Supreme Court had recognized the national legal relevance of a decision by the tribunal in San Jose on the right of public access to official information.

The consequences of its ruling were almost immediate: a leading newspaper demanded the release of all payroll and related employee expenditure data from the entire national government, information which was released by presidential order over the objections of legislators who did not want their own salaries or staff payrolls disclosed. The public furor over these previously secret expenditures and lawmakers' efforts to block the disclosures helped propel a long-stalled public information bill into law just a few months later.

But is there still resistance to the law in some sectors of government, government officials here acknowledge. Without an independent regulatory authority – what many say is the law's chief weakness – enforcement depends ultimately on the judiciary, on an accumulation of decisions made on a case-by-case basis. In late 2017, courts were reviewing more than thirty different formal complaints from citizens whose requests for information had been ignored or rejected by state authorities. Ruling properly on those cases requires deep familiarity both with the Paraguayan law and with relevant precedents and principles in international law, participants in the course noted.

"The biggest obstacle we face in implementing and upholding the law for access to information is what I would call the 'culture of secrecy' we have had throughout our government, at every level, because of our political history," Galeano said. "So we view participation in this course and this project as not just further legal education for judges, but as part of a process of cultural transformation for the country as a whole."

Enrique Riera, Paraguay's minister of Education and Science until very recently, was head of its main judicial oversight body - the Consejo de la Magistratura, an eight-person council responsible for the appointment of judges and prosecutors - when UNESCO started its program in 2014. Riera strongly backed the initiative, helping to organize the program's first courses in Paraguay in 2015, with court enforcement of the country's new access-to-information law a priority. The following year, in 2016, as Paraguay hosted the biennial meeting of the Ibero-American Judicial Summit, the topic of "Transparency and Public Access to Information" was included in the Summit agenda for first time, at Paraguay's request.

Riera praises the courses offered by UNESCO, but frankly acknowledges that the main motivation behind the government decision to support the project and host the Ibero-American Judicial Summit was to persuade the skeptical Paraguayan public that it was genuinely committed to the access to information law and an independent judiciary.

"It was a political imperative," he said. "We had to convince the Paraguayan people that we are serious about this, and that we are doing it seriously, in accord with the highest international standards. UNESCO is a trademark - people know and respect UNESCO, they associate it with positive things in education and press freedom and other areas. If they see that we are working with UNESCO and UNESCO is working with us, it's good for us."

Freedom of Information, the Rule of Law and achieving the SDGs

Though the coursework is tailored for judges, with a focus on case law and legal principles and precedents, course leaders and participants alike stressed the importance of keeping a focus on its ultimate purpose, which is to protect the rights of ordinary citizens.

"These are all issues that affect people's lives, that are fundamental for people everywhere," Costa remarked at the close of one class session.

Those issues in turn were also seen by participants in the broader context of building effective, accountable, durable democratic institutions in countries like Paraguay with long recent histories of autocratic rule.

At the opening session of the Asunción course, Pérez Manrique delivered a thoughtful lecture on the critical role of an independent, professional judiciary in the achievement of the UN's Sustainable Development Goals, or SDGs – especially SDG16, which calls on UN member states to "promote peaceful and inclusive societies."

SDG16 has ten specific targets for action, of which two are especially relevant to the UNESCO training course: SDG16.3, under which all UN member states pledged to "ensure equal access to justice for all," and SDG16.10, which commits those 193 signatory countries to "ensure public access to information and protect fundamental freedoms," including, by deliberate implication, freedom of expression.



UNESCO training of trainers during the XIX edition of the Ibero-American Judicial Summit, when all the chief justices of Ibero-America approved a regional declaration reaffirming the commitment of their judicial powers with the implementation of the 2030 agenda, particularly SDG16.



But all ten SDG16 targets are interconnected, and all ultimately rely on the rule of law, Pérez Manrique noted in his address. In Latin America, he argued further, progress in all these target areas is essential for the consolidation of effective democratic government, which is in turn necessary for achieving all the other Sustainable Development Goals:

“Latin America is now one of the most democratic regions of the world, with democracy based on broad popular support for progress towards constitutional, socially responsive government, regional integration, and openness to the outside world. But the risks we face cannot be overlooked: these risks are the consequence of weak legislatures, a lack of independence in the application of the law, of corruption that is out of control, social inequalities, and the failure of critical elements of a representative democracy, among them labor unions, civic associations and political parties.

For all those reasons, it is essential for forward-thinking groups of professionals both regionally and within each national judiciary to keep attention focused on issues such as the rule

of law, the integrity of national election systems, and governance within the judiciary itself, so that we can create and maintain judicial systems that are compatible with the achievement of the 2030 Sustainable Development Goals.”

Yet as Pérez Manrique and other lecturers acknowledged, achieving the Sustainable Development Goals and working towards lasting democratic reforms can seem like aspirational abstractions in countries with many pressing immediate challenges. The UNESCO course, while it furthers these long-term goals, has direct, obvious practical relevance to judicial professionals, with an impact that is already being felt across the region, participants say.

To take one recent local example:

As Mayor and Ortíz and other Paraguayan judges took part in the UNESCO training course, three of their colleagues were presiding in a courtroom across town where a former border-town mayor was on trial for ordering the murder of a local reporter.

The journalist, Pablo Medina Velázquez, shot dead in 2014 while on assignment in the border region with Brazil for ABC Color, the country’s leading newspa-

per, had been investigating reports of the mayor's involvement in drug smuggling. Medina was the third Paraguayan journalist to be murdered that year – all in cases involving corruption and organized crime. The mayor was accused of contracting his brother and nephew to carry out the killing.

In December, the panel of judges found him guilty and sentenced him to a long prison term – a rare exception to the general rule of impunity from homicides of Latin American journalists. (One such case was Medina's older brother, a radio journalist murdered in 2001 in reprisal for his reporting.)

At the UNESCO project's first training session in Asunción in 2015, when the 2014 murders of Medina and two other reporters here were just beginning to be investigated and prosecuted, the course included a briefing on the UN Plan for the Safety of Journalists, which UNESCO coordinates, and a review of recommended measures to prevent attacks on threatened journalists, including the assignment of police guards and vigorous, visible investigations and prosecutions of previous such cases. Several workshop participants created an informal working group focused on the protection of journalists, using social media channels such as WhatsApp to facilitate swift and secure exchanges of information and commentary on the subject in the months following the UNESCO seminar.

One of the judges at the ex-mayor's murder trial was a graduate of that 2015 UNESCO seminar. The judge told colleagues later that the course had given her valuable guidance in the case, by highlighting precedents for prosecuting the premeditated killing of a journalist not as a common homicide, but rather as an attack on press freedom and the rights of all Paraguayans to “seek, receive and impart information and ideas,” in the words of the Universal Declaration of Human Rights.

Course lecturers and administrators cite such examples as evidence of the project's long-term potential impact on Latin America's criminal justice system, and on the defense of press freedom and access to information generally. Hundreds of sitting judges in the region are course graduates, with scores more joining their ranks every few months.

“I'm convinced that the key to the defense of human rights in our countries is the judiciary, especially the judges who are dealing with these cases directly,” said Pérez Manrique. “Ensuring that these judges are both independent and well versed in the law is the most effective way of protecting people's rights.”

Mayor and Ortíz, as the week-long course in Asunción drew to a close, said that they fully agreed with the Uruguayan judge.

“To the extent that courses like this help strengthen the professionalism of the judiciary here, which I believe they do, this is frankly a big step forward for us,” said Ortíz.

The Paraguayan Supreme Court's support for the program was critical to its success, Mayor noted, including the rescheduling of courtroom duties for participating judges.

“It's important that for a full week we were taken away from the routines of our offices, our courtrooms, even our family life, and given the chance to think and talk about these issues as a group, as colleagues,” he said.

“My only critique is that the coursework has to be so compressed. I wish we had had fifteen days to devote to these subjects, instead of just five.”

Mayor and Ortíz said that they would like to see courses of this kind incorporated as required training for all judges in Paraguay and elsewhere in the region, perhaps with the participation of the Inter-American Court of Human Rights. That kind of continuing legal education would not only strengthen the independence and professionalism of the Latin American judiciary, it would build a legal bulwark against official attempts to restrict or roll back basic civil liberties in the region, they said.

“If we have a strong judiciary, one that is impartial and professional, this is the best guarantee for the citizenry that their rights will be respected, and that the laws will be enforced equally for everybody,”
Ortíz said.



Bill Orme

Bill Orme is an author, editor, and independent consultant specialized in media development and strategic communications, with long experience supporting independent journalism in emerging democracies and managing global advocacy campaigns.

Bill represents the Brussels-based Global Forum on Media Development (GFMD) at the United Nations, with a special focus on the freedom-of-information commitments in the UN's new Sustainable Development Goals. He is also engaged as a consultant on media reform and public information projects in West Africa and Latin America. From 2002 to 2014, Bill was a senior official at the United Nations Development Programme, serving as Chief of Communications & Publishing for the Human Development Reports, a Policy Advisor for Independent Media Development, and UNDP's Director of External Communications and chief press spokesman.

A veteran foreign correspondent, Bill was Executive Director of the Committee to Protect Journalists (CPJ) in the 1990s and a founding board member of IFEX, the International Freedom of Expression Exchange. He returned to daily journalism as a Middle East correspondent for The New York Times and UN bureau chief for The Los Angeles Times. Before heading CPJ, he was the editor of LatinFinance, a regional business monthly which he founded following a decade of reporting on Latin America for The Washington Post, The Economist, and other publications.

Bill is the author of "Understanding NAFTA: Mexico, Free Trade and the New North America" (University of Texas, 1996) and the editor and lead essayist of "A Culture of Collusion: An Inside Look at the Mexican Press" (University of Miami, 1997). He was an editor and writer for the annual CPJ Attacks on the Press reports (1993-98) and UN Human Development Reports (2003-2007; 2010-2014). Other books to which he has contributed include "Journalists in Peril" (Transaction, US, 1998); "Crimes of War" (W.W. Norton, US, 1999); the "Encyclopedia of International Media and Communications" (Elsevier, 2003); "Media in Support of Sustainable Development" (UNESCO, 2015); and "The Trust Factor" (Ethical Journalism Network, UK, 2015).

Bill serves on the advisory board of the National Endowment for Democracy's Center for International Media Assistance (CIMA) and is a founding member of International Media Development Advisors (IMDA), an association of independent media consultants.

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