

# Reporters Without Borders

<http://www.rsf.org/argentina-judicial-abuse-filmmaker-03-11-2011,41332.html>

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Americas - Argentina

Unjust justice

## Judicial abuse: filmmaker threatened with censorship, journalist sent back to prison

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**Oswaldo Bayer**, a journalist and documentary maker, has been prosecuted since early September by the grandchildren of José Alfredo Martínez de Hoz, who served as economy minister during the dictatorship of Jorge Videla from 1976 to 1981, over the documentary *Awka Liwen*. He faces a prison sentence unless he pays 1 million pesos (236,000 dollars) in damages and injury to the family.

Reporters Without Borders expresses its support for Bayer, whose film, co-produced with **Mariano Aiello** and Kristina Hille, gives an account of the treatment of the indigenous Mapuche people in south-west Argentina, covered up for many years.

The reputation of the Martínez de Hoz family may have been damaged by this film, but that should not prevent the broadcast of a work that even the president of Argentina, Cristina Fernández, has said is of national interest.

"If a right of response is available in the film's credits, it is entirely contrary to the law and the principles of the constitution to resort to censorship of a work intended to inform people and to put authors in prison," the press freedom organization said.

"We recall that defamation, slander and libel were decriminalised in 2009. Besides, the court handling the case should rule itself out if it turns out that the magistrates do not offer the necessary guarantees of impartiality."

The documentary's intent is to expose the involvement of Toribio Martínez Hoz, great-

grandfather of the dictatorship's economy minister, in a drive known as the Desert Campaign to expropriate native lands, accompanied by a brutal crackdown on the population, in Patagonia and La Pampa between 1869 and 1888.

The Martínez de la Hoz family maintains that their ancestor played no part in the campaign and have brought a case against Bayer and his two co-producers.

The case has been handed over to the National Civil and Commercial Division. A concerned Aiello has told Reporters Without Borders that two of the magistrates to whom the case had been referred were in their posts during the dictatorship and were known to be close to the Martínez de la Hoz family. "There are no guarantees," he said.

If the family wins the case, the documentary would be censored and its authors would have to remove any reference to the plaintiffs in connection with the Desert Campaign.

Unfortunately, this is not the first instance of censorship of journalists or documentary makers who tackle the question of the Mapuche. Reporters Without Borders recalls the case of the Chilean filmmaker [Elena Varela](#), whose film *Newen Mapuche* was refused distribution in April.

### **Judicial reprisal?**

Other journalists have been subjected to legal setbacks in Argentina, such as [Néstor Omar Pasquini](#), owner and manager of the radio station *FM Show*, who was sentenced to seven years on 12 September and re-imprisoned for having taken part in an arson attack on a courthouse in the town of Corral de Bustos in Córdoba province during a demonstration that followed the rape and murder of a small girl.

The journalist's lawyer told Reporters Without Borders no proof had been presented to support the charge of incitement to violence against his client and he planned to appeal. He said the conviction was in reprisal for allegations of corruption and criminal activity made by the journalist against some local authorities.

"Reporters Without Borders is surprised at the turn of events in this case, in particular the return of Nestor Pasquini to custody, which supports the assumption that there is a campaign against him. In view of the appeal about to be lodged by his lawyer, we insist that he be released in anticipation of a new judgment and that the case be held elsewhere in the interests of impartiality."

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