

Social impact on communication laws and policies making process in Latin America

Communication law and policy-making processes in Latin America have historically been captured by political and economic elites. These elite-captured media policies primarily benefit private companies and governments in call rather than the public good. Consequently, media systems in the region offer restricted opportunities for diverse people, perspectives and issues bounded by commercial priorities interests and government designs. Adverse conditions for pluralism are grounded in the structure and the functioning of both markets and states. The domination of the market model of Latin American media systems has relegated non-commercial and public interest media to a marginal position particular amidst ownership and funding concentration. The state also contributed to undermining media pluralism by failing to guarantee suitable conditions for different forms of expression. The persistence of laws restricting critical speech coupled with the tenuous respect for basic democratic rights in areas plagued by violence further weakened media pluralism.

Nevertheless, recent communication laws and policies reforms show unusual civic participation and social impact. Their demands can be joined in two groups: the ones that tend to reduce the historical dominance of private sector in media systems; and the others that try to reduce the states control of information and expression. In the first group, there are movements tending to regulate media property, limit property concentration, and legalize community and native media. The second group includes organizations aiming to regulate information access, official advertising and public media, decriminalize slander and revoke disrespect laws.

Our questions are:

- 1) Which of these two types of demands have had more impact on communication law and policy-making processes in Latin America countries during last 15 years?
- 2) Which were the conditions and the organizational strategies that made it possible?

First, we present some theoretical discussions. Then, we characterize the different civic demands. Third, we identify which of them succeeded to translate in new communication laws and policies. Finally, we try to explain the successes or failures, comparing political opportunities and strategies of civil organizations that supported those demands.

1. Framework

This analysis challenges the vision of public policies exclusively defined by political and economic elites. Instead, we recognize the role of social actors and power disputes involving the rules and policies framing. Therefore, we define communication laws and policies as controversial processes (Freedman, 2013). We consider public laws and policies as result of complex cultural processes in which different social actors and institutions, with diverse power and with distinct resources. In consequence, actors that seemed weak, could have some influence capacity in political processes, as a result of civic claims to the state beyond representational relations (elections and political parties) (Álvarez Ugarte, 2013). This approach highlights that public laws and policies are not totally defined in the state. It recognizes the relationships between state and social actors. Therefore, we explain the public laws and policies reforms as a result of the interaction between state and social movements.

Social organizations that work for communication rights are reformer social movements that, in particular political junctures, succeeded to impact on public laws and policies changes. They are organizations that develop strategies supported by arguments of public interest to promote or resist social changes that, if they would be implemented, they would conflict with social, cultural, political or economic interests and values of others groups (Andrews & Edwards, 2004). They are advocacy organizations that seek to establish a link between state and relevant political actors to demand respect for existent rights or recognition for new rights, mobilizing to generate or resist changes (Alianza Regional, 2013).

We assume the heterogeneity of civil society and its relative autonomy from market and state. We do not consider it as a purely democratic sphere opposite to market as a space only dominated by interest, and to state as an area which only aim is the domination. On the contrary, we reflect the complexity of these areas and their interrelationships (Sorj, 2010). In particular, we show the links between the representative government and civil society that frequently claims for direct participation and that even if it represents legitimate interests of some social sectors, it is not representative of majorities (Sorj, 2010, 1-9). Besides, we demonstrate the politicization of civil society and the dialectical relations with state. Sorj recognizes, on one hand, the importance of social actors in civil societies and, on other hand, the influence that they have in public sphere.

Civil society is not a coherent, unified whole. Instead, it comprises myriad interests about different aspects of public expression and media systems exist across mobilized publics and institutions. Our findings confirm the argument presented by other analysts of civic participation and social movements, namely, the notion that “civil society is a complex of conflict rather than a unified, homogenous body” (Acosta, 2014). Nor do civic actors share similar conceptions about the role of civil society, the market and the state on matters of public expression in democracy. Whereas they share a positive view of civic society and citizen participation and understand public expression as a fundamental human right, they hold different views about the state, and they diagnose the communication problems in different ways.

This poses the discussion about the link between complex systems of representative democracy and participatory mechanisms (Del Águila & Vallespín, 2003). Citizen participation is usually considered a valuable element of democratic citizenship and democratic decision-making. Many theorists claim that citizen participation has positive effects on the quality of democracy because it develops issue knowledge, civic skills, and public engagement, and it contributes to the support for decisions among the participants. Civil society participation in public laws and policies reforms would have the function of strengthen democratization and legitimization of decisions about basic policies. Participatory decisions would have fewer errors and they would be more cautious. Besides, civic participation would make the implementation of politics more viable, sustainable and effective. On other hand, participation would permit to citizenship to form and have more and better information to take decisions on public policies (Barber, 2003).

Applied to policy-making, deliberative politics serves to correct a problem of contemporary democracies and, in particular, a problem of communication laws and policies in Latin America: policies “captured” by political and economic elites who typically benefit the most from government decisions. The imperfections of contemporary representative democracy make it necessary to insert participatory mechanisms. Imperfections include the disproportionate influence of moneyed interests in politics, the distortion of public and parliamentary agendas by political and economic elites, and politicians’ narrow interests. Because policy-making is too important to be left in the hands of politicians, technical experts, and lobbyists for companies with vested interests, it is necessary to institutionalize different forms of civic expression, feedback, consultation, and persuasion. Participatory process, then, bring in a wider spectrum of voices to express demands as well as to identify problems and solutions that might result in policies with broader benefits and that effectively serve broader constituencies.

2. Social demands

Civic organizations mobilized around media reforms since the return of democracy in Latin America in the 1980s have a broad agenda to curb the oversized presence of market interests in media systems and the discretionary power of governments regarding fundamental aspects of public communication. Social demands can be joined in two groups: the ones that tend to reduce the historical dominance of private sector in media systems; and the others that try to reduce the states control of information and expression. In the first group, there are movements tending to regulate media property, limit property concentration, and legalize community and native media. The second group includes organizations aiming to regulate access to public information, official advertising and public media, decriminalize slander and revoke disrespect laws.

Despite occasional overlaps between them, these two positions direct attention to different problems and priorities. Although, organizations have collaborated at times, important distinctions underlie their work grounded in different philosophical conceptions and normative horizons about civil society, citizenship and communication. Different diagnoses of main problems, strategic priorities for change, and proposed solutions derive from philosophically different views of civil society and public communication. In what follows we analyze these different demands and visions according to whether they aim to curb the power of the market or the state in public communication and media systems.

One cluster of organizations and activists has concentrated on demands intended to curb the excessive power of the market and to redistribute communication resources and opportunities to citizens. This position essentially views that the oversized power of market forces in media systems in terms of ownership, funding and content is the fundamental problem of public communication in the region. It highlights the excessive power of market corporations for it directly contradicts citizen voice and participation in media systems.

This position draws from post-war conceptions of communication as a collective human right and links with American human rights system. This position is unmistakably embedded in the fundamental principles of the NWICO debates and the McBride Report and the struggles for the democratization of communication of the 1960s and 1970s (Mattelart, 2005; Mastrini and Loreti, 2005). It explicitly differs from traditional liberal notions of freedom of expression for it doesn’t conceive freedom of expression as negative right, as “freedom from” the state. Instead, they foreground the idea of communication as a positive, collective right that needs to be protected and defended. Communication is envisioned as human right just like other fundamental rights that citizens should have.

State is not conceived as the enemy of freedom of expression. They assume that the excessive, unregulated power of market forces is main cause of the chronic problems for media pluralism. They favorably view the State as arbiter and guarantor of the universal right of expression for all people, as a potential and necessary ally to ensure that collective rights are legally supported and enforced. It remains largely optimistic about turning the power of the state in support of democratic purposes, namely, redressing deep imbalances in the distribution of communication resources and opportunities.

They conceive the citizen not only as subject of rights, but also subject of participation in public life (Segura, 2008). Therefore, they consider civil society as an space of solidarity in which people share common values and have a defined and close membership (De Piero, 2005). Its regulatory framework is, on one hand, communitarian, grassroots: they advocate for new forms of participation of civic organizations in policy making process, decentralization of power and consulting mechanisms. On other hand, it is populist because it privileges majorities, popular will, the identification between people and leader, political mobilization and direct participation mechanisms (Panizza, 2005: 721-722).

A key demand has been the need to reorganize the distribution of broadcasting licenses in three thirds for public, private and community/non-profit media are premised on the need to ensure equal access to the media for all citizens. Ownership diversity is considered a basic principle of democratic legislation to foster the expression of the enormous socio-political, cultural and even ethnic diversity that characterizes countries in the region. This principle is manifest in demands for the recognition of community media –historically confined to illegality in all the countries of the region-, media representing specific groups such as indigenous populations, and for restrictions of private property concentration.

Also, initiatives to promote legislation to protect and stimulate production and distribution of domestic and independent audiovisual content are grounded in similar premises. Market domination makes it difficult, if not impossible, for media systems to reflect and nurture heterogeneous local and national cultures and artistic expressions. As long as commercial goals are imperative and large corporations prioritize profit over public goals, media systems reflect a narrow slice of societies, namely, content that attract particular urban audiences and advertisers. Instead, it is necessary to introduce legislation to support the production of diverse content and citizen participation in media production and management. These demands are inspired in cultural protectionism and nationalism, as well as in industrial and employment policy (Badillo, Mastrini & Marenghi, 2013).

Citizens have also mobilized to reform fundamental aspects of the state on issues related to public expression. Demands have focused on several problems that reflect the discretionary power of governments on public information, and the opacity of official decisions related to media and information. Another position foregrounds the discretionary power of the state, particularly the Executive, on various matters that fundamentally affect freedom of expression.

This position is ideologically grounded in progressive liberalism, basically its distrust of the state given the tendency to secrecy and power concentration and views civil society as the necessary space for public deliberation and countervailing force to the state in democracy. While moderately critical of the market, it primarily directs its attention to state abuses. Its regulatory framework is liberal and republican: it highlights the individual rights and duties of citizens, human rights, public and representative institutions (Panizza, 2005: 721-722).

Citizen rights related to communication (freedom of expression, access to information) are considered the protection of individual freedoms that limit state intervention in citizens' life (Segura, 2008). Citizens are creditors of these rights to state that has to guarantee them.

One demand has been to demand the State to guarantee public access to government information through appropriate legislation and mechanisms to record and process official proceedings. Access to public information is considered a crucial resource in democracies. Such legislation was virtually non-existent two decades ago in the region.

Another demand was to repeal laws criminalizing critical speech against public officials grounded in matters of honor and national security (Loreti & Lozano, 2014: 108). By imposing severe legal and monetary penalties on reporters and news organizations, such laws effectively had chilling effects on reporting of government officials and promoted self-censorship.

Organizations have also called for transparency and accountability in the assignation of official advertising historically rife with chronic abuses and collusion between officials and media owners. Governments have typically used advertising to reward allies and penalize critics. By doing so, official practices have fostered prior

editorship in news companies and newsrooms. This issue is important not only because it reflects deficits of transparency of government performance and practices. It is also sensitive issue given the weight of official advertising in media finances, most notably in small and/or depressed economies. By arguing that public advertising is a public resource, they argued against using it for personal and partisan purposes by government officials.

Another demand is to request the State to investigate and bring justice to attacks against reporters and to prevent such attacks. Throughout the region, citizens and journalists have been targets of verbal and physical violence at the hands of state and parastatal actors. In some countries, such as Honduras and Mexico, the situation has been particularly difficult. The continuation of violence and the failure of the state to ensure the right to free speech remain critical problems amidst persistent violence.

Another demand has been the strengthening of public broadcasting as a truly public system (guarantee by state, but independent of government, and that reflects in its governance and content the cultural, economic, social and political diversity of its country). Organizations have criticized governments for the chronic use of broadcasting stations and networks owned by the state for partisan propaganda.

Finally, another social demand is to build participatory institutions of communication policies in the state in order to democratize media system governance.

These demands share in common a focus on problems of freedom of expression linked to the quality of state performance. The problems reflect deep-seated problems of government negligence to make its affairs open to public scrutiny and rampant abuses of public resources for the personal benefits of public officials and cronies.

These demands are embedded in a perspective that find the state responsible for failing to promote citizens' rights to communication and information and, instead, favoring government secrecy, manipulation and abuses. Government opacity and reluctance to promote transparency and accountability regarding public communication are viewed as key problems of democratic governance and public communication.

3. Organizations and strategies

These frameworks are more striking difference amidst media movements. These differences can be understood by their histories, organizational types, and the social origin of their participants.

Demands tending to reduce the power of markets are expressed by grassroots movements such as associations of communitarian radio stations. These are the oldest communication movements in the region. Alternative and communitarian media exist since the 1940s and they started to found national associations in the 1960s and, specially, in the 1980s during the return of democracy in Latin American countries. In the 70s, community media found crucial associations at the regional level. ALER is a regional network that brings together hundreds of community radios from throughout the region. The other network is the Latin American branch of the World Association of Community Radio (AMARC in its Spanish acronym). Both of them and other ONGs that work in communication formed the *Plataforma por los Derechos de la Comunicación* in 1996. In 2001, this Platform set the *Campaña por los Derechos de la Comunicación en la Sociedad de la Información*, the Latin American version of CRIS (Communication Rights in Information Society) Campaign, during the debates of the World Summit of Information Society.

Meanwhile, demands curbing the power of states are expressed by ONGs of experts (lawyers, journalists, academics, political scientists), journalists professional associations and some human rights organisms. These organizations emerged during the transition and consolidation of democracy in the 1980s and 1990s. They are registered as non-profit organizations and function as bureaucratic structures funded mostly by foreign donors (governments, foreign political parties, foreign private corporations, or multilateral organisms). Most of these organizations are members of the *Alianza Regional por la Libertad de Expresión y el Derecho a la Información* founded in 2009.

Latin American civic organizations that claim for communication rights intensified its mobilization during the political and economic crises in the late 1990s and early 2000s.

The novelty during last decade is that all of these types of organizations built broad coalitions to propose comprehensive broadcasting laws that not only try to reduce the power of markets in Latin American media systems, but also try to limit the power of states controlling public media and media systems governance. Therefore, they all tend to increase pluralism and tend to solve the Latin American media system problems.

Besides, all of them increase citizen participation in public policies and, consequently, they not only democratize media systems but also the communication policies making processes.

Demands are also more striking differences amidst media movements than their strategies and relationship with governments. Media movements with different demands used similar strategies under the political opportunities they had and their own institutional capabilities. All of them use coalition or network-building, include experts produce information, express their position and promote public debate about these issues, strategic litigation, make proposals and bills, lobby, participate in participatory mechanisms that states open, impact on new laws contents, use rights enforcement mechanisms, mobilize in the streets.

They develop internal strategies in institutional forms and chains of participation in policy making, as external strategies outside of state institutions. Thus, the relationship between state and civil society in a policy making process is not only nor mainly by institutional channels.

External strategies –contrary to what the main part of the literature assures- are not only contentious, but also of support, diffusion and legitimization of governmental decisions. Moreover, the main part of studied organizations does not aim to confront to the state, but to make an agreement with it. Civil society does not assume state as monolithic and necessarily opponent, and search allies within it. Civic organizations are not necessarily anti-statist, but they maintain pragmatic relationships with state in order to seek for its interests. They try to negotiate and participate. Therefore, protests are not their only strategies, nor their main ones.

Social organizations participate in the three moments of policy making process: public debate, institutional debate and definition, and implementation and control. Different types of strategies are applied to each moment according to the necessities of each moment. Similarity of strategies allow us to affirm that, despite their different philosophical frameworks about state and civil society, civic organizations with demands curbing power of markets and curbing power of states, maintain pragmatic relations with states looking for their aims of impact in public policies reforms.

4. Impact

Which of these two types of demands have had more impact on communication law and policy-making processes in Latin America countries during last 15 years? Here, we identify which civic demands succeeded to translate in new communication laws and policies.

Social demands curbing the power of markets in media systems, had impact on new broadcasting laws. Eleven new broadcasting laws were passed during last decade in the region. Some of them were about general broadcasting services: Venezuela in 2005 and 2009, Argentina in 2009, Bolivia in 2011, and Uruguay in 2014; another is more general because it also regulates the press and freedom of expression rights such as Ecuador in 2013; another one is only for community media: Uruguay in 2007, another one only regulate pay television: Brazil in 2011. Besides, governments of right wing also modified their general broadcasting regulations: Mexico in 2005 and Peru in 2004; their telecommunication law: Mexico in 2013; and their community broadcasting law: Colombia in 2009. Nevertheless, their making processes were not participative and civil society has made a lot of critics to their content.

The main coincidences in all the new laws passed by left wing government in the region are related to aspects that coincide with social demands and respect international standards of human rights (Segura, 2014).

In fact, all of them establish restrictions to vertical, horizontal or diagonal concentration of media property. This disposition adopts the recommendations of Freedom of Expression Rapporteurs of Organization of American States and the United Nations. The most ambitious in this sense is the Argentine legislation because, besides the restrictions to monopolies and oligopolies, establish a deadline for media to adequate to the law.

Besides, almost all the countries incorporated the distribution of broadcasting licenses for public, private and community/non-profit media. In this way, they foster diversity, pluralism, access and participation in media system.

All new broadcasting laws passed in this century in Latin America legalize community media. Uruguay, Argentina, Bolivia and Ecuador give them a relevant place because they reserve one third of broadcasting licenses for them. Nevertheless, some of the laws passed by left wing governments have important differences in terms that contradict civic proposals as well as international standards related to community radio and television. The community broadcasting laws of Chile (2012), Paraguay (2009) are limited reforms that include important restrictions in coverage and funding possibilities for these media.

Some norms also establish reserves of licenses for indigenous populations. This was solved in different ways in each country. Bolivia reserves for them a half of the reserved licenses for nonprofit organizations (17 per cent). Argentina, instead, consider indigenous communities as public right subject, so it establish the direct assign of licenses without public concourse.

Furthermore, all Latin American countries with left wing governments developed or strengthened state media (not necessarily public media). This implies to have a third kind of actors in media systems. The countries that had not state media create new radio or television stations. The others that already had them multiplied them, strengthened the existent ones, changed their styles and/or increased their budgets. Thanks to this process, all the countries have new state media, and they are reversing their former discredit. They increased social participation in their governance. Some laws like the Argentinean created institutions with parliament and society participation to oriented and control public media. Nonetheless, information and opinion in state radio and television still follow governmental logic and, therefore, they lack of plurality.

Finally, some broadcasting legislations, such as the Argentinean and Brazilian, establish mechanisms to promote national and local production of contents, by contents quotas.

These new broadcasting laws have been the best known and most debated in the region. Nevertheless, they were not the only reforms related to communication rights passed in this century.

Social demands curbing the power of states also had impact. Progress in access to government information is unmistakable. Since 2002, thirteen Latin American countries passed access to public information laws; two have established regulation through presidential decree (Michener, 2011: 3).

Besides of Argentina in 1993 and Paraguay in 1998, other nine Latin American countries have revoked *desacato* laws or have eliminated penal sanctions for defamation in XXIst century. This includes Costa Rica in 2002, Peru in 2003, Honduras, El Salvador and Panama in 2004, Chile in 2005, Guatemala in 2006, Uruguay in 2009 and Bolivia in 2012 (Loreti & Lozano, 2014: 110). Undoubtedly, these have been positive decisions considering that, historically, governments could use legal mechanisms to discourage critical news.

Besides, another indicator of the unusual civic participation and impact in many aspects of the communication policies reforms made in many Latin American countries during the last decade is the creation of participatory institutions of media governance –and, specifically of public media governance- in some of the new communication laws of the region. One of these cases are the Argentinean *Consejo Federal de Comunicación Audiovisual*.

These auspicious developments stand in contrast to laws of Ecuador and Venezuela that criminalize speech. These norms impose penalties for journalists and citizens who express opinions and produce information that may be deemed injurious to public officials. Under the ambivalent notion of “media lynching” and stating that the media should publish “opportune” and “truthful” information, it laid the ground for legal actions against dissident information. Also, the laws ban the news media form publishing information considered reserved by government, create censorship mechanisms controlled by the State, and mandates all news organizations to have codes of ethics and imposes sanctions for ethical violations. Both laws have been criticized by local and global freedom of expression organizations, including the Offices of the Freedom of Expression Rapporteur of the Organization of American States and the United Nations.

In other areas there hasn't been significant progress. Decision-making process in the assignation of official advertising largely remains beset by old problems – opacity and cronyism that result in lapdog coverage and self-censorship. No public mechanisms with civic participation exist in any country which could increase transparency and orient decisions according to public interest.

Likewise, the foundations and management of public media suffer from the same problems. Public stations remain public largely in name rather than effective governance and operation. Notwithstanding a few exceptions, most stations function of partisan and personal fiefdoms directly controlled and funded by Executive powers. Participation from broad sectors of politics and society and oversight from Congress or other public bodies is virtually none.

5. Opportunities

Which were the conditions that made it possible? Considering that the similarity of strategies do not allow us to explain social impact with that argument, we compare the political opportunities to civil action.

Our first hypothesis was the following: Civic demands found receptive governments in leftist administrations that came to power in the 2000s. These governments seem to be more willing to reduce the power of some media corporations and empowered civic actors, than to reduce their own power to manage public information, official advertising or public media. In addition, social demands found a sympathetic public opinion. Our argument is that the ideological orientation of government increases the communication policy reform opportunities (Freedman, 2008). This is also the hypothesis of most part of the literature about the reform of broadcasting laws and policies that tend to reduce the power of market in media systems in Latin America. They suggest that left wing governments offer a favorable juncture to these changes as well to mobilization, participation an impact of civil society. This implies that right wing governments do not offer a favorable juncture to social participation and impact in cases of reforms curbing the power of markets.

In fact, the empirical and comparative analysis demonstrates, on one hand, that the presence of left wing governments was the most important opportunity for the enforcement of civic initiatives that tend to curve the power of markets. All left wings governments were willing to limit the power of market in media systems, even if some of them could not made the reforms. Social organizations considered the arrival of left forces to government as an opportunity to push these reforms. In fact, the almost all of them made new broadcasting laws that reduce the private concentration of property and the market logic to produce and transmit content. The exceptions were Nicaragua and El Salvador that have not made this kind of reforms, and Chile and Paraguay that made restricted reforms on community broadcasting.

The coming to power of leftist administrations in the 2000s in many countries (Argentina, Bolivia, Brazil, Chile, Ecuador, Uruguay, Venezuela) offered propitious political conditions for media reforms. Despite differences, these governments share important elements: they oppose market policies, promote policies that challenge specific prerogatives of the business establishment, mobilized popular sectors, recover the active role of the State, and vindicate the role of civil society in democracy (Nazareno, 2010; Panizza, 2005; Etchemendy, 2008). In some cases, these administrations opposed dominant media corporations, particularly around specific media and information policies. Looking at their general political orientation, the civil society organizations considered the arrival of the left of the center parties to the government, as an opportunity to introduce communication policies reforms to democratize media systems in the region. The civil society had been organized with democratizing demands in other former political conditions, but in this century they think that they have a real chance of influence in making policies. Therefore, the arrival of these forces to government was a favorable condition to the development and enforcement of civic organizations that promote communication rights in each country.

Nevertheless, the political willingness of most of these governments was a required condition for the communication policies reforms proposed by civil society, to take place. Most of the left of the center governments, have an unusual activism in communication policies. Most of changes took place after the breakdown between political elites in governments and economic elites controlling media business. Governments of the so-called “new Latin American left” maintain high levels of confrontation with media entrepreneurs. “The breakdown of the party system in countries such as Venezuela, Bolivia and Ecuador, opened a space that was occupied by the media, which in some cases led to opposition forces” while the ruling “recomposed from emergency leaderships with high popularity” (Natanson, 2010: 15-16). These disputes are explained by a conjunction of factors. First, most media are owned by conservative families (Waisbord, 2011), who are against the general political orientation. This was the principal argument of the rulers of the region. Second, in particular, they oppose to the communication policies which tend to reduce the market power in media systems, that most of these governments impulse (Segura, 2011; Marino, Mastrini & Becerra, 2011). The huge media conglomerates have been historically reactive to any kind of change in their privileges. This vibrant yet belligerent debate about media reform has reinvigorated old discussions in the region about the desirable role of states, market, and civil society in media systems (Waisbord, 2011: 99). Third, media owners also have interests in other business that were affected by the new government politics, such as the country’s ones in Argentina (Segura, 2011) or banks in Ecuador (Ramos, 2013). Fourth, the political communication of these governments is characterized by disintermediation practices which tend to bypass and contest mainstream media journalism, which is deemed to be dominated by media owners and therefore biased and distorting (Kitzberger, 2012: 128; Sorj, 2010; Badillo, Marengi & Mastrini, 2013). Leftist governments’ political communication shares a critical discourse about the press and media’s role in society.

At the time they break their alliances with media entrepreneurs, governments look for establish new alliances with social organizations to increase the legitimization and popular support to their laws and policies. The conflicts produced during the elites alliances rupture, were the junctures where governments put in agenda the necessity of communication policies reforms, and convoked civil society to debate and participate in the new laws and policies making process. For example, in 2008 in Argentina, Fernández administration announced that it was going to send to National Congress a new broadcasting bill and convoked *Coalición por una Radiodifusión Democrática* to a meeting to know their proposal; and in 2009 in Brazil, Da Silva convoked 1st

Conferência Nacional de Comunicação with participation of government, businessman and civic organizations to debate reforms. Therefore, they increased the institutional opening of states to social advocacy.

Governments drove these debates also considering the credibility crisis of mass media in public opinion. As result of the deepening of media concentration and neo-market policies implemented in previous years, studies have demonstrated a growing gap between media offerings and citizens' demands and expectations about as well as the invisibility of a range of topics and actors in the media. The "mediatization of politics" made a range of civic actors sensitive about the importance of the media in national politics, as they realized that their political success was hobbled by the dominant position of mainstream media that ignored or distorted their demands. This situation prompted a renewed critique of the dominant model of journalism and the media, and informed civic demands for the expansion of opportunities for information and expression (Rey, 2003; Miralles, 2006: 2).

Nevertheless, the political will of the Executives to reform communication laws and policies and to allow civic influence is not enough to succeed. It is necessary that they can carry out them. That depends on if they control or not the forces in parliaments. Argentina, Uruguay, Bolivia and Venezuela are examples of political will of the Executives plus control of the political forces represented in their National Congress. In some of these cases, such as in Argentina, it was necessary to negotiate with other political forces and, in that negotiation, the bill was changed. Instead, some left wings governments did not have this crucial power. Lugo, the former president of Paraguay, had the political will of legalize and strengthen community media, but he did not control the Congress, so the Paraguayan legislators passed the restrictive reform we mentioned.

In summary, not every Latin American left wing governments made reforms in broadcasting laws and policies in this century, and the ones that made reforms, did them with different levels of social participation and impact. In addition, as we already mentioned, right wing governments such as the ones of Peru, Colombia and Mexico also changed their broadcasting regulations and, in some cases, they also convoked civic organizations to debate reforms such as Mexico in 2001 with the *Mesa de Diálogo para la Revisión Integral de la Legislación de Medios Electrónicos*, even if social proposals were not taken into account. Therefore, counter-examples make necessary to explore the incidence of another factors and to reformulate our first hypothesis.

The analysis demonstrates that the social impact on the broadcasting laws and policies reforms is not completely explained by the coincidence between the ideological orientation of governments and civil societies. Instead, another hypothesis explains more cases: communication laws and policies reforms are possible when elites are divided and when governments open institutional spaces for social participation. This hypothesis is known in literature about social movements (Tarrow, 1998). In Latin America in XXIst century, we verify the breakdown between political elites in governments and economic elites in some mass media corporations, and we also observe the opening of participatory mechanisms in states. In fact, the empirical and comparative analysis demonstrates that left wing governments that passed new broadcasting laws reducing power of market (Venezuela, Argentina, Bolivia, Ecuador) had broken the historical alliances with at least with one huge mass media corporation in their countries (Radio Caracas Televisión, Clarín, Unitel, El Comercio) that have characterized to former administrations; and they also had control of majorities in Congress. Meanwhile, right wing governments as Mexican made reforms that intervene in media market when they have broken with some media (Telmex and Telcel) and enforced their union with other companies (Televisa and TV Azteca). These processes also demonstrate that the relationship between civil society and governments is pragmatic in order to obtain their objectives and it is subject to the opportunities they have.

On other hand, presumably, any government would implement reforms that reduce the power of states. In general, governments of all kind of political sign seem less permeable to demands that tend to reduce the power of state because who control the state is not interested in reduce its power. Nonetheless, as we have already explained, two civic proposals tending to curve the power of states also were successfully implemented in numerous both left wing and right wing governments. The huge changes produced during the last 15 years related to access to information and freedom of expression do not seem to have correlation with the ideology of party in government.

Therefore, the question is: why do political actors undertake reforms that constrain their own discretion? Berliner (2014) argues that uncertainty generated by political competition is a major driver of such reforms. Uncertainty over future control creates incentives for incumbents to pass these laws in order to ensure their own future access to government information and to credibly commit to future transparency. He found that more politically competitive states passed access to information laws more rapidly. These laws passed when opposition parties pose more credible challenges to incumbents and when recent turnover in executive office has been frequent. Thus, it seems to work as an insurance mechanism, by which incumbent parties who face uncertainty over future political control seek to ensure access to government information, and means of monitoring incumbents, in the future in case they lose power.

In fact, in Latin America, governments passed access to public information laws when the social demand was supported by political opposition forces and mass media in the particular juncture of political alternation. This was the Mexican case where the political will of opposition in Congress (PRI and PRD) were crucial to push the changes that the Executive (PAN) did not want (Acosta, 2014). Besides, political crisis in authoritarian governments (e.g. the fall of *Fujimorato* in Peru in 2000) and the possibility of alternation of parties in government (e.g. in Mexico in 2000) were also considered by civil society as opportunities to influence on laws and policies making process.

Conclusions

Not only social demands tending to reduce the power of private sector have had impact on new communication laws and policies in XXI century in the region, but also some civic demands that aim to curve the power of states as regulation of access to public information and decriminalization of slam and injuries. Instead, the regulation of official advertising and public media remain almost unchanged.

According to our analysis, the different levels of impact on communication laws and policies reforms of these organizations are linked to specific national situations, with the breakdowns of partnerships between economic and political elites that have historically defined the communication laws and policies, and the new alliances between governments and social organizations in each country. Civil society contributes to change and this is unthinkable without civic participation. However, their proposals of laws and policy reforms require state support to take place. Therefore, the impact of civil society is contingent on having involved and powerful partners in the state. With civil society but without state support, the impact is limited. Without civil society, however, it is difficult to imagine the changes analyzed.

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