

# Berlusconi, Wiretaps and Manipulation of Broadcast News

*By Leo Sisti\**

At 1:30 pm on February 26, 2010, Rai Uno, Italy's most popular TV show (carrying an average audience of 4.4 million and the flagship of state-owned broadcaster Rai, broke the story that David Mills had been "acquitted" of corruption the day prior by Italy's Court of Cassation, the highest court in a three-tier justice system.

Mills, a London-based attorney, was on trial for accepting US\$600,000 through an intermediary to lie during court hearings in 1997 and 1998 on behalf of Italian Prime Minister Silvio Berlusconi. Berlusconi was charged in the same trial for bribery, false accounting and illicit financing of political parties.

Under Italian procedure, "acquitted" usually means that a person is not guilty, but that is not the case with Mills. In reality, the Supreme Court ruled that the statute of limitations had run out on Mills' case, and the state was unable to issue a ruling. It never said, however, that Mills was not guilty. On the contrary, it said there was "sufficient ground to prove the existence of a crime of corruption." He was still required to pay a fine of €250,000 (US\$340,000) to the Italian state for "damages to the Justice administration's reputation," due to the "seriousness of the trial and involvement of prominent people."

Why the skewed report from Rai Uno? The people of Italy didn't buy into it—in fact, in the week following the story, more than 140,000 signatures were collected on Facebook calling on Rai to apologize and amend its false announcement.

The conflicting Mills broadcast and others like it are due to one single issue: Rai Uno editors are politically appointed. Augusto Minzolini became Rai Uno's editor in May 2009. The choice was heavily influenced by the new government, a center-right coalition run by Berlusconi. For many years before joining Rai Uno, Minzolini was a regular op-ed contributor to the weekly magazine Panorama, owned by Berlusconi through his publishing company Mondadori.

When asked about the use of the word "acquitted," in reference to the Mills trial, Minzolini said: "I don't want to apologize. It happened for a need of summarizing the headline, but the rest of the story was correct. Anyway in the following edition we clarified."

Legitimate Impediment or Conflict of Interest?

While Berlusconi and Mills were charged with bribery in the same trial, Berlusconi's trial had been suspended in the wake of a

special law, promoted in 2010 by the Berlusconi government. The law's intent was to temporarily protect ministers from prosecution for "legitimate impediment" tied to their functions. So the trial went on only against Mills. When Rai Uno made the acquittal announcement, viewers were to assume that if Mills was "acquitted," Berlusconi was "acquitted" as well.

But on January 13, 2011, the Constitutional Court ruled that parts of the "legitimate impediment" law are not consistent with the constitution and must be thrown out.

Now media grapple with the new judicial scenario surrounding Berlusconi. The "Mills trial" resumed in March 2011 and a new hearing was scheduled for May 9. So are two other Berlusconi legal proceedings, which had been suspended due to the "legitimate impediment" law.

In the first trial, "Mediaset," Berlusconi is charged with tax fraud connected to the purchase of Hollywood movie rights at inflated prices. A hearing was scheduled for June 13. In the second case, "Mediatrade," which is an offshoot of the "Mediaset" trial, Berlusconi is charged with tax fraud and embezzlement on the grounds that he allegedly set up slush funds in tax havens. A judge of the preliminary hearing is expected to decide if Berlusconi should be sent to trial in a hearing scheduled for May 30.

In the meantime (mid-February 2011), another Milan judge of the preliminary investigations ruled that Berlusconi must face an immediate trial on charges of paying for sex with an underage prostitute and abuse of power. Next hearing is scheduled on May 31st.

It will be interesting to note the way TV news will cover these trials. Since Berlusconi came to power, he has held a nearly absolute grip on television outlets. As prime minister, he can control information on Rai's three channels. In addition, his family owns Mediaset, Italy's primary private network, consisting of three channels: "Canale 5" ("Channel Five), "Rete 4" ("Network 4") and "Italia Uno" ("Italy One).

## Broadcast Influence

According to the Center for Economic and Social Research (Censis — Centro Studi Investimenti Sociali), seven out of 10 people are influenced by television programs. The evening newscast is especially influential, having an audience of about 20 million. By contrast, the printed press can count only on 4.6 million daily copies — a very small figure when compared to a population of 60 million. The newspapers' impact on people's political choices is therefore limited, except for the two major newspapers, the conservative *Il Corriere della Sera* and center-left-leaning *La Repubblica*.

In addition to television media, Berlusconi's family also controls a daily newspaper, *Il Giornale*. How can journalists working for *Il Giornale* report freely on politics or the economy? Do they face restrictions? An *Il Giornale* reporter, speaking anonymously, maintains: "A direct influence of the publisher, or Berlusconi, on my job doesn't exist," he said. "It's obvious that the editorial line of *Il Giornale* refers to Berlusconi's family and is entrusted to the editor. However, a certain degree of pressure on every story is psychological."

Giovanni Sartori, authoritative political commentator for *Il Corriere della Sera* and former Albert Schweitzer Professor in the Humanities at Columbia University, said: "In Italy the general TV is gagged; and this allows Berlusconi and his associates to lie without any possibility of double checking. It's obvious. Everybody tries. But where TV is really free, the lies soon catch up with you, while here in Italy the truth on our TV cannot be ascertained."

Berlusconi keeps a firm grip on information flow. He makes concerted efforts to muzzle the media. He also tries to use regulators to silence television broadcasts that he believes are against him.

#### Face Time Is Regulated—But it Doesn't Matter

According to a report released in December 2010 by media analysis company Vidierre, Berlusconi was overwhelmingly present on television in 2010. As prime minister, Berlusconi spoke for almost 21 hours. Pier Luigi Bersani, the leader of the opposition Democratic Party (PD — Partito Democratico), held second place, with a little over seven hours.

The president of Italy, Giorgio Napolitano, came third, with six hours.

Vidierre also released a report based on 10 years of TV monitoring, minute by minute, from 2001 to 2010. Again, Berlusconi leads with more than a week's worth of air time. The other six center-left leaders "spoke" for only two-and-a-half days. In January 2011 alone, Berlusconi "spoke" for two hours and 40 minutes.

Television communication is under the control of the Authority for Communications Guarantees (AGCOM—Autorità per le Garanzie nelle Comunicazioni), the regulator and competition authority for Italy's communication industries.

In October 2010, AGCOM issued a warning to Rai Uno, and a reprimand to Rete 4 and Italia Uno. AGCOM accused the channels of "lack of balance in majority's and government's favor." Warnings and reprimands are the last steps before a fine is issued.

Berlusconi could not care less. As American writer Alexander Stille, who covers Italian politics, puts it:

“(Berlusconi’s) media empire — including the three largest private television networks — was the strongest institution left standing, and that his personal popularity and name recognition could be translated into political assets in an age in which celebrity matters more than ideology. Instead of social and economic background, television preferences — which channels a person watches and for how long — are now the best predictor of a voter’s political preferences.”

Guido Rossi, former chairman of Consob, Italy’s investment regulatory body, is disappointed and worried: “What’s happening today in communication is lack of transparency, marketing and the selling of a product, not democracy,” he said.

### Gagged Journalists Fight Back

Not satisfied with this, Berlusconi has attempted to use his power to promote a law aimed at gagging freedom of the press by drafting a bill that would ban journalists from reporting transcripts of wiretaps until the end of a preliminary investigation.

The media protested. On June 11, 2010, La Repubblica readers must have done a double take when confronted with a blank front page of their daily paper. In the center of the page, a yellow post stood out with this message: “The gagging law denies citizens the right of being informed.”

Ezio Mauro, La Repubblica’s editor, explained his unusual decision with tough words. “(The gagging law) is an authoritarian act of the government on the basic right of citizens,” he said.

That same day, La Stampa’s front page included a blank column, while Rupert Murdoch-owned television station Sky Italia broadcast the news with a black-edged corner on the screen. The protest reached its climax the following month: On July 8, 2010, Italian journalists went on strike because of the bill. Most newspapers were not on the newsstands, except Il Giornale and other dailies tied to Berlusconi.

After the protest and under pressure of Berlusconi’s political allies, the “gagging law” was amended in late July 2010 to eliminate some restrictions against the media, and was tabled before being approved by Parliament. “The wiretaps law will change little from the current situation,” Berlusconi said, “and therefore will not allow Italians to speak freely on the phone.”

### Corruption has Become Structural

A harsh statement by jurist and law professor Stefano Rodotà — issued in September 2010 during a rally entitled “No Berlusconi Day 2” — highlights what many analysts and journalists believe.

“The Italian society is decaying,” he said. “The political system is taking on oligarchic manners, and is losing the sense of institutions. Corruption has become structural.”

In March 2010, Berlusconi announced with great fanfare that he was addressing corruption: A new bill that would fight corruption had been drafted and approved during a meeting of the Council of Ministers.

But by April 2011, no further steps had been taken to move the bill through Parliament. Instead, after being investigated in December 2010 on sex and abuse of office-related charges, Berlusconi dusted off the “gagging law” draft bill, shouting that he wants to get rid of the “Judicial Republic of prosecutors.”

On April 11, 2011, after attending a hearing in the Mediaset trial, Berlusconi addressed a rally of 250 people waiting for him outside the court singing the official anthem of Berlusconi’s political party: “Thank Goodness, there’s Silvio.” They called for a new harsh draft, shouting the following words: “Wiretaps can’t help either the prosecution nor the defense, because they can be fixed”.

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