



The following are several conclusions that CELE reached from an analysis of these graphs:

- While judicial penal actions continue to constitute significant violations of freedom of expression, “desacato” cases, cases in which the defendant is accused of having defamed a public official or institution, have declined. This decline is perhaps because of the Organization of American States’ (OAS) ’s opposition to “desacato” cases, which has been notable since 1994 when the OAS published its *Report on Compatibility of “Desacato” Laws and the American Convention on Human Rights*.
- The majority of the threats to freedom of expression reported by the Special Rapporteur appear to be violent in nature. In the four countries with the most reported violations (Colombia, Peru, Mexico and Venezuela), violent violations constitute over 50% of the total violations.
- The number of violations contained in the categories censorship, abusive use of public power and preemptive censorship could indicate that intolerance of public officials to criticism is a factor that contributes to violations of freedom of expression.

CELE also concluded that there are a number of challenges associated with establishing a ranking of countries based on the state of freedom of expression or identifying with certainty whether the situation has improved or declined over time in specific countries using the data on violations of freedom of expression presenting in the Special Rapporteur’s annual reports.

One of the challenges arises from uneven reporting between countries. Violations of freedom of expression are reported to the Special Rapporteur by governmental agencies and members of civil society such as journalists and NGOs. The relative difference in strength of civil societies between countries could account for more violations being reported for countries that actually have better protections for freedom of expression than countries with more violations but less of a political culture that encourages reporting these violations. The fact that several countries in the Caribbean such as Surinam and the Barbados have an extremely small number of violations of freedom of expression according to the annual report does not necessarily mean that freedom of expression is more protected there than in other countries that have far more violations. CELE’s statistics are also not adjusted to account for population size. Similarly, it can be difficult to measure a country’s progress over time using these statistics since these factors can also change within countries over time.

Another challenge stems from the likelihood that the way the Special Rapporteurs have been collecting, verifying and selecting information has not been entirely uniform. Some of the violations reported in the annual reports have not been reported by organizations or individuals within the countries where the violations took place, but were obtained by the Special Rapporteur on visits to countries. Since the Special Rapporteur changes, each new Rapporteur may choose different countries to visit and verify violations in different ways. For example, in its annual report in 2007, the Office of the Special Rapporteur, “took into account all the allegations and information regarding the state of freedom of expression that it received...In previous reports, events that were representative of the situation in each country had been listed and then grouped according to the principles that were being violated.” This change in the previous system of reporting led to a large spike in the number of cases included in the annual report. To add another variable to the mix, in the rest of the annual reports the Special Rapporteur does not include every violation that it has verified and it is left to each Special Rapporteur to determine the criteria for deciding whether the violation will be included in the report.

The report also emphasized that the information on the state of freedom of expression contained in the Special Rapporteur’s reports is extremely valuable. CELE chose to study the Special Rapporteur’s reports as opposed to those of any other influential NGO because the Office of the Special Rapporteur is part of the Inter-American Commission of Human Rights, an overarching commission that the states themselves have invested with regulatory authority. Since it is independent from NGOs and from the states, it occupies a uniquely independent position and is ideally situated to undertake the essential task of monitoring the state of freedom of expression in the region.

It is because this task is so fundamentally important that CELE encourages NGOs, which can provide valuable assistance to the Special Rapporteur, to develop more reliable and rigorous monitoring mechanisms in order to increase the amount and quality of information that comes to the Special Rapporteur. CELE also believes that the Special Rapporteur’s work would be furthered by the development of more homogenous, consistent mechanisms to determine which cases are included in annual reports and how to verify them.

CELE hopes that this report will not only support the work of the Special Rapporteur but also reinforce the fundamental roles that civil society and the states play in the fulfillment of the office’s task of monitoring the state of freedom of expression in the Americas.