



Annual
report
2017

Facultad de Derecho

Centro de Estudios en Libertad
de Expresión y Acceso a la Información

UP
Universidad
de Palermo

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*This year, 6 students from the School of Law of the University of Palermo collaborated with CELE, as a part of their professional practices to finish their degree: Fabricio Álvarez, Julia Arizmendi, Erica Baldo, María José Bernal, Romina Escudero and Joseph Santos.



EL CELE **Agustina Del Campo** Director of CELE

2017 has been a year of anniversaries. CELE celebrated the 5th anniversary of its workshop "Towards a better regulation of the Internet in Latin America", and in the regional context, 2017 was the 20th anniversary of the Office of the Special Rapporteur for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights. Relatively speaking, anniversaries invite us to reflect on the task undertaken, continuing challenges and lessons learned.

In 2017 we established a **Legislative Observatory on Freedom of Expression in Latin America**. The objective of the Observatory, through the mapping and systematization of laws and bills, is the creation of a free and open tool that facilitates access to regional and comparative legislation for organizations, activists, scholars, etc. **The Observatory aims to demonstrate how Internet regulation is impacting pre-existing regulation on freedom of expression.** In 2017 we worked on the legislation of four countries: Argentina, Ecuador, Mexico and Peru, with researchers in each of those countries, whose work we appreciate.

In the framework of the Initiative for Freedom of Expression on the Internet (iLEI), **we published a new book in the series "Towards an Internet free of censorship"**, which features articles by distinguished scholars from Latin America and the United States and addresses some of the most complex issues that countries face in terms of Internet regulation. Furthermore, in September we **celebrated the 5th edition of the workshop "Towards a Better Internet Regulation in Latin America"**, with the participation of more than 35 organizations from society in general, representing 17 countries in the region, and the attendance of legislators and their advisors, civil servants and representatives of the judicial and executive branches. Additionally, this year we developed an all-encompassing evaluation of the workshops held between 2013 and 2017, in order to assess their impact and identify best practices and challenges that will allow us to improve future workshops.

In February 2017 we participated in a meeting of regional experts in Bogotá, Colombia, with the objective of discussing and advancing a specific agenda on the right to be forgotten, privacy and

surveillance and fake news, among other topics. And throughout the year we also participated in global, regional and national Internet governance forums, RightsCon, the Stockholm Internet Forum, and the Youth IGF Uruguay, among others, organizing and participating in panels, workshops, discussions and meetings. **This type of event allows our researchers and collaborators to disseminate the Center's work, share knowledge, and broaden our understanding of the main issues regarding freedom of expression from new perspectives.**

True to our mission to generate spaces for discussion and training, in November 2017 we **co-organized, together with RELE and the University of Los Andes, the celebration of the 20 years of RELE.** We also co-organized a meeting of experts to identify and discuss challenges and opportunities in the region regarding freedom of expression for the coming years. **The event brought together the 5 experts who held the position of Rapporteur from 1997 to date, including the current Rapporteur, as well as 25 other experts from various countries in the region.**

Additionally, this year we took part in trainings on crimes against freedom of expression in Guatemala. And we **filed an amicus curiae in the Supreme Court of Justice of Argentina, addressing the subject of satire and parody** as means of expression and their limits.

We closed the year with new projects for 2018, including the expansion of the Observatory and the coordination of sub regional workshops, in collaboration with leading organizations in the region. This would not be possible without the support of our regional partners, researchers, consultants and research assistants, whom I thank for their tireless work throughout the year and their enormous commitment to CELE. I also thank the School of Law of the University of Palermo and its authorities for their constant support. And of course, we are grateful to those who finance us, allowing us to bring our projects to fruition.

We wish you a happy 2018!



Editorial by
Santiago Cantón

"The Commission took into account the importance of freedom of expression in the hemisphere as the foundation of the democratic system of government and as a guarantee of the exercise of public liberties and human rights, which is why, during this session, it decided on the creation of a rapporteur on Freedom of Expression, whose mandate and purpose will be defined in its next ordinary session".

With that phrase, on October 17, 1997, the Inter-American Commission on Human Rights (IACHR) announced the **creation of the Special Rapporteur for Freedom of Expression (RELE)**. Twenty years later, the initial caution of the announcement vanished in the face of a RELE which, free of timidity, **transformed the debate on freedom of expression in the Americas** and had a great impact on the region, on the inter-American human rights system and on the world.

As with the entire spectrum of human rights, **the agenda for the defense of freedom of expression, far from being reduced, has expanded**. The same challenges that existed 20 years ago continue today. Journalists being murdered, direct and indirect censorship, persecution of journalists, concentration of the media, transparency and access to information are topics on the daily agenda of the countries of the region. But as well as the "historical" agenda there are new challenges created by the technological development of the last two decades. Undeniably, **digital technology is revolutionizing the exercise of freedom of expression and access to information**. This profound technological transformation is also producing cultural and social changes of great impact on people and society. All these changes, in turn, have to be accompanied by reforms that allow the regulation of the new reality, to ensure that the traditionally most vulnerable sectors are not excluded from the benefits produced by technological changes.

We are currently facing this colossal challenge. Despite three decades of Internet expansion, it is still difficult to gauge the magnitude of the upcoming changes. **The work of civil society, and of course of CELE, is essential to prevent the necessary reforms from being made without respecting the basic principles of the right to freedom of expression** initially guaranteed in the Universal Declaration of Human Rights, and expanded in numerous national and international regulations for seven decades.

In recent decades, new challenges have arisen that force us to reconsider traditional answers to **ensure that freedom of expression continues to be the pillar that sustains our democracies**. CELE makes an essential contribution to the debates of the digital era, while maintaining its focus on traditional threats to freedom of expression and access to information.

INTERNATIONAL ACADEMIC COMMITTEE

- **Mariclaire Acosta**
Former Director of the Democratic Governability Department and Special Adviser to the OAS.
- **Rosental Alves**
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- **José Zalaquett**
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- **Catalina Botero Marino**
Former OAS Special Rapporteur for Freedom of Expression.
- **Cecilia Medina Quiroga**
Former President of the Inter-American Court of Human Rights.
- **Santiago Cantón**
Former OAS Special Rapporteur for Freedom of Expression. Professor, Master's in International Human Rights Law, University of Buenos Aires..

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JOIN CELE

CELE offers university students and young professionals the possibility of joining as collaborators and research assistants.

The candidates must be students or have a degree in Law, International Relations, Communication Sciences, Political Science, Journalism or any other related discipline.

Those interested in freedom of expression and access to information will find in CELE a space to broaden their knowledge, debate and exchange information and ideas, and an opportunity to contribute to research, guidelines and recommendations in those subjects. Collaborations generally last between 2 and 6 months.

Interested applicants must send a résumé and cover letter (no longer than a page) to cele@palermo.edu with the subject "Convocatoria".

> Regional Legislative Observatory for the Freedom of Expression



With the support of the National Endowment for Democracy (NED), in 2017 CELE undertook a project to **monitor and systematize laws and bills that affect the freedom of expression and circulation of discourse in the Americas**. The goal is to analyze the state of the right to freedom of expression and its regulation after the arrival of the Internet. The project includes the compilation of laws in force in the selected countries and an analysis of the bills of the last 5 years that have an impact on the freedom of online and offline expression. It currently comprises four countries: **Argentina, Ecuador, Mexico and Peru**.

CELE launched the **Legislative Observatory** on September 6 at the University of Palermo, during the fifth edition of CELE's workshop "Towards a better Internet regulation in Latin America." The presentation was made by Agustina Del Campo and Maia Levy Daniel (Argentina), Andrés Calderón López (Peru), Juan Carlos Arjona (Mexico) and Daniel Caballero (Ecuador).

With regards to the Observatory, CELE wrote four articles that give context to the information gathered.

1) **"Trends in freedom of expression in Argentina"**: through the survey of parliamentary activity on certain specific issues, this article analyzes the progress made in recent years in terms of freedom of expression, as well as the aspects in need of a

reform. Mainly, the article focuses on the analysis of the criminalization of the expression and circulation of online discourse in order to identify legislative trends.

2) **"Online Freedom of Expression in Ecuador: legislative development of the last two decades"**: the document addresses the two most significant milestones of Ecuadorian law (the Organic Law of Communication and the Organic Comprehensive Criminal Code) with the aim of determining the impact on the exercise of freedom of expression online and offline. The article identifies legislative tendencies and future projections in the subject matter.

3) **"Freedom of Expression in Mexico: Back and forth"**: the article analyzes the federal legislation of Mexico that impacts the freedom of expression in criminal, civil and electoral matters, and provides an analysis of the progress, challenges and setbacks in the exercise of this right.

4) **"Legislative Observatory on Freedom of Expression in Peru"**: the article addresses the main laws and bills, through a distinction by themes, and critically analyzes the various initiatives, trying to identify legislative trends in the field of freedom of expression.

> Initiative for Freedom of Expression on the Internet (iLEI)

In 2012, CELE created the Initiative for Freedom of Expression on the Internet (iLEI), with the objective of promoting the implementation of standards for human rights on the Internet, particularly in Latin America. The iLEI generates research and policy papers aimed at encouraging an open debate on these issues and studying the **implications of Internet regulation on human rights**. In addition, iLEI promotes different instances of training and reflection through conferences, seminars and national, regional and international workshops.

Among other contributions, in November 2017 iLEI presented a brief article in response to the initiative of the **UN Special Rapporteur on Violence against Women** on legislation on **discrimination and non-consensual dissemination of intimate images in Argentina**. Furthermore, it presented an article on the **challenges for the Special Rapporteur for Freedom of Expression (RELE) of the Organization of American States (OAS)** 20 years after its creation, at the meeting of experts convened by RELE, CELE and the University of Los Andes on November 2, 2017.

In addition to its own publications and events, CELE participates in conferences, debates and regional and global discussions. During 2017, CELE was part of the **Latin American Digital Media Policy Workshop: Online Free Speech / Free Press versus Privacy and Economic Development**, held from February 1 to 3 in Bogotá, Colombia. Organized by the Latin American Program of the Woodrow Wilson Center and the Murrow Center, the workshop brought together regional leaders in the field to reflect on challenges related to freedom of expression and the right to privacy in the Americas, in order to identify consensus and develop a concrete agenda of common work between the organizations and individuals who were in attendance. CELE and the Mexican organization **R3D Red en Defensa de los Derechos Digitales** (Network in Defense of Digital Rights) led the discussion on data protection, freedom of expression and the (wrongly named) right to be forgotten, where important points of consensus were identified to understand and address the issue in the region.

On the other hand, in March 2017, the Ford Foundation organized, during the **Internet Freedom Festival (IFF)**, a meeting to discuss ongoing investigations and invited CELE to comment on OBSERVACOM's research on Internet concentration. In May, the organization Derechos Digitales (Digital Rights) invited CELE to a panel on democracy and the Internet during the **Stockholm Internet Forum (SIF)**. Furthermore, in November CELE participated in the **Global Symposium on Artificial Intelligence and Inclusion** in Rio de Janeiro, Brazil, where the Network of Centers meeting was also held, of which CELE is a member since 2015, and is presided this period by the Institute of Technology and Society of Rio de Janeiro (ITS Rio).

CELE together with the Association for Progressive Communications (APC) co-organized a workshop on human rights activism regarding the universal and regional systems, including a report on the module of the inter-American system. CELE also participated in meetings and events of the Global Network Initiative, of which it is a member. The workshop was organized as part of the preparatory meetings of the **Internet Governance Forum (IGF)** in Geneva, Switzerland, from December 18 to 21, 2017.

Throughout the year, iLEI also participated in other activities and events, such as **RightsCon**, **Latin America and Caribbean Internet Governance Forum (LACIGF10)**, **Youth IGF Uruguay and IGF Argentina**. Part of the work carried out during the year was presented in these forums, such as research and projects under way; and comments, information and impressions that serve as input to the work carried out were gathered.

Research in progress

- **Fake news: strategies for intermediaries to face them**
- **Online and offline discrimination: current situation and data in Argentina**
- **Moderation of contents: between absolute neutrality and editorial control.**



• Events organized by CELE

- Workshop: Towards a Better Internet Regulation in Latin America - # CELE17

From September 6 to 8, the fifth edition of the workshop "Towards a Better Regulation of the Internet in Latin America" was held at the University of Palermo. More than 30 regional organizations attended the workshop, as well as activists, representatives of the judiciary and public policy makers in Argentina.

Some of the issues addressed were the responsibility of intermediaries, regulation and self-regulation of the private sector, UNESCO's principles for universal Internet, diversity and pluralism on the Internet, cyber security and electronic voting.

- Workshop on the responsibility of intermediaries and presentation of the book "Towards an Internet free of censorship II"

CELE and the Association for Civil Rights (ADC) held a workshop on the responsibility of intermediaries, Internet regulation and public policies on May 4 at the Hotel Savoy. The event was addressed to legislative advisors of the National Congress and allowed a broad and open debate about the opinions, concerns and questions that the subject raises in light of the bills existing in Congress.

- What standards do we need in order to guarantee a free, open and inclusive Internet?

Under this slogan, CELE convened experts from different sectors in two public events in order to identify priorities, needs, and challenges when regulating the Internet. First, on September 27 CELE co-organized the **"Internet and Human Rights"** conference in the Illia Hall of the Legislative Palace. The panel was composed by Edison Lanza, Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights of the OAS; **Norma Morandini**, Director of the Observatory of Human Rights of the Senate of Argentina; **Valeria Milanés**, Director of the Digital Area of the Association for Civil Rights (ADC); **Eleonora Rabino-vich**, Public Policy & Government Affairs Manager of Google to the Southern Cone; and **Agustina Del Campo**, Director of CELE. **RELE's Report on Free, Open and Inclusive Internet** was presented during the conference and the speakers explained from their respective points of view the virtues of said report and the challenges posed by the regulation of the Internet in the legislative field.

Subsequently, CELE directed the panels: **"Internet: between public and private matters"** and **"What standards do we need to guarantee a free, open and plural Internet?"** both held during

the event **"Intelligent governance and inclusive innovation"** organized by the Office of the Public Prosecutor of the City of Buenos Aires and the School of Law of the University of Buenos Aires, on November 23 and 24. The panels were formed by: Ariel Graizer (CABASE), Héctor Huici (Ministry of Modernization of Argentina), Ricardo Porto (Systems, Media and Freedom of Expression Committee of the Senate of Argentina), Carolina Aguerre (CETyS), Esteban Lescano (CABASE) and Pilar Sáenz (Karisma Foundation).

- Freedom of expression regarding the democratic challenges faced by the hemisphere

On November 2 and 3, CELE together with the Special Rapporteur for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights and University of Los Andes organized the event "Freedom of expression regarding the democratic challenges faced by the hemisphere", during the celebration of the **20th anniversary of RELE**.

The event brought together for the first time the five experts who led RELE since its creation in 1997: **Eduardo Bertoni**, former Director of CELE and **Santiago Cantón** and **Catalina Botero**, members of the Center's International Academic Committee.

During the open session, topics such as the Declaration of Principles on Freedom of Expression of the IACHR and its validity in the digital era were addressed; violence against journalists and the media and impunity; freedom of expression, journalism and democracy; regional perspective on current challenges to guarantee and protect freedom of expression and human rights on the Internet.

On November 3, a meeting of regional experts was held to discuss challenges and opportunities regarding freedom of expression for the next three years. The discussion revolved around three central themes: institutional strengthening and financing; geopolitical context; and expanding the agenda in a substantive way. CELE was in charge of coordinating the working papers for the meeting and developed the main document on challenges faced by RELE's thematic agenda for the next three years.

The date was chosen, among other reasons, because it was the **International Day to End the Impunity for Crimes against Journalists**, established by the General Assembly of the United Nations in 2013.

• Publications

- Towards an Internet free of censorship II

This new publication of CELE addresses some of the most significant issues that have been setting the legislative and regulatory agenda on the Internet in Latin America. Throughout six articles, written by prominent regional experts, the following topics are analyzed: **the right to be forgotten, zero-rating, cyber security and human rights, and Internet governance**. The articles identify problems and offer different perspectives in this regard, tending to enrich the debate for the development of public policies which are respectful of human rights in the region.



> Freedom of expression

- Training session for judges and prosecutors on crimes linked to freedom of expression: from February 20 to 24, Agustina Del Campo conducted a workshop in Guatemala on crimes against freedom of expression to judges of the Judiciary and prosecutors of the Public Ministry. The event was organized by the Judicial Power of Guatemala and had the support of the Civitas Center and the GIZ agency.

- **Activities for World Press Freedom Day:** On May 3, on World Press Freedom Day, CELE took part in an "Ask Me Anything" (AMA) session on the Reddit platform, together with Center for Law and Democracy, International Federation for Journalists (IFJ) and Article 19, International Media Support and Media Foundation for West Africa. Throughout the day, different organizations answered questions from the public **about press freedom and the challenges they face today**. According to Reddit statistics, more than 10 million people viewed the post, while about 11 thousand accessed the comments. At the end of six hours of online interaction, a total of 2175 comments were posted.

- **Amicus in the case Pando v. Revista Barcelona:** with the legal sponsorship of the Legal Clinic of the University of Palermo, CELE presented an *amicus curiae* (friend of the court) in the case *Pando v. Revista Barcelona*. The document makes an analysis of national and comparative jurisprudence on cases of **satire, parody and caricature in opposition with the right to privacy and honor**. The case is awaiting ruling in the Supreme Court of Justice of Argentina and is the first to deal with this type of terms. Its resolution will set an important precedent for the exercise of freedom of expression in Argentina.



> Access to information

One year after the enactment of Law 27,275 on the Right of Access to Public Information, on September 21 and 22, the conference **"Challenges for the implementation of the Law on Access to Public Information"** took place, organized by the Secretariat of Political Affairs of the Ministry of the Interior, Public Works and Housing of Argentina, together with the Civil Association for Equality and Justice (ACIJ), UNESCO and the Embassy of the United States. CELE participated in a panel on challenges for the implementation of the law, where it explained the issue of the exception regime in relation to the multiplicity of relevant authorities that the law determines.

About CELE

The Center for Studies on Freedom of Expression and Access to Information (CELE) was created in 2009 within the School of Law of the University of Palermo with the aim of carrying out studies that become useful tools for sectors of the society in general, journalists, governmental and academic institutions dedicated to the defense and promotion of these rights, especially in Latin America.

The conception of CELE responds to the need of creating debate spaces devoted to reflecting on the importance of these rights in the region, their content and limits. To this end, the center intends to establish a dialogue and collaboration with other academic units in the country and in Latin America.



Goals

- To develop studies, guides and recommendations tending to have a concrete impact in the development and understanding of public policies linked to the freedom of expression and access to information.
- To encourage, together with various academic units, the strengthening of studies on issues related to these rights.
- To generate awareness about the importance of these rights in democratic societies, fundamentally in the new generations.

Sources of financing



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