

DIVERSITY IN THE BROADCAST MEDIA: A PENDING ISSUE MADE WORSE DURING THE ELECTORAL PROCESS

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Access to diverse sources of information is a key element of the capacity to exercise the right to freedom of expression, understood as part of the broader framework of the right to information. Informational pluralism allows citizens not only to express themselves, but also to draw from diverse media sources in order to make informed judgments and thereby better exercise their right to vote.

Freedom of expression and thought is not limited to being able to express ideas without censorship. Rather, it is also about the right and ability to disseminate these ideas through the appropriate means of communication, such as the print or broadcast media.

In the case of the print media, there is a fundamental disengagement from governmental influence in terms of providing informational pluralism. That is to say, diversity in the print media does not depend primarily on actions by the State, but rather on social mobility and the economic market. The influence of public policy, such as a balanced allocation of official advertizing or the application of anti-monopoly regulations, can be desirable in order to guarantee greater diversity. However, public policy is not the determining factor for diversity in the print media.

This is not the case with broadcast media, where the State has complete control over broadcasting licenses due to the naturally limited number of wavelengths available. In other words, aside from the economic and social capacity needed for these communication medias to survive, they need a permit from the State to legally exist.¹ As a result, it is vital that the criteria used for allocating access to radio and television frequencies include more than technological and economic issues. Social factors and consideration of what will be in the public interest also need to be taken into account, in order to encourage diversity. Even better, legislation could reserve a share of the airwaves for nonprofit and

¹ This concept is developed in greater detail in: Damián Loreti, "¿Qué principios debe acatar una ley pluralista de radio y televisión. Apuntes sobre los contenidos de la Ley Federal de Radio y Televisión," in *Ley de Medios: Poder sin Contrapesos* (Mexico: Perspectivas Progresistas, Fundación Friederich Ebert Representación en México).

social use.² In other words, the State should guarantee that the diverse groups operate broadcast media, and not allow ownership to be concentrated in a few hands.

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR, or CIDH in Spanish) establishes that, “Monopolies or oligopolies [...] conspire against democracy by limiting the plurality and diversity which ensure the full exercise of people’s right to information.”³

Mexico, with its high concentration of ownership, lacks informational pluralism in the broadcast media. Eighty percent of television broadcasting licenses is in the hands of two private conglomerates, and sixty percent of radio licenses are owned by only fourteen families, according to data from the Ministry of Communications and Transportation provided in response to a recent information request through the federal transparency law.⁴

Compounding the situation is the fact that a large percentage (official numbers are not available) of non-profit and government-owned media outlets are not representative of citizen groups’ voices. When deciding their program content, the majority of these media outlets do not have the democratic processes necessary to ensure a plurality of voices. This essentially turns them into official broadcasting tools, representing the government; not even the State, and even less the public.

Another sector of the media that operates on permits granted by the State is that of public and private educational institutions. Given the centrality and importance of their work, it is considerably disadvantageous that they represent only 20% of broadcast permits granted nationally to non-profit institutions.⁵

² “A good example of this is seen in countries of the “North”, where the promotion and protection of community based media is achieved by reserving television channels and radio frequencies for their specific use only. In the United States frequencies 88.1 through to 91.9 of the FM wave are reserved for non-profit media. In Italy, 25% of available frequencies in any one “area of service” are assigned to community radio stations.” Ignacio López Vigili, *Libertad de Antena* (AMARC-ALC, 2001), available at: www.ourmedianet.org/documents/Libertad_de_Antena_2.pdf.

³ Office of the Special Rapporteur for Freedom of Expression, Annual Report 2004, “Chapter V Indirect Violations of Freedom of Expression: The Impact Of The Concentration Of Media Ownership,” available at: <http://www.cidh.org/relatoria/showarticle.asp?artID=459&IID=1>.

⁴ The Ministry for Transportation and Communication had to petition this information through Mexico’s Federal Law for Transparency and Access to Information (LFTAIPG in Spanish). The full report can be found at http://portal.sct.gob.mx/SctPortal/appmanager/Portal/Sct?_nfpb=true&_pageLabel=P28002.

⁵ “The distribution of television’s frequencies: 64% for commercial use, 36% for state permits. However, these figures are misleading as in 1999 the number of permits increased as a lot were granted for low frequency use. Of the 36% mentioned, 25% are for frequencies below .200 kilowatts. Of the license concessions for television, 31% are affiliates of TV Azteca and 48% are affiliates of Televisa, meaning that 80% of license concessions belong to TV Azteca or Televisa. Furthermore, 82% of the permits granted for use of television and radio frequencies belong to local state governments. These figures show the low percentage of frequencies available for use by citizen and community projects.” Excerpt taken from a detailed report about freedom of expression and the right to information in Mexico, written for the official visit to Mexico of The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights in August 2003.

On the other hand, only twelve non-profit citizen groups in the whole country have broadcasting licenses—in sharp contrast to countries such as the United States, Canada and Argentina, each with hundreds of non-profit stations, or with Colombia and Venezuela, each with thousands.

The landscape becomes even more dramatic when we take into account the recent changes in television and radio legislation, which fail to recognize non-profit media outlets that do not belong to the State. This lack of recognition denies them the possibility of generating their own funding sources, through sponsorships or the use of their airtime.⁶ This limits their capacity to sustain themselves economically, especially in the context of the impending need to digitize their broadcasting, which will require large investments.⁷ All this puts the existence of independent non-profit media at risk, including outlets that have existed for over forty years. An example of this is Radio Teocelo, in Veracruz, which up until less than five years ago was the only community radio station in Mexico with an official operating permit.

We can therefore conclude that, in Mexico, it is the opinions of privately owned media outlets and government institutions that dominate the broadcast media scene and leave very little room for pluralism to flourish.

This situation violates the right to freedom of expression of citizen groups whose petitions to operate broadcasting media communications have been unjustifiably denied by the State. It is also an offense against diverse sectors and social communities that either do not find their opinions reflected in the existing media; or lack access to any other type of information beyond what is offered by commercial and government media. This is the case, for example, for diverse indigenous communities that lack communications media that broadcast in their languages.

Now, what does this situation mean for the electoral process? Simple: deliberation is an indispensable tool for democracy and the limited informational pluralism available from the broadcast media undermines deliberation. To return to the example of indigenous communities without access to information broadcast in their native language (apart

⁶ The limitations in the new legislation for non-profit operators of media are analyzed further in: Aleida Calleja, "El Estado Perdió," in *Ley de Medios: Poder sin Contrapesos* (Perspectivas Progresistas, Fundación Friedrich Ebert Representación en México).

⁷ Digitalization is an international change in technology. By going "digital", different forms of communication such as radio, television, internet and telephone lines will all converge on the same signal. The process will also mean an increase in the amount of radio frequencies and television airwaves. Depending on the standards adopted by individual countries, this could mean the liberalization and redistribution of frequencies and airwaves. It is an item on the agenda of organizations interested in promoting the right to communication on an international level, who wish to make sure that digitalization is used to open up the communications sector rather than make it even more concentrated.

from radio stations that belong to the State), such a clearly incomplete debate cannot be the stage for substantive democratic practices, regardless of what a vote count may say. Mexico needs democratic processes that transcend a simple model of democracy that is limited to formal procedures. Less plurality and diversity in the debate means less democracy.

It is true that there has been a phenomenon of plurality and diversity in the mass media in general, and that some of it has reached radio and television. However, this only reflects the new reality of political pluralism, which the mass media cannot ignore, primarily because of commercial motives. In other words, broader coverage of the different political parties will generate a larger audience and therefore more profits.

Broader coverage of electoral competition, however, does not necessarily lead to more presence of different social groups in the public sphere, as many remain invisible. Evidence of this includes: i) the repeated complaints from minority political parties with respect to the limited media coverage of their activities; ii) the angry accusation from “The Coalition for the Good of All” (a broad-based political group) of excessive bias in election coverage.

Examining past elections, it becomes clear that economic profit prevailed over the public interest when television and radio chose the content and slant of its coverage. The lack of a dissident voice was deeply felt. The saturation of the broadcast media with government-funded media campaigns of the major political parties simply worsened the situation. It was not only the lack of the candidates’ media presence or the lack of apparent plurality and equality in allocating airtime that struck a negative note in terms of democratic indicators. The greatest victim, amongst democratic indicators, of the excessive concentration of broadcast media ownership, is our public’s right to knowledge. That is to say, to be able to inform ourselves in a plural manner and obtain information from as many different sources as the broadcast spectrum permits.

In addition to the strictly electoral setbacks, the last presidential elections revealed another debt that the government (and its legislative bodies) owes to the citizenry. The political class has abdicated the imperative for the State to take positive action to guarantee maximum diversity of voices in the media, through the allocation of broadcast frequencies, which is needed to be able to properly exercise the right to information. Informational pluralism is a goal our country is far from achieving.