

Confidencial -Nicaraguan Independent Media-, 6 Months after Confiscation

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Carlos F. Chamorro outside the offices of *Confidencial* and *Esta Semana*, occupied militarily by the National Police of Nicaragua. Photo Carlos Herrera

Ortega must stop this triple violation against freedom of the press, private property and freedom of enterprise.

HAVANA TIMES – At 11:15 pm on Thursday, December 13 of last year, the National Police stormed the editorial offices of *Confidencial* and *Esta Semana*, the media outlets I’ve directed for more than twenty years. Without presenting a court order or the mandate of any authority, the armed officers detained the private security guards, violently knocked down the doors, and for more than four hours ransacked our newsroom.

When I managed to enter the offices at dawn the next day, I found that all the computers, editing equipment and television filming equipment had been stolen, as well as our institutional documentation, our accounting records and our private correspondence.

My first reaction was to hold President Daniel Ortega accountable for having turned the Police into a criminal gang, because according to the law, he is the Supreme Head of the institution and responsible for an order of that nature.

I also denounced that a triple violation was being carried out: against freedom of the press, freedom of enterprise and the right to private property, since everything stolen and the property seized, belonged to three private companies duly registered in the Commercial Property Registry: *Invermedia* (producer of *Confidencial*), *Promedia* (producer of *Esta Semana*) and *Cabal* (an environmental services consulting company).

I challenged President Ortega, Interior Minister Maria Amelia Coronel, and Attorney General Ana Julia Guido, to present some legal support to justify the criminal behavior of the Police. However, they never provided an official response, except for new acts of aggression, intimidation and serious threats, which forced me to seek refuge with my wife in Costa Rica, in January of this year.

Some hours after the initial assault, on the night of Friday December 14th, the police returned to occupy our building. Six months later, it remains under military control as part of a de facto confiscation, a measure that is prohibited under our Constitution.

However, despite the massive theft and illegal occupation of our newsroom, they were never able to shut us up or keep us from our sacred commitment to reporting the truth. *Confidencial*, *Niu*, *Esta Semana* and *Esta Noche*, have remained online since the day of the assault – in Nicaragua and from exile – defying persecution and government censorship. We have maintained the quality journalism that citizens deserve, to monitor those in power and promote public debate, even in the midst of a virtual state of emergency.

Since the de facto confiscation, we've exhausted all legal and administrative resources to sue the State, demanding the return of our seized property, and compensation for the economic and moral damages caused to the companies *Invermedia*, *Promedia*, *Cabal*, and to their workers.

Our efforts at legal redress included:

– On December 15, we went to the offices of the National Police Chief to demand that the building be vacated. The only response we received was the violent aggression of a riot squad.

– On December 17, before the Civil Chamber of the Court of Appeals of Managua, we filed two appeals for legal protection on behalf of the companies *Promedia* and *Invermedia* respectively, and a third on January 11, 2019, on behalf of *Cabal*, owned by my wife Desiree Elizondo, demanding that the Supreme Court order “the suspension of the act of appropriation and illegal possession perpetrated by the National Police.” The three appeals for protection were duly processed and admitted by the Supreme Court, but although the 120 days mandated by law have passed, no ruling has been issued ordering the suspension of the act.

– On December 19, we also filed a complaint with the Public Ministry to investigate the National Police for the crimes of “robbery with force (based on a preliminary inventory of property stolen from individuals and from the three companies mentioned); property damage; burglary; and the usurpation of private domain.” Now, almost six months later, the Public Ministry has not ordered any investigation into these crimes and they remain unpunished.

The only legal attempt to justify the confiscation known to date is the report presented to the Court of Appeals by the National Police Chief, Francisco Diaz. In it, he alleges that assaulting and occupying *Esta Semana* and *Confidencial* was “in compliance with orders” from the Ministry of the Interior to take possession of the assets and property of the non-governmental organization Communication Research Center (Cinco), whose legal status was arbitrarily revoked by the Nicaraguan National Assembly on December 12.

I am a member of the Board of Directors of Cinco, but irrespective of that organization’s appeal for unconstitutionality filed before the Supreme Court of Justice for the arbitrary suspension of its legal status, the State’s aggression against *Promedia*, *Invermedia* and *Cabal* can’t be justified by this change in status, because there is no binding relationship between the institutions. We are facing two parallel but separate abuses of power which have been fully denounced: in the case of *Confidencial*, an assault against press freedom and freedom of enterprise; and in the cancelation of Cinco’s legal status, an aggression of the State against the right of association and other democratic rights protected by the Constitution.

As the authorities of the Ministry of the Interior, the Office of the Prosecutor, and the Police know perfectly well, there is no legal, economic, or institutional relationship between Cinco, registered before the Department of Associations of the Ministry of the Interior, and the companies *Invermedia*, *Promedia*, and *Cabal*, limited liability companies that are registered in the Mercantile Registry. Likewise, there is no relationship between the NGO Cinco, whose address since January 2018 is in Plaza España, and the seized building located in Planes de Altamira, of which I am the private owner.

A legal precedent

However, there is a precedent from 10 years ago which is pertinent to recall, as it strongly indicates that the authorities were not acting under some confusion or mistake during the assault on *Confidencial*.

Back on October 11, 2008, when the dictatorship of Daniel Ortega began its escalation of attacks against the exercise of democratic rights, the National Police, under the command of Glenda Zavala and Commissioner Luis Barrantes, and the Public Prosecutor’s Office, represented by Douglas Vargas, carried out a forced search of the Cinco offices. The pretext was to seize 15,000 pages of accounting information from the NGO, as part of an investigation of money laundering charges which would be discarded three months later.

During the 15 hours of that raid, executed by dozens of police and prosecutors, neither prosecutor Vargas, nor commissioners Zavala and Barrantes entered the newsroom of *Confidencial* and *Esta Semana*, or the offices of *Cabal*, as they recognized that they did not have the power to invade private companies that were not owned by the NGO or their projects. They respected the existence of several separate entities, which at the time leased offices in the same building.

Why then did they assault *Confidencial* a decade later, on December 13, 2018? The only plausible explanation is that the National Police received the order from their Supreme Commander at the El Carmen presidential bunker, a punitive political order, outside the law and the rule of law, which led to the assault, kidnapping and confiscation of *Confidencial*, *Esta Semana* and *Cabal*.

In the same vein, on December 21, 2018, a week after the assault on *Confidencial*, they overran and shuttered *100% Noticias*, criminalizing the exercise of journalism with the capture and aberrant political accusations leveled against journalists Miguel Mora and Lucía Pineda Ubau. Their release on June 11th, following nearly 6 months in prison, represents a first step towards restoring the right to freedom of the press. However, full guarantees for the exercise of journalism in Nicaragua are still lacking.

Ortega must cease his persecution of journalists and the campaign of intimidation and threats against the media. He must order the State to suspend the acts of confiscation against *Confidencial* and *100% Noticias*, return the stolen property, and compensate those affected by moral and economic damages. The next step is for the Supreme Court to rule on the appeals for legal protection filed by the companies *Invermedia*, *Promedia* and *Cabal*, to restore the rule of law that protects freedom of the press.

Meanwhile, the independent press will continue to defeat the government's monologue and the regime's censorship. Since the April 2018 massacre, they lost forever the battle for the truth.