



# CHAPULTEPEC INDEX

## of Freedom of Expression and Press

Editions 2019 -2020 / 2020 -2021

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*CHAPULTEPEC INDEX OF FREEDOM OF EXPRESSION AND PRESS.*

*EDITIONS 2019 –2020 / 2020 –2021*

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## FOREWORD

Defending freedom of expression and the press is the main commitment of the Inter American Press Association (IAPA). We are convinced that, without these essential liberties, democracy is weakened and “the possibility of change is halted, justice is demeaned and human advancement becomes mere fiction,” as stated in the prologue of the Declaration of Chapultepec.

That is why we investigate and denounce acts of repression and threats against journalists and the media. We exercise the defense against laws restricting access to public information, control the internet, and punish journalists through contempt statutes, among other means employed by governments in an attempt at legitimizing censorship.

We fulfill our mission by constantly monitoring and conducting international on-site and online missions – over 700 in 22 countries in the last decades – on issues in favor of the defense of press freedom and against dictatorships, authoritarian governments, and interest groups of any political leaning.

In this way, we have contributed to the decriminalization of defamation and to the elimination of contempt crimes, mandatory affiliation, and other restrictive press regulations. We also achieved the enactment of laws in favor of access to public information, which protect journalistic secrecy and punish discrimination in the allocation of official advertising.

Our work has also served to promote the creation of protection mechanisms and special bodies to counter impunity for crimes against journalists. Thanks to these efforts, there have been achievements, namely the codification of these crimes as federal offenses in countries such as Mexico and Brazil, the increase of penalties for those who commit murders [of newsmen], and the establishment of special prosecutors’ offices.

As stated in the IAPA’s Charter of Aspirations, approved in Madrid in 2008, “[...] it is fitting for the press to promote the values of democracy and to defend freedom of expression, affirming the right of each individual to express himself or herself without fear of reprisal of any kind, whatever its origin”.

The IAPA has also been part of the evolution of societies. In the last decade of the 20th century, many countries of the Americas began to see more clearly the light of “a future rooted in democracy” because “political opening has taken hold,” as the Declaration of Chapultepec states. And more recently, as part of that evolution, we witness the serious economic crisis affecting the industry, a situation that has been exacerbated by the COVID-19 pandemic. Consequently, many media outlets have disappeared, creating information deserts in vast regions of the continent. The sustainability of the media is fundamental for democracy, because without the existence of independent journalism, the practice of freedom of expression is not possible.



From the concept that the daily practice of democracy and freedom is what can guarantee healthy societies, the Declaration of Chapultepec was issued in 1994, a decalogue that brings together diverse, pluralistic views on the principles that should govern freedom of expression and the press in a democratic society.

Twenty-four years after that declaration was approved, and mainly because the new communication and information technologies failed to dissipate the threats – instead, even increased them in some cases, the IAPA took on the challenge of drafting a new document. During our General Assembly held in the Argentine city of Salta in October 2018, we approved the Salta Declaration on Principles of Freedom of Expression in the Digital Era, after a long journey of over 12 months' work.

Both declarations, those of Chapultepec and Salta, summarize our philosophy for the defense and promotion of press and expression freedoms, and helped start the path towards the Chapultepec Index, which allows us to measure the degree of enforcement of such freedoms in the Americas.

On an annual basis, the Index monitors, measures, compares, and rates the progress and negative practices of the Executive, Legislative, and Judiciary aimed at four realms or variables: informed citizens; exercise of journalism; control over the media, and violence and impunity, based on the degree of compliance with the principles set forth in the two above declarations.

The Chapultepec Index expresses the IAPA's call to develop public interest and leadership projects that, at the same time, generate added value and social impact. The annual results of the Index, in addition to becoming benchmarks for journalistic information, point out the areas for which we must promote public policy reforms in the quest to strengthen the freedoms of the press and expression.

The Chapultepec Index had its early development in 2017. We consulted with universities in Colombia, the USA, and Venezuela to listen to different proposals and budgets. Then, in 2018, we selected the Universidad Católica Andrés Bello (UCAB) of Venezuela as the higher education institution that would undertake the Index. Together, we established a three-year work cycle, from September 2018 to August 2021, coinciding with the commemoration of the 25th anniversary of the Declaration of Chapultepec.

Through the expert eye of academics, media executives, journalists, and representatives of civil society organizations in 22 countries of the region, the Index completed a first survey in 2019. It consisted of a pilot project that allowed refining the realms to be considered in subsequent years.

Between 2019 and 2021, many meetings were held and numerous adjustments were made to the realms, indicators, and the number of experts who would participate in the sample populations. This allowed to achieve greater accuracy in the information to be



collected. In particular, the extent of restriction entailed for each realm was weighted appropriately, since the lack of a law on access to public information does not have the same impact as the murder or imprisonment of journalists, although all of these are actions that ultimately violate citizens' right to receive and disseminate information.

We also worked to offset possible subjective biases, such as the differences in perception between someone assessing a perhaps minor restriction in a country with a strong democratic tradition and someone rating a comparatively more serious limitation in a nation that, having suffered years of conditioning of the press, has come to naturalize behaviors that clearly violate free expression.

This text is the compendium of years of work and operationalization of what has become a relevant tool. The following pages reflect the surveys conducted in 2020 and 2021, which gives the possibility of making comparisons and analyses on the reality of our countries and the region relating to institutional actions on freedom of expression and the press.

One of the great contributions of the Index is that the methodology adopted, the perspective of an equal number of experts per country, and the symmetry in the studies allows establishing reliable and credible connections between the results. Such outcomes are also endorsed by the IAPA's biannual reports on the behavior of press freedom country by country.

The Index is a sort of snapshot of the performance of freedoms of expression and the press; but it is more than that: This annual ranking allows us to measure and improve our work as a hemispheric organization.

A detailed review of the four realms measured by the Index reveals an endless source of possible avenues of activity that are the *raison d'être* of this institution.

The development, execution, and sustainability of the Index over the past three years has been possible thanks to the support of our sponsors, who acted as true strategic allies: Grupo Sura and Fundación Bolívar, from Colombia, and the Edward and Karen Seaton Foundation, from the United States. The commitment of all of them to democracy and freedom of expression and the press is reflected in the work conducted and in their satisfaction with the results of the survey.

We would like to underscore that the production of this Index relies on the efficiency of a group of academics from the UCAB, headed by Professor León Hernández, with the assistance of Professor Argelia Perozo and the collaboration of experts in various fields. Among them are Jaiber Núñez, Gloria Carrasco, Héctor Zea, and Andrés Ramos. Ultimately, none of this would have been possible without the support of the chancellor of the university, Francisco José Virtuoso Arrieta, s.j.

We would also like to acknowledge our colleagues at the IAPA, including María Elvira Domínguez, Roberto Pombo, Roberto Rock, Ricardo Trotti, and Melba Jiménez. Without their work and support this Index would not have been possible.

We are confident that this very important tool for defending freedoms and supporting democracy will continue to be active, refined, and enriched year after year. This is our commitment.

**Jorge Canahuati**

President, Inter American Press Association (IAPA), 2020-2022  
CEO, Grupo Opsa, Honduras

**Carlos Jornet**

Chairman, Committee on Freedom of the Press and Information  
Director of Journalism, *La Voz del Interior*, Argentina

## PRESENTATION

### AN INDEX, STEP BY STEP: METHODOLOGICAL FEATURES

The starting point of IAPA's Chapultepec Index of Freedom of Expression and the Press is the concern about the implementation of policies, the enactment of laws, as well as the issuing of executive orders and court rulings relating to citizens and journalists' access to information, guarantees for the practice of journalism, respect for the lives of news professionals, controls on the media activity, among other principles.

This Index began on January 10, 2019, when the IAPA and the UCAB, based in Caracas, Venezuela, [respectively] represented by IAPA's Executive Director Ricardo Trotti and the academic institution's Chancellor Francisco José Virtuoso Arrieta, s.j., concurred in creating and developing an instrument helpful for understanding the institutional status of freedom of communication on a hemispheric scale, by means of a framework agreement encompassing academic and research activities.

The main objective of this partnership is to develop an index that will provide an estimation of the institutional performance of freedom of expression and the press, based on the perceptions of journalists and experts, namely in these 22 countries of the hemisphere: Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Guatemala, Ecuador, El Salvador, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, United States, Uruguay, and Venezuela.

### Principles considered in the questionnaire

The Chapultepec Index of Freedom of Expression and the Press is inspired by the principles originating from the Declaration of Chapultepec, 1994, and the Declaration of Salta, 2018, which reaffirm the right to freedom of expression and the press as the cornerstone of any democracy. The Declaration of Chapultepec establishes the following principles:

1. No people or society can be free without freedom of expression and of the press. The exercise of this freedom is not something authorities grant, it is an inalienable right of the people.
2. Every person has the right to seek and receive information, express opinions and disseminate them freely. No one may restrict or deny these rights.
3. The authorities must be compelled by law to make available in a timely and reasonable manner the information generated by the public sector. No journalist may be forced to reveal his or her sources of information.





4. Freedom of expression and of the press are severely limited by murder, terrorism, kidnapping, intimidation, the unjust imprisonment of journalists, the destruction of facilities, violence of any kind and impunity for perpetrators. Such acts must be investigated promptly and punished harshly.
5. Prior censorship, restrictions on the circulation of the media or dissemination of their reports, forced publication of information, the imposition of obstacles to the free flow of news, and restrictions on the activities and movements of journalists directly contradict freedom of the press.
6. The media and journalists should neither be discriminated against nor favored because of what they write or say.
7. Tariff and exchange policies, licenses for the importation of paper or news-gathering equipment, the assigning of radio and television frequencies and the granting or withdrawal of government advertising may not be used to reward or punish the media or individual journalists.
8. The membership of journalists in guilds, their affiliation to professional and trade associations and the affiliation of the media with business groups must be strictly voluntary.
9. The credibility of the press is linked to its commitment to truth, to the pursuit of accuracy, fairness and objectivity and to the clear distinction between news and advertising. The attainment of these goals and the respect for ethical and professional values may not be imposed. These are the exclusive responsibility of journalists and the media. In a free society, it is public opinion that rewards or punishes.
10. No news medium nor journalist may be punished for publishing the truth or criticizing or denouncing the government<sup>1</sup>.

The Salta Declaration, which followed the Chapultepec Declaration, addresses the digital domain as its core issue. Its parameters, also included in the Chapultepec Index survey, are as follows:

1. Rights linked to freedom of expression and freedom of the press must be equally guaranteed in the digital as well as in the traditional environment.
2. Laws and public policies regarding the internet must be enacted to ensure that the digital space is open, neutral, accessible to everyone, adhering to human rights. When making decisions regarding the internet, the viewpoints of all actors must be considered.

<sup>1</sup> Declaration of Chapultepec. (1994). Document available online at <https://www.oas.org/en/iachr/expression/showarticle.asp?artID=60&clID=1> adopted by the Hemispheric Conference on Freedom of Expression held in Mexico City on March 11, 1994.



3. Governments must not, through regulations, inhibit statements of public interest in the digital space, nor should they impose enhanced penalties based on the fact that they have been expressed in that space. Likewise, governments must not penalize criticism, information or protests against public officials regarding matters of public interest or against individuals who voluntarily expose themselves to public scrutiny. In cases where civil claims are filed, evidence of real malice must be proven.
4. Any subsequent restriction and sanction that may impact the right to disseminate, share or release information and ideas on the internet must be established by law in accordance to the conditions set forth in the American Convention on Human Rights.
5. Content blocking and filtering through government controls in the digital space constitutes prior restraint according to the provisions of the American Convention on Human Rights<sup>2</sup>.

Based on the above, the team of researchers commissioned by the UCAB was tasked with designing an instrument that would include quantitative indicators based on constructs linked to institutional action as set forth in these principles.

The rating of the countries and the realms gathering the issues encompassed by the Index were based on the design of a questionnaire under methodological and statistical standards. To develop this tool, indicators, realms, and pilot tests of the instrument were established and developed over a year and a half of activity. In the second edition, not only perceptions were included, but also objective quantitative indicators that added accuracy to appraising issues relating to violence and impunity against journalists and the media.

## METHODOLOGICAL FACTSHEET

According to the score obtained by each country, five possible categories were established:

- Countries with full freedom of expression (81-100 points)
- Countries with low restriction of freedom of expression (61- 80 points)
- Countries with partial restriction on freedom of expression (41-60 points)
- Countries with high restrictions on freedom of expression (21-40 points)
- Countries without freedom of expression (0-20 points)

In addition to the appraisal by the Index, a supplementary assessment of perceptions regarding government actions and their impact on situations unfavorable to freedom of

<sup>2</sup> Inter American Press Association (2018). Declaration of Salta. Online document available at <https://en.sipiapa.org/notas/1212853-declaration-of-salta> adopted by the Board of Directors and the Assembly of the IAPA meeting in Salta, Argentina, on October 22, 2018. The Salta Declaration sets forth principles of freedom of expression in the Digital Era.

expression was conducted, and it was linked to the performance of its officials in its classical branches – the Executive, Legislative, and Judiciary. According to the perceptions obtained, the influence of the environments in situations unfavorable to freedom of expression may be:

- No unfavorable influence: zero
- Slight influence: 1 to 2.5
- Moderate influence: 2.51 to 5
- Strong influence: 5.01 to 7.5
- Very strong influence: 7.51 to 10

In this case, the higher the score, the more favorable the position achieved in the Index of Freedom of Expression and the Press.

The selection criterion for the sample, composed of five people per country in the first edition and seven in the second, was the heterogeneous grouping of respondents meeting the following profiles:

- One journalist
- One editor or media outlet chief officer
- One academic expert on free speech
- One member an NGO in charge of following up situations related to freedom of expression and the press in the corresponding country;
- The regional vice-president or a high representative of the IAPA in the respective country.

The indicators for the Chapultepec Index were grouped into four realms, as defined below:

## **REALM A: Informed Citizens Free to Express Themselves**

This includes the actions or omissions of the branches of government regarding the right of citizens to be informed and to be able to express themselves freely. The maximum theoretical value of this realm is 23 points. Based on this, two sub-realms were conceptualized:

**-Information flow from the media:** This refers to government actions to promote the flow of plural and timely information to the citizenry. The maximum score in this sub-realm is 11 points. The value achieved in this sub-realm is contingent upon the experts' replies as to whether or not citizens' access to public information is limited; whether rights relating to freedom of expression and the press are restricted.

In addition, this sub-realm weighs whether the government asserts the right of reply as a mechanism for controlling information at convenience; whether the right to be forgotten is improperly used to remove the historical record of public interest matters; whether a media ecosystem with public and private entities are used to further the government's view to the detriment of plurality; whether citizens are constrained from reliable, quality, and accessible Internet service.

**-Citizens' free speech:** This sub-realm explores whether the government provides opportunities for citizens to express themselves in the public arena. The maximum score in this sub-realm is 12 points. The score depends on perceptions as to whether the government encourages censorship of informative contents deemed to be negative for the political groups in power

This sub-realm also includes the perceptions from [respondents in the] sample regarding the existence or non-existence of institutional actions seeking to suppress public interest statements online; whether the government imposes harsher penalties for public interest statements online; and whether there are provisions conducive to increasing criminal charges for defamation, slander, and contempt.

## **REALM B: Exercise of Journalism**

This realm explores whether the government guarantees the exercise of journalism. Its maximum score is 10 points and is contingent upon on whether there are government measures in place on intellectual property to protect journalistic content from plagiarism and improper use; whether there are statutory provisions making journalists' affiliation to unions and associations mandatory.

Additionally, it measures whether the government requires an academic degree to engage in journalistic activities; whether the State restricts or denies those media critical of the government stance access to official sources; and whether the government compels to disclose journalistic sources, and contemplates punitive actions against them.

## **REALM C: Violence and Impunity**

This realm encompasses assessing government actions aimed at protecting journalists, preventing attacks and aggressions against newspersons and the media, legislation providing for harsher penalties conducive to avoiding impunity in the case of crimes against journalists and the media. Because of its importance, this realm has the highest weight when calculating the Chapultepec Index, with a total theoretical maximum of 42 points.

This realm was divided into three sub-realms:

- Persecution: Respondents indicate whether the government encourages persecuting journalists and the media for statements *a priori* considered, regardless of their intent,



offensive to government officials or close interest groups; and whether this generates intimidation, stigmatization, and hate speech against journalists and the media. It has a value of 15 points.

- Protection: It has a value of 10 points. The experts surveyed indicate whether the government has provisions in place to protect journalists; whether it has taken actions to prevent attacks and aggressions against journalists and the media, as well as to protect both in case of threats; and whether there is willingness to provide training to judges on assaults, killings, and crimes against journalists and the media.

- Impunity: With a maximum score of 17, it reflects the responses of those inquired to questions on whether there is legislation to increase penalties in cases of aggravated murder of journalists; whether there is specific legislation to forbid the statute of limitations for homicides, attacks, and threats against journalists, and media outlets; whether there are court sentences or rulings stipulating harsher punishment in cases of crimes against journalists and media, and whether the State complies with sentences or rulings by international bodies whereby it is held responsible for crimes against journalists and media and bound to make reparations to the victims.

## **REALM D: Control over the Media**

It has a value of 25 points. It encompasses actions or omissions on direct and indirect control over the media. It is divided into two sub-realms.

- Direct control: This measures, with a maximum of 16 points, whether there has been, on the part of the government, closure, expropriation, or seizure measures on media outlets, as well as discriminatory use of tax provisions, thereby encouraging fiscal privileges for those media outlets aligned with its stance or undermining those media outlets or groups contrary to official views.

It also accounts for whether the government allows the granting of media permits, as well as the allocation of public funds and official advertising, to be done under arbitrary and discriminatory criteria. It also assesses the perception of whether the government has revoked media licenses on political grounds.

- Indirect control: It weighs, with a maximum of 9 points, whether the government allows for direct restrictions or blockages of different digital information platforms considered contrary to the interests of the powers-that-be; whether the government applies pressure on technological intermediaries – such as pay TV systems, ISPs, and suppliers – in order to prevent the media from disseminating certain contents. It quantifies the experts' view on whether or not there were restrictions on intermediate goods suppliers (newsprint, materials, IT components, electrical power, etc.) affecting the production and dissemination of information by the media.

## INFLUENCE OF ENVIRONMENTS

The Chapultepec Index shows the extent to which the legislative, judicial, and executive environments affect freedom of expression resulting from their institutional action. In addition, it reflects the perception of the extent to which each environment influences situations discouraging free speech. This is how we define each environment:

- Legislative environment: It encompasses all institutional actions and dynamics within the Legislative, including compliance with international agreements validly entered into by the State regarding the statutory body of the right to freedom of expression. In this sense, it relates to the statutory development in the constitutional and legal scope in force during the period under analysis, as well as possible reform projects that have either a positive and negative impact on the evolution of the right to freedom of expression. Examples: Constitutional and legal provisions, discussion of draft bills, ongoing constitutional reforms on the issues addressed by the realms.

- Judicial environment: This corresponds to the scope of actions and institutional dynamics present in the Judiciary, in its diverse forms and levels of embodiment, including compliance with international agreements validly entered into by the State regarding the right to freedom of expression in the a given country under review, both of pre-emptive and prosecutorial nature, thus including any injunctive, interlocutory, or executive manifestation of the State's jurisdictional authority or role. Examples: Judgments at all court levels, injunctive relief, or ongoing judicial proceedings on the issues addressed by the realms.

- Executive environment: Includes all actions and institutional dynamics of an administrative and regulatory nature relating to the right to freedom of expression performed by the different levels of the executive branch of government, including compliance with international agreements validly entered into by the State, as well as the enforcement of the entire body of licenses, permits, clearances, audits, or penalties provided for in the regulations of the country under analysis. Examples: Allocation of frequencies, control over content, tax regimen, and other issues addressed by the realms.

## Compilation process and analysis of results

The results provided by the experts in different fields who composed the sample and received the questionnaires were compiled. Quantitative data on acts of violence and impunity (kidnappings, murders, attacks against journalists, forced displacement of media professionals) from each nation was also collected.

Once the results were compiled, they were graphed, listed in the corresponding brackets with their respective ratings, and sent back to correspondents for each country. These [correspondents are] 22 professionals, for the same number of countries, who are extensively experienced journalists accredited by academic institutions. They prepared the



reports contributing evidence and interpreting the results achieved, by framing them in a narrative that would make clear the context and dynamics existing in each nation.

A total 110 people contributed their responses as experts during the first edition of the Chapultepec Index of Freedom of Expression and the Press; for the second edition, the sample was expanded to 154 people. Altogether, the preparation of the study involved contributions from around 200 professionals from different fields.

The results presented herein are intended to provide a benchmark on the actions of government bodies in the field of freedom of expression, which serves to keep record of the status of this right in institutional matters across the countries of the Americas. It provides visibility to the strengths, weaknesses, opportunities, and threats faced by our countries regarding freedom of expression and the press, guarantees for the practice of journalism, control over the media, and violence and impunity against journalists, resulting from the provisions, actions, or omissions by their governments, legislators, and judges.

**CHAPULTEPEC INDEX**  
of Freedom of Expression and Press



# GENERAL RESULTS OF THE CHAPULTEPEC INDEX

## 1.1. GRAPHS AND CONCLUSIONS OF THE 2019-2020 EDITION

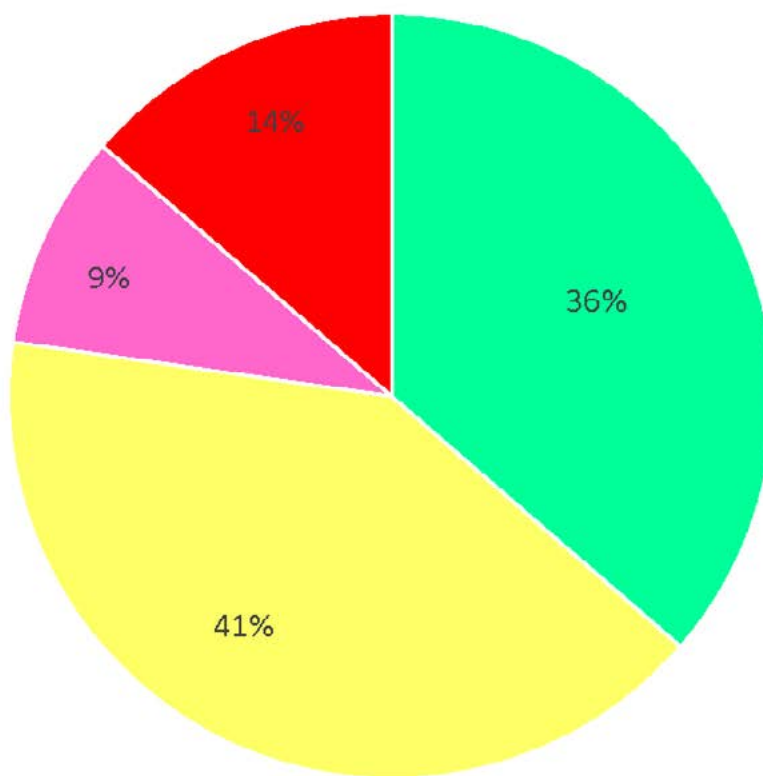


COUNTRY		Chapultepec Index	REALM A: "Citizens informed and free to express themselves"	REALM B: Exercise of Journalism	REALM C: Violence and Impunity	REALM D: Control over the media
Theoretical Maximum		100,00	23,00	10,00	42,00	25,00
1	CHILE	80,00	22,00	9,60	23,40	25,00
2	ARGENTINA	77,20	21,80	7,80	25,60	22,00
3	COSTA RICA	76,75	16,50	9,25	28,00	23,00
4	URUGUAY	74,40	19,00	9,00	25,60	20,80
5	CANADA	71,40	16,20	7,40	24,20	23,60
6	PERU	67,80	18,00	7,60	19,20	23,00
7	PARAGUAY	67,40	14,70	7,60	23,60	22,00
8	JAMAICA	65,00	15,60	8,80	16,40	24,20
9	COLOMBIA	57,50	12,75	8,25	15,50	21,00
10	PANAMA	55,00	11,80	7,60	14,60	21,00
11	MEXICO	55,00	13,40	7,80	12,00	21,80
12	HONDURAS	53,00	13,25	4,75	14,00	21,00
13	UNITED STATES OF AMERICA	49,60	14,20	5,00	8,00	22,40
14	DOMINICAN REPUBLIC	47,00	11,60	7,00	8,40	20,00
15	GUATEMALA	46,00	14,60	6,20	8,40	16,80
16	EL SALVADOR	42,60	11,00	6,40	6,40	18,80
17	ECUADOR	42,50	11,00	4,25	9,00	18,25
18	BOLIVIA	39,80	8,40	6,80	8,00	16,60
19	BRAZIL	37,20	6,20	6,60	6,00	18,40
20	NICARAGUA	16,00	6,20	6,40	2,00	1,40
21	CUBA	6,20	1,00	1,60	0,00	3,60
22	VENEZUELA	3,80	0,80	1,80	1,20	0,00

## Chapultepec Index of Freedom of Expression and Press May 2019-April 2020



Chapultepec Index  
May 2019-April 2020  
Global results



- Low restriction: Chile, Argentina, Costa Rica, Uruguay, Canada, Peru, Paraguay and Jamaica.
- Partial restriction: Colombia, Panama, Mexico, Honduras, United States, Dominican Republic, Guatemala, El Salvador and Ecuador.
- High restriction: Brazil and Bolivia
- Without freedom of expression: Nicaragua, Cuba and Venezuela.

COUNTRY		REALM A: "Citizens informed and free to express themselves"	Flow of information	Free Expression
Theoretical Maximum		23,00	11,00	12,00
1	CHILE	22,00	10,60	11,40
2	ARGENTINA	21,80	9,80	12,00
3	URUGUAY	19,00	8,00	11,00
4	PERU	18,00	8,40	9,60
5	COSTA RICA	16,50	6,50	10,00
6	CANADA	16,20	7,00	9,20
7	JAMAICA	15,60	6,80	8,80
8	GUATEMALA	14,60	6,60	8,00
9	PARAGUAY	14,20	7,60	6,60
10	UNITED STATES OF AMERICA	14,20	7,40	6,80
11	MEXICO	13,40	5,40	8,00
12	HONDURAS	13,25	5,25	8,00
13	COLOMBIA	12,75	6,50	6,25
14	PANAMA	11,80	5,80	6,00
15	DOMINICAN REPUBLIC	11,60	6,20	5,40
16	EL SALVADOR	11,00	3,60	7,40
17	ECUADOR	11,00	6,75	4,25
18	BOLIVIA	8,40	4,40	4,00
19	BRAZIL	6,20	3,60	2,60
20	NICARAGUA	6,20	2,20	4,00
21	CUBA	1,00	1,00	0,00
22	VENEZUELA	0,80	0,80	0,00

## Chapultepec Index of Freedom of Expression and Press May 2019-2020

"Citizens informed and free to express themselves"





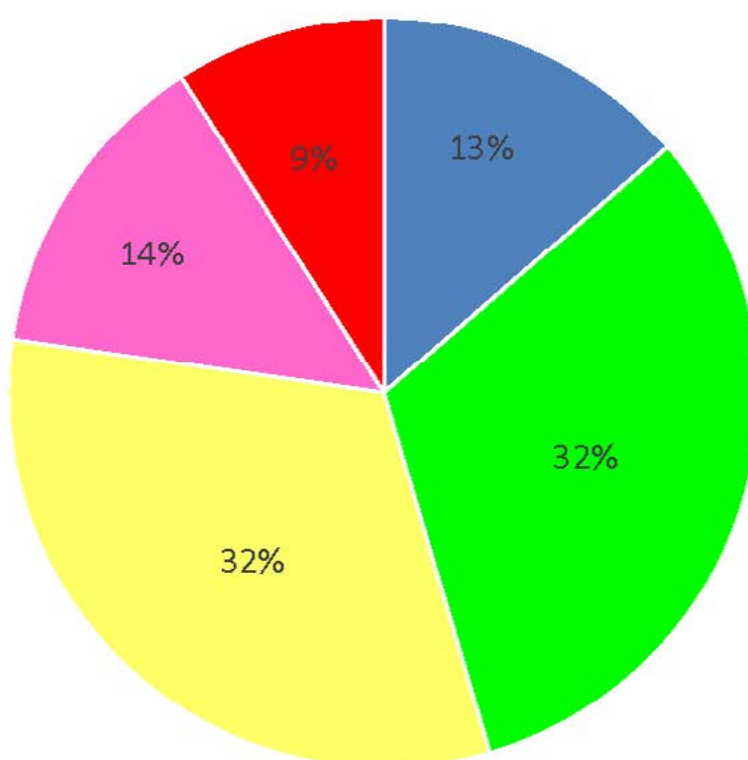
Country	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Argentina	2.92	3.09	3.74
Bolivia	6.88	6.95	7.63
Brazil	2.46	2.86	8.39
Canada	4.04	4.01	4.11
Chile	1.03	1.33	1.00
Colombia	3.34	3.15	3.90
Costa Rica	1.04	1.30	1.75
Cuba	7.03	6.27	8.08
Dominican Republic	3.97	2.94	5.35
Ecuador	4.47	4.89	5.88
El Salvador	2.88	2.47	4.83
Guatemala	4.94	3.74	5.52
Honduras	3.51	2.37	3.76
Jamaica	1.79	1.60	2.21
Mexico	2.99	2.87	4.65
Nicaragua	6.40	6.65	7.02
Panama	3.63	3.04	3.70
Paraguay	5.20	5.73	5.72
Peru	2.41	2.37	2.31
Uruguay	1.25	1.25	2.21
USA	2.26	1.02	4.19
Venezuela	3.93	6.51	7.44

## Influence of environments on situations unfavorable to freedom of expression and the press

(Scale of 1 to 10 on which 10 indicates high influence)

Type of influence	Points
SLIGHT INFLUENCE	1 - 2.50
MODERATE INFLUENCE	2.51 - 5.00
STRONG INFLUENCE	5.01 - 7.50
VERY STRONG INFLUENCE	7.51 - 10.00

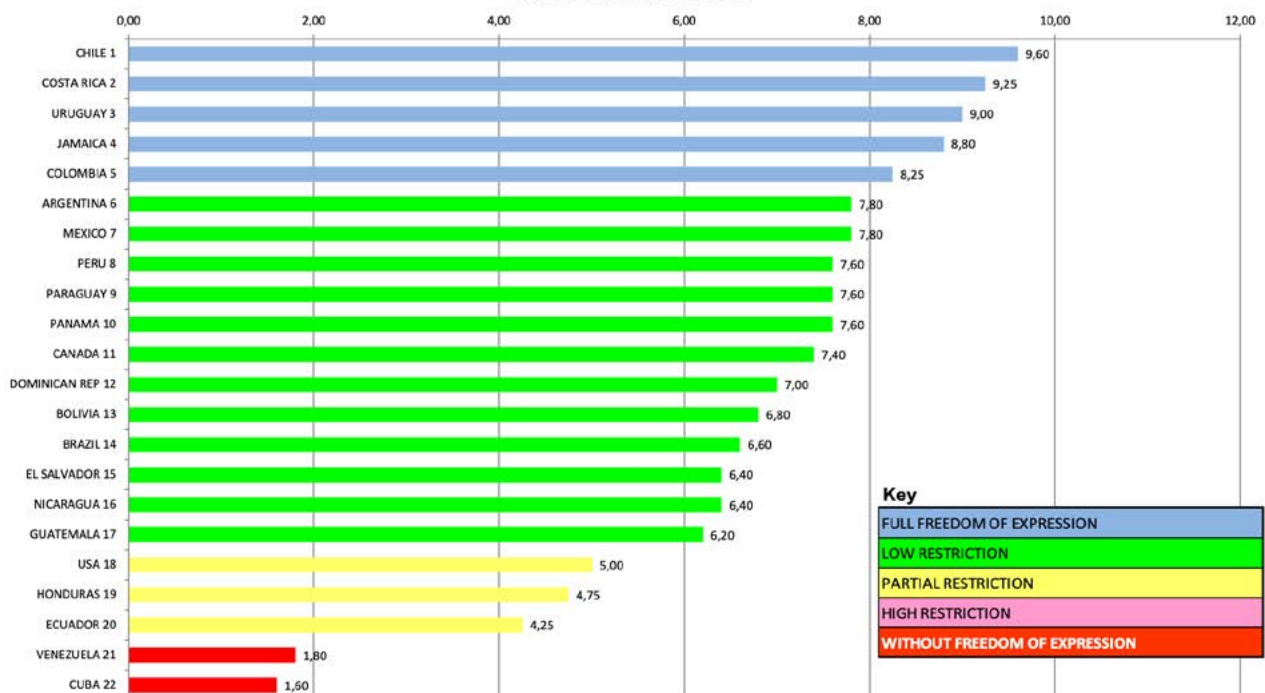
Chapultepec Index  
May 2019-April 2020  
Realm A: Citizens informed and free to express themselves



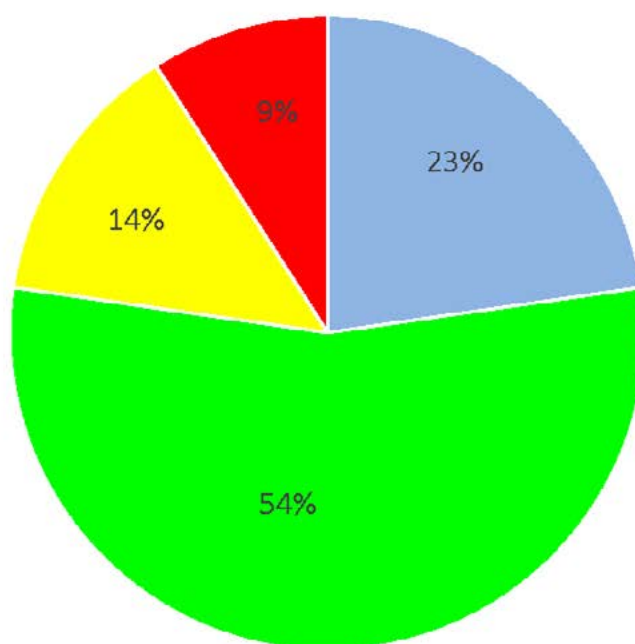
- Full freedom of expression: Chile, Argentina and Uruguay
- Low restriction: Peru, Costa Rica, Canada, Jamaica, Paraguay and United States
- Partial restriction: Mexico, Honduras, Colombia, Panama, Dominican Republic, El Salvador and Ecuador
- High restriction: Bolivia, Brazil and Nicaragua
- Without freedom of expression: Cuba and Venezuela

COUNTRY		REALM B: Exercise of Journalism
Theoretical Maximum		10,00
1	CHILE	9,60
2	COSTA RICA	9,25
3	URUGUAY	9,00
4	JAMAICA	8,80
5	COLOMBIA	8,25
6	ARGENTINA	7,80
7	MEXICO	7,80
8	PERU	7,60
9	PARAGUAY	7,60
10	PANAMA	7,60
11	CANADA	7,40
12	DOMINICAN REPUBLIC	7,00
13	BOLIVIA	6,80
14	BRAZIL	6,60
15	EL SALVADOR	6,40
16	NICARAGUA	6,40
17	GUATEMALA	6,20
18	UNITED STATES OF AMERICA	5,00
19	HONDURAS	4,75
20	ECUADOR	4,25
21	VENEZUELA	1,80
22	CUBA	1,60

Chapultepec Index of Freedom of Expression and Press  
May 2019-April 2020  
Exercise of Journalism



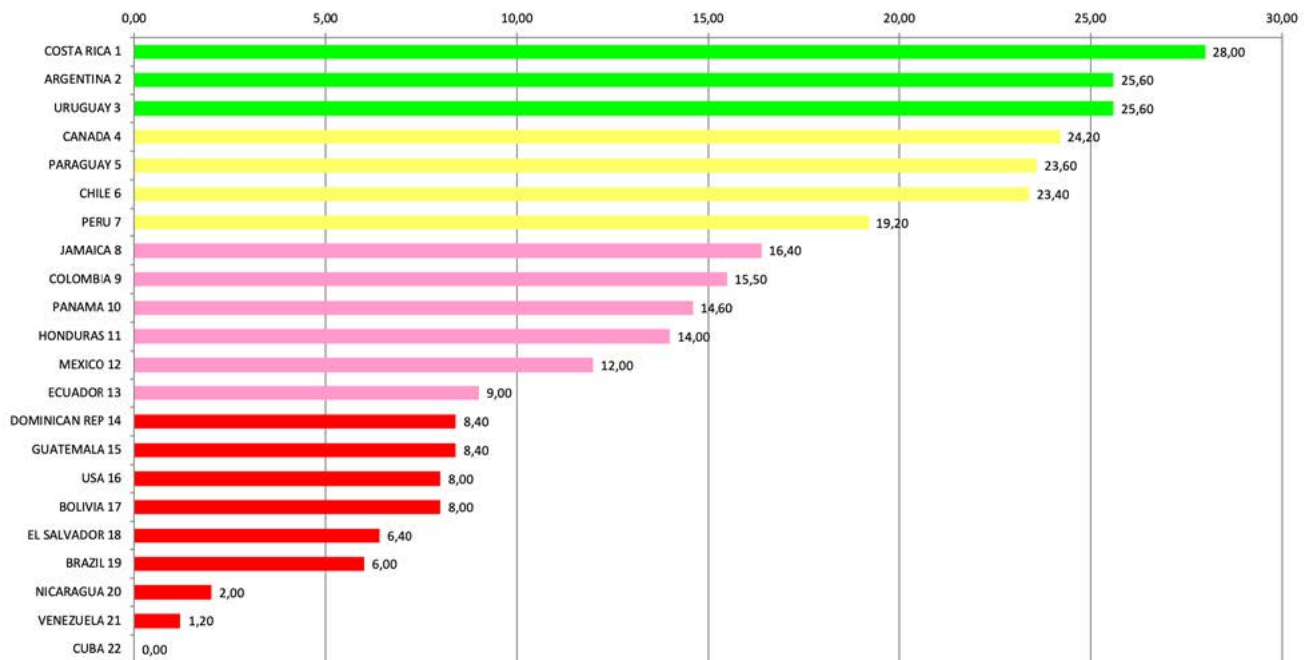
Chapultepec Index  
May 2019-April 2020  
Realm B: Exercise of journalism



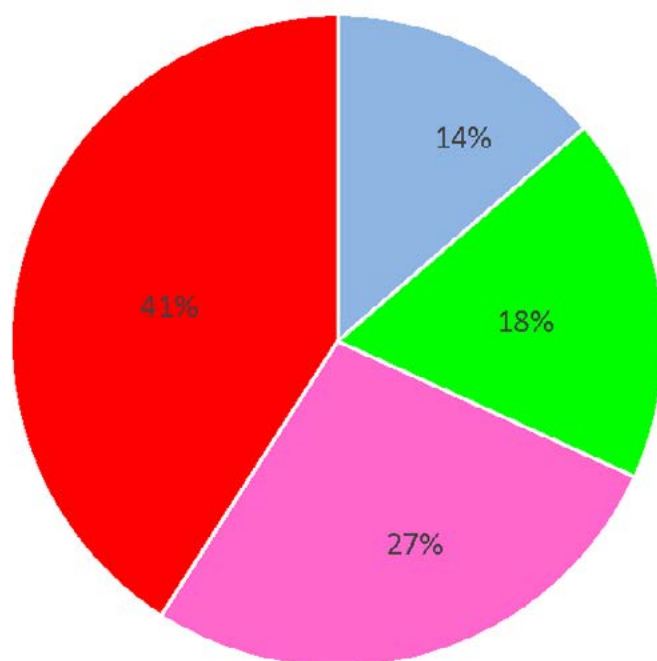
- Full freedom of expression: Chile, Costa Rica, Uruguay, Jamaica and Colombia
- Low restriction: Argentina, Mexico, Peru, Paraguay, Panama, Canada, Dominican Republic, Bolivia, Brazil, El Salvador, Nicaragua and Guatemala
- Partial restriction: United States, Honduras and Ecuador
- Without freedom of expression: Venezuela and Cuba

COUNTRY		REALM C: Violence and Impunity	Protection	Persecution	Impunity
Theoretical Maximum		42,00	10,00	15,00	17,00
1	COSTA RICA	28,00	8,00	15,00	5,00
2	ARGENTINA	25,60	6,40	13,60	5,60
3	URUGUAY	25,60	6,40	13,60	5,60
4	CANADA	24,20	5,60	15,00	3,60
5	PARAGUAY	23,60	7,60	12,00	4,00
6	CHILE	23,40	4,80	13,60	5,00
7	PERU	19,20	3,20	12,20	3,80
8	JAMAICA	16,40	0,00	13,60	2,80
9	COLOMBIA	15,50	2,50	9,25	3,75
10	PANAMA	14,60	3,20	7,40	4,00
11	HONDURAS	14,00	8,00	6,00	0,00
12	MEXICO	12,00	6,40	0,00	5,60
13	ECUADOR	9,00	0,50	7,50	1,00
14	DOMINICAN REPUBLIC	8,40	3,20	4,60	0,60
15	GUATEMALA	8,40	0,80	3,20	4,40
16	UNITED STATES OF AMERICA	8,00	3,60	1,60	2,80
17	BOLIVIA	8,00	1,20	3,20	3,60
18	EL SALVADOR	6,40	0,80	3,20	2,40
19	BRAZIL	6,00	4,40	0,00	1,60
20	NICARAGUA	2,00	0,00	1,40	0,60
21	VENEZUELA	1,20	1,20	0,00	0,00
22	CUBA	0,00	0,00	0,00	0,00

Chapultepec Index of Freedom of Expression and Press  
Violence and Impunity



Chapultepec Index  
May 2019-April 2020  
Realm C: Violence and Impunity against journalists

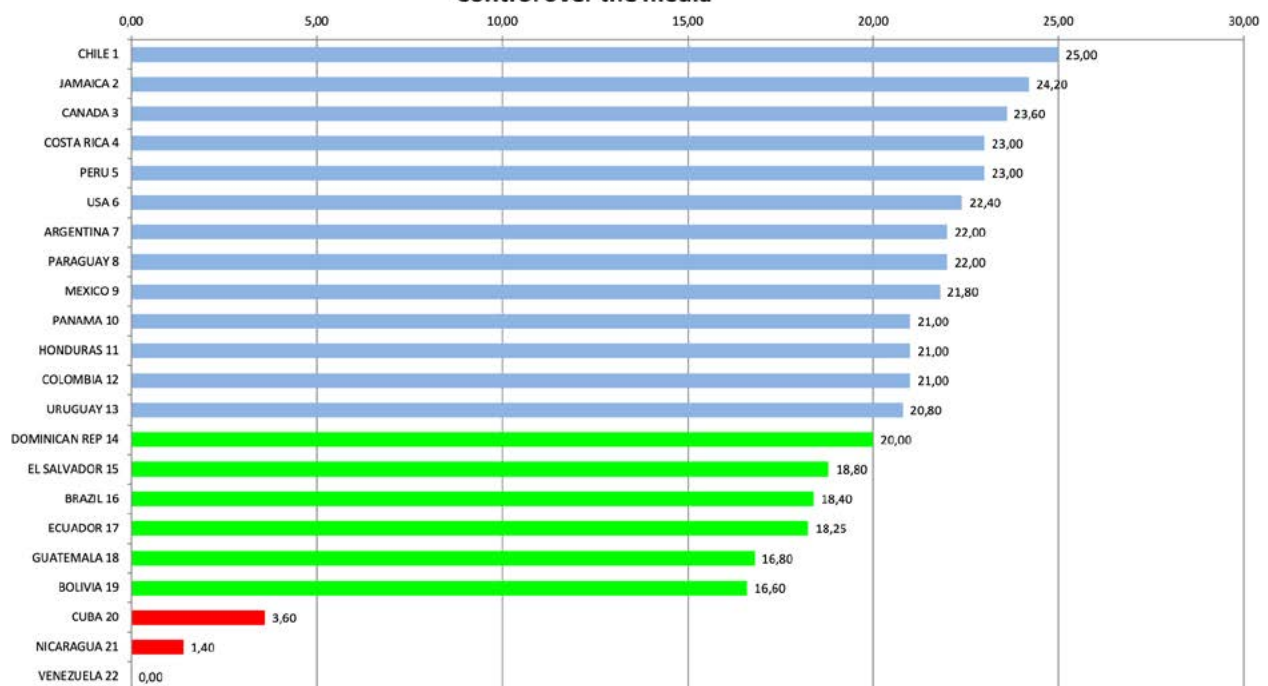


- Low restriction: Costa Rica, Argentina and Uruguay
- Partial restriction: Canada, Paraguay, Chile and Peru
- High restriction: Jamaica, Colombia, Panama, Honduras, Mexico and Ecuador
- Without freedom of expression: Dominican Republic, Guatemala, United States, Bolivia, El Salvador, Brazil, Nicaragua, Venezuela and Cuba.

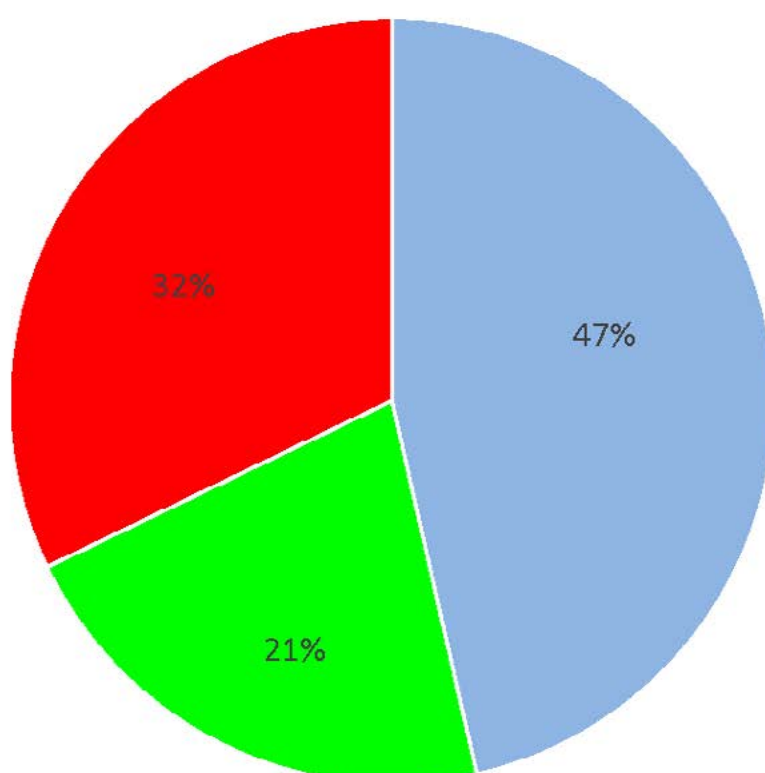


COUNTRY		REALM D: Control over the media	Direct control	Indirect control
Theoretical Maximum		25,00	16,00	9,00
1	CHILE	25,00	16,00	9,00
2	JAMAICA	24,20	15,20	9,00
3	CANADA	23,60	15,20	8,40
4	COSTA RICA	23,00	14,00	9,00
5	PERU	23,00	14,60	8,40
6	UNITED STATES OF AMERICA	22,40	15,20	7,20
7	ARGENTINA	22,00	13,60	8,40
8	PARAGUAY	22,00	13,60	8,40
9	MEXICO	21,80	12,80	9,00
10	PANAMA	21,00	12,00	9,00
11	HONDURAS	21,00	12,00	9,00
12	COLOMBIA	21,00	9,50	8,25
13	URUGUAY	20,80	11,80	9,00
14	DOMINICAN REPUBLIC	20,00	11,00	9,00
15	EL SALVADOR	18,80	10,40	8,40
16	BRAZIL	18,40	11,20	7,20
17	ECUADOR	18,25	10,00	8,25
18	GUATEMALA	16,80	12,00	4,80
19	BOLIVIA	16,60	8,80	7,80
20	CUBA	3,60	2,40	1,20
21	NICARAGUA	1,40	0,80	0,60
22	VENEZUELA	0,00	0,00	0,00

Chapultepec Index of Freedom of Expression and Press  
May 2019-April 2020  
Control over the media



Chapultepec Index  
May 2019-April 2020  
Realm D: Control of Media



- Full freedom of expression: Chile, Jamaica, Canada, Costa Rica, Peru, United States, Argentina, Paraguay, Mexico, Panama, Honduras, Colombia and Uruguay
- Low restriction: Dominican Republic, El Salvador, Brazil, Ecuador, Guatemala and Bolivia
- Without freedom of expression: Nicaragua, Cuba and Venezuela

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

## CHAPULTEPEC INDEX CONCLUSIONS

The **Chapultepec Index of Freedom of Expression and the Press** is a valuable tool for measuring institutional action on Freedom of Expression and the Press in countries of the Americas, in accordance with the principles of the Declaration of Chapultepec and the Declaration of Salta, adopted by the Inter-American Press Association in 1994 and 2018 respectively.

This first edition of the Index covers the period from May 1, 2019 to April 30, 2020. The Index rates factors influencing freedom of the press, as grouped in four realms: Informed Citizens and Free to Express Themselves, Exercise of Journalism, Violence and Impunity, and Control over the Media. In addition, the study provides supplementary information on the influence of the institutional – executive, legislative and judicial – environments regarding situations unfavorable to Freedom of Expression and the Press.

The results obtained show a snapshot of the status of Freedom of Expression and the Press in the region, based on the perception of experts in each country. It is worth noting that, during the period reviewed, some countries changed their political systems and sitting governments, others underwent major social conflicts, and all began to experience the political, economic, and social fallout of the measures taken to address the spread of the COVID-19 pandemic.

The overall average obtained in the research was 51.42 points (out of 100), reflecting a partial restriction of freedom of speech and the press in the region. For the first realm, Informed Citizens Free to Express Themselves, the average was 12.7 out of a maximum of 23 points. Exercise of Journalism also achieved a score revealing a partial restriction: 6.7 out of 10 points.

With regard to the realm of Violence and Impunity, the results were less encouraging, achieving an average of 13.61 across the region, out of a maximum of 42 possible points. Indeed, the results indicate a high restriction in this realm.

Regarding Control over the Media, the overall average obtained was 18.39 points out of 25. The experts surveyed noticed a low restriction in this particular realm, except in the case of the three worst rated countries in the Index: Nicaragua, Cuba, and Venezuela.

None of the countries under analysis achieved the score required to be in the Full Freedom of Expression bracket (above 81 points out of a possible 100). However, based on the results, the following countries show low restrictions on Freedom of Expression and the Press: Chile, Argentina, Costa Rica, Uruguay, Canada, Peru, Paraguay, and Jamaica, eight of the 22 countries included in the research.



**Chile** was one of the countries where social conflicts of regional importance took place. Notwithstanding, it managed to lead the Index with 80 points out of the maximum of 100, providing favorable environments for the full exercise of freedom of expression, since government bodies are perceived to play a minor role in detrimental situations. However, it underscores concern about instances of aggression and impunity that may affect journalists and other news professionals during social conflict situations. The challenges faced by freedom of expression in this Southern Cone country stem from the results of the referendum set for October 25 this year, which also represents an opportunity for the media to obtain higher approval rates based on the strategies applied during the pandemic.

**Argentina's** positive result, with 77.2 points, was boosted by constructive relations of the different government environments with the media. This strategy promoted by the head of the Executive (Mauricio Macri) allowed journalists to work with greater freedom, which was reflected in the score achieved. In the case of this country, there was a change of government in the middle of the period under analysis and, at the same time, a slight change in strategy of the different government bodies towards the members of the press. Furthermore, the pandemic considerably affected the exercise of journalism in the country. The Executive has introduced a draft reform that could set off the alarms regionwide, with the probability of lowering the position held in this edition of the Index.

The third best-rated country in terms of Freedom of Expression and the Press was **Costa Rica**, at 76.8 points. Indeed, this country guarantees the exercise of this right thanks to a robust legal framework and respect from the different branches of government towards the defense of human rights. In this case, the economic effect of the measures adopted to fight the spread of the COVID-19 pandemic has been one of the greatest obstacles for the country.

With 74.4 points, the Eastern Republic of **Uruguay** is next on the list, reflecting the image of a country with a climate favorable for freedom of expression. However, it poses certain restrictions associated with the influence of the Executive. Red flags could also be raised by the results of a draft bill on the exercise of Freedom of Expression. Indeed, one of the greatest weaknesses in this country is the institutional design of regulatory statutes addressing the media.

**Canada** ranks 5<sup>th</sup> in the Chapultepec Index with a score of 71.4 points. In its case, the rights of Freedom of Expression and the Press are clearly guaranteed. The discussion focuses precisely on the distinction in scope between the two rights. In spite of being a consolidated democracy, there are situations - economic in nature - that affect the free development of journalists and the credibility of mainstream media in general.

The experts' perception of **Peru**, with 67.8 points, could be caused mainly by the low influence of environments in terms of control over the media. In fact, the country seeks to defend Freedom of Expression, even amidst a fragile institutional framework, out of fear of returning to previous government practices. It also relies on the proliferation of alternative me-



dia, emerging from IT breakthroughs. However, the most significant weaknesses are found in instances of violence and impunity against journalists.

**Paraguay**, the second last among the most positively viewed countries, scored 67.4 points. It has a legal framework that encourages the exercise of Freedom of Expression, as well as the emergence of alternative media enhancing this right. However, it lacks mechanisms to prevent violence and impunity against journalists. Alarms are beginning to sound in the face of legislative and judicial measures that attempt to restrict information.

**Jamaica**, with 65 points, also makes up this group of eight countries with a low restriction on Freedom of Expression and the Press, thereby offering a very positive outlook. The influence of the different environments has not impaired news delivery activity by the country's media, which have remained free and cohesive in informing the public. In addition, there are no severe violence and impunity incidents against journalists, who enjoy the support of unions, or against the media in general.

The following are the countries with results placing them in the category of freedom of expression and partially restricted press. This is the largest group: Colombia, Panama, Mexico, Honduras, USA, Dominican Republic, Guatemala, El Salvador, and Ecuador.

**Colombia** heads this list with 57.5 points, 6.28 above the global average. It stands out for having a structured system of protection for journalists, which is an example for the region, as well as a legal framework that safeguards and guarantees the exercise of rights in connection with freedom of expression. In this country, problems originate from the economic crisis affecting the telecommunications sector and from an increase in incidents of violence and impunity targeting journalists, from attacks by armed groups to the effect of court decisions against media professionals.

The next country is **Panama**, with a score of 55 points, which places it in tenth position in the Index. In general, Freedom of Expression and the Press is upheld; however, institutional actions impairing it are noticed. The country has a structured Public Radio and Television System promoting the dissemination of information to citizens; but there are still statutes that set forth as criminal offenses, even with aggravating circumstances, statements made in the exercise of freedom of expression, which encourages self-censorship.

**Mexico** also scored 55 points in the final assessment, pointing to a partial restriction with serious threats of deterioration. During the review period, the country experienced situations detrimental to Freedom of Expression and the Press. The control exercised by government agencies was reflected in the ratings achieved. Indeed, there do not seem to be any institutional initiatives seeking to favor Freedom of Expression or minimize the high violence and impunity that has harmed and continues to harm journalists. Nevertheless, there are still spaces that allow for pluralism of information.

**Honduras** is in 12<sup>th</sup> position in the Index, with 53 points. In this country, there is still some extent of independence among the media, although under weak government bodies that seem to be subjected to the Executive. This discouraging influence, coupled with crime, violence, and impunity rates, has seriously compromised the exercise of Freedom of Expression by journalists. It is worth noting that laws restricting the dissemination of certain types of information, such as the so-called “Law of Secrecy”, are still in force.

According to the perception of the experts consulted, Freedom of Expression and the Press is partially restricted in the **USA**, resulting in a score of 49.6 points, 1.82 points below the overall average (51.42). Here again, the unfavorable influence of the executive environment prevails over the others. The communication strategy pursued by President Donald Trump has been described as intimidating for journalists and threatening towards the media that oppose him. However, the solid and robust legal framework of the State protects Freedom of Expression and prohibits actions that may curb this right. This guarantee also encourages the rise of media outlets that promote extreme views.

One position below, we find the **Dominican Republic**, with 47 points, a country where support of government bodies towards those media and journalists with opinions favorable to them is noted. Therefore, the financial aspect is a determining factor for the development of the industry, and consequently of plurality of information. Fortunately, breakthroughs in IT have allowed for the emergence of alternative media facilitating the free expression of citizens. No situations causing alarm in terms of violence and impunity against journalists have been noticed.

**Guatemala** is ranked 15<sup>th</sup> in the Chapultepec Index, with 46 points. According to the experts' perception, there seems to be a sign of regression regarding Human Rights protection in this country, thereby compromising Freedom of Expression and the Press, mainly in reason of restrictions from the Executive and the Legislative. Additionally, there are no mechanisms to protect journalists from serious, ever-increasing violence and impunity incidents.

With a difference of 8.82 points below the global average, **El Salvador** has a score of 42.6 points out of 100. According to the opinion of those inquired, the performance of the head of the Executive, President Nayib Bukele, has precipitated the deterioration of freedom of expression, affecting all the realms reviewed. There is a continuous pattern of violence and persecution against journalists, and greater controls over the media. Other fundamental rights for the exercise of a full democracy have also been impaired. These situations are setting off alarms in the face of the increasingly intense violation of Freedom of Expression and the Press in the Central American country.

**Ecuador** is the last country to join the bracket of partial restrictions on freedom of expression. With 42.5 points, the experts assessed not only the hostile relations of the government with journalists, but also the institutional weakness regarding protection of Freedom of Expression and the Press in the form of unwillingness to enact favorable statutory reforms.





However, the communications industry remains organized and proactive in launching initiatives preserving freedom of expression to an acceptable extent.

In Bolivia and Brazil, the results show that Freedom of Expression and the Press is highly restricted.

**Bolivia** is ranked 18<sup>th</sup> in the Index, with a score of 39.8, resulting from the perception of a particularly difficult time for the country, the transition from a dictatorial regime to a nascent democracy, which is still undermined by the influence of past practices. At the beginning of the period reviewed, Freedom of Expression and the Press was seriously compromised, with the presence of censoring agencies and violent mechanisms of pressure on the media and journalists. The change in government represented the recovery of lost spaces for fundamental rights, among them Freedom of Expression. New media have been established and, although it may seem difficult to break free from authoritarian practices, improvements are expected for the sector.

**Brazil**, on the other hand, showed a performance discouraging the exercise of Freedom of Expression and the Press, being rated at 37.2 points, with the realm of Violence and Impunity and that of Informed Citizens Free to Express Themselves standing out. In this case, the performance of the Executive (headed by Jair Bolsonaro), is viewed as the greatest threat, not only to Freedom of Expression, but to other rights inherent to any democracy. However, the legislative and judicial environments are still able to check the president's actions, which represents a strength.

Nicaragua, Cuba, and Venezuela are the worst rated countries in the Index. According to experts, these nations are experiencing serious human rights violations in general. They were described as countries without Freedom of Expression.

**Nicaragua**, with 16 points, is considered a dictatorship by the Organization of American States. Freedom of Expression and the Press violations are evident, and with a very high level of violence and attacks on journalists. The three environments act in an orchestrated manner to promote impunity in this regard. The Executive exercises control over the other two branches. There is also extreme control over the media. The communications strategy adopted is one favoring only those media aligned with the regime while acting very aggressively towards those that oppose it. However, there are still independent media that stand up for free speech and access to information.

**Cuba**, rated at 6.2 points, is the second last country of the region in the Chapultepec Index. Under a totalitarian regime that has ruled the country for decades, it is difficult and dangerous to fight its control mechanisms through independent journalism. Expressing oneself freely can cost personal freedom, not only for newsmen but also for the general population. Years of indoctrination and severe sanctions have instilled fear in the population, which has led to self-censorship in all respects. Notwithstanding, with the rise of technology, more



and more voices make themselves heard to tell the world what is happening. Strong domestic restrictions make it difficult for citizens to stay informed.

Finally, the worst rated country in the region is **Venezuela**, at 3.8 points. 47.62 points below the global average and 76.2 points below the best-rated country. The Executive dominates the functioning of institutions, encouraging disparagement of the media and persecution, not only against journalists, but also against citizens who want to express themselves freely on social media (practically the only ones available to the population). Control and pressure from the government on media outlets opposed to the Executive has forced many to shut down because of direct and indirect actions compromising their sustainability. The illegitimate enactment of laws that violate Freedom of Expression (for example, the act known as the Anti-Hate Law), as well as repressive and violent actions, have instilled fear in many journalists and citizens in general, who have been violently attacked, tortured, violated, and viciously abused, as reported by regional Human Rights organizations. The few spaces left to disseminate information are in the digital domain, despite the innumerable blockades conducted by the regime (including Internet disruptions and power outages).

In conclusion, in 19 of the 22 countries reviewed, the Executive appears to be the most influential environment in situations discouraging free speech (all except Chile, Peru, and Paraguay).

In three of the five worst rated countries, the judicial system appears to be the second most influential in situations detrimental to Freedom of Expression and the Press. This is the case in Venezuela, Nicaragua, and Brazil.

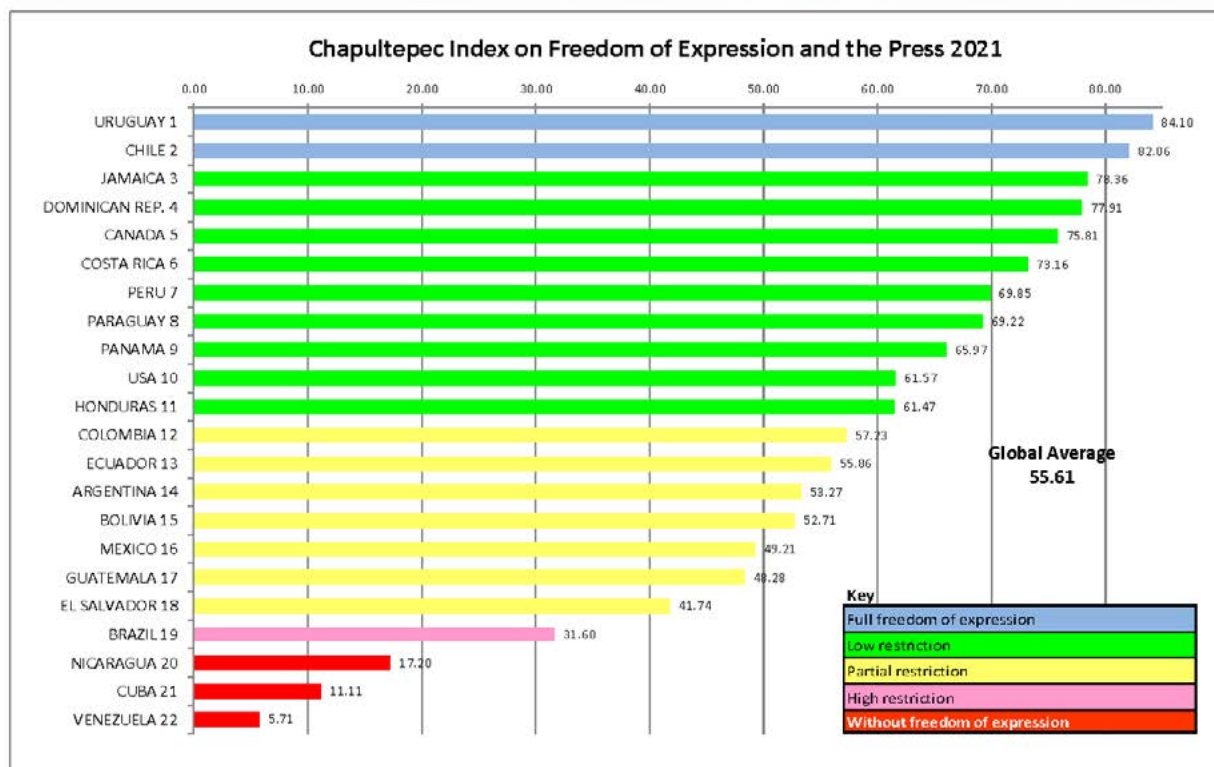
In the cases of Cuba and El Salvador, the Legislative is the second most influential in situations adverse to this right.

Chile, the best-rated country in this edition, has, in its Executive, the branch of government least influential in situations adverse to Freedom of Expression and the Press.

## 1.2. GRAPHS AND CONCLUSIONS OF THE 2020-2021 EDITION



COUNTRY	Chapultepec Index	REALM A "Citizenship informed and free to express themselves"	REALM B Exercise of Journalism	REALM C Violence and Impunity	REALM D Media Control
Theoretical Maximum	100.00	23.00	10.00	42.00	25.00
1 Uruguay	84.10	21.29	9.43	29.81	23.57
2 Chile	82.06	21.43	8.29	28.78	23.57
3 Jamaica	78.36	18.57	8.86	28.93	22.00
4 Dominican Republic	77.91	18.57	7.43	29.77	22.14
5 Canada	75.81	15.00	6.86	31.52	22.43
6 Costa Rica	73.16	13.86	6.29	29.87	23.14
7 Peru	69.85	18.71	7.43	21.57	22.14
8 Paraguay	69.22	11.43	6.86	28.79	22.14
9 Panama	65.97	12.57	6.29	25.12	22.00
10 USA	61.57	14.00	6.29	19.14	22.14
11 Honduras	61.47	12.71	6.86	24.76	17.14
12 Colombia	57.23	12.43	7.43	17.52	19.86
13 Ecuador	55.86	13.00	4.00	21.15	17.71
14 Argentina	53.27	12.43	5.43	17.84	17.57
15 Bolivia	52.71	10.57	4.86	23.85	13.43
16 Mexico	49.21	11.57	6.86	11.35	19.43
17 Guatemala	48.28	11.00	4.86	17.71	14.71
18 El Salvador	41.74	6.57	5.43	15.74	14.00
19 Brazil	31.60	5.00	5.14	9.46	12.00
20 Nicaragua	17.20	2.71	3.79	8.70	2.00
21 Cuba	11.11	0.00	0.57	7.68	2.86
22 Venezuela	5.71	1.57	3.43	0.71	0.00



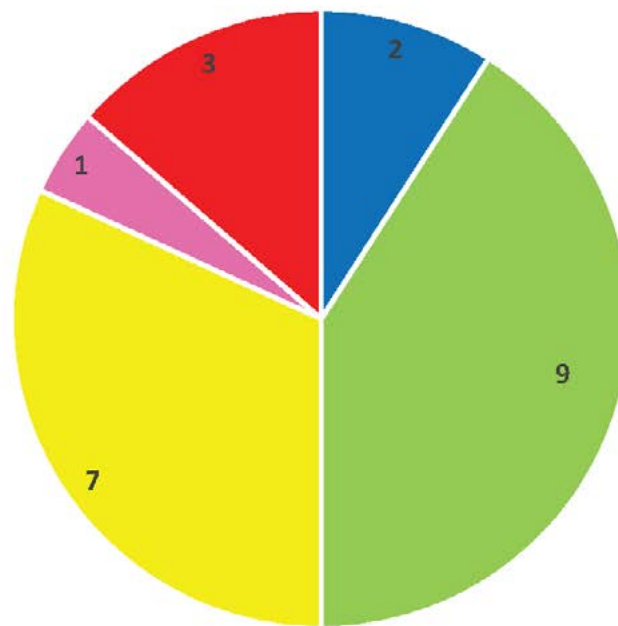
	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
ARGENTINA	2.77	2.97	4.12
BOLIVIA	3.45	3.57	3.87
BRAZIL	4.73	4.46	6.13
CANADA	1.36	1.23	1.29
CHILE	0.05	0.05	0.16
COLOMBIA	1.89	1.74	2.05
COSTA RICA	0.77	0.86	2.07
CUBA	7.01	6.25	6.35
ECUADOR	1.87	1.71	1.91
EL SALVADOR	5.81	4.61	6.53
USA	1.77	0.85	2.65
GUATEMALA	4.56	3.85	4.43
HONDURAS	2.35	1.81	2.54
JAMAICA	0.38	0.27	1.17
MEXICO	1.68	1.78	3.20
NICARAGUA	7.96	6.96	7.16
PANAMA	3.33	2.36	2.90
PARAGUAY	1.68	2.51	2.49
PERU	1.11	1.07	1.27
DOMINICAN REP.	0.97	0.71	1.30
URUGUAY	0.29	0.03	0.20
VENEZUELA	7.05	6.70	7.59

## Type of Influence

## Points

SLIGHT INFLUENCE	0.1 - 2.50
MODERATE INFLUENCE	2.51 - 5.00
STRONG INFLUENCE	5.01 - 7.50
VERY STRONG INFLUENCE	7.51 - 10.00

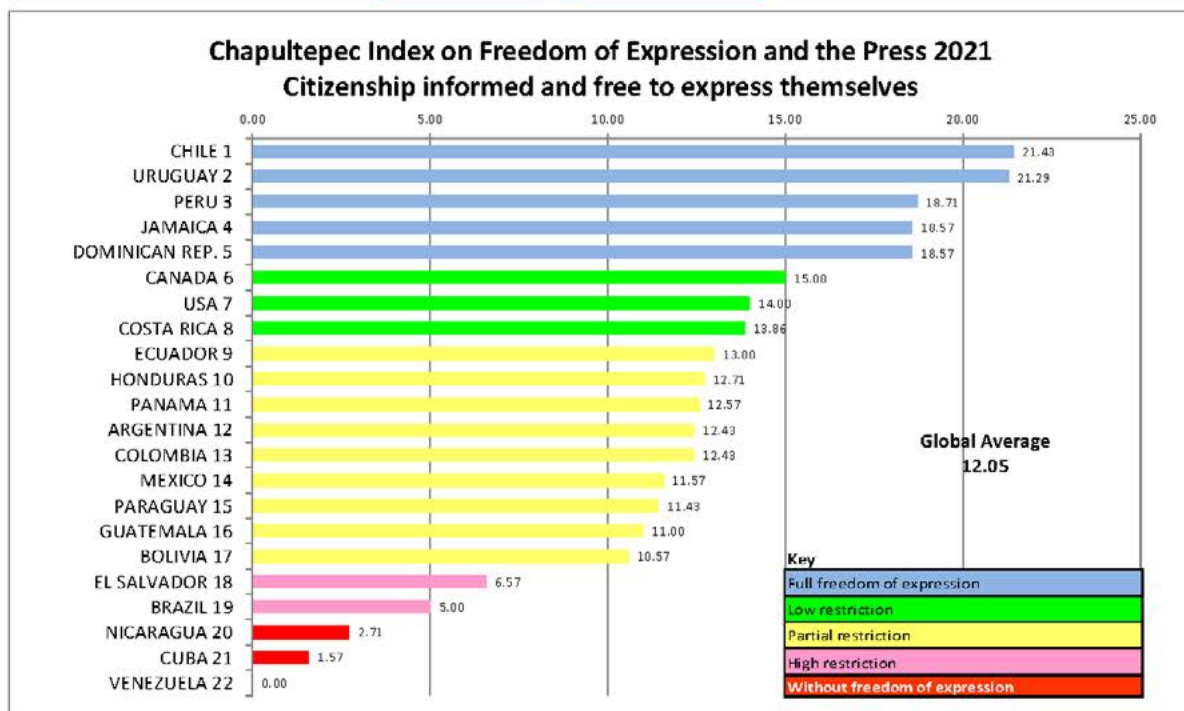
Chapultepec Index  
July 31st, 2020-August 1st, 2021  
Global Index



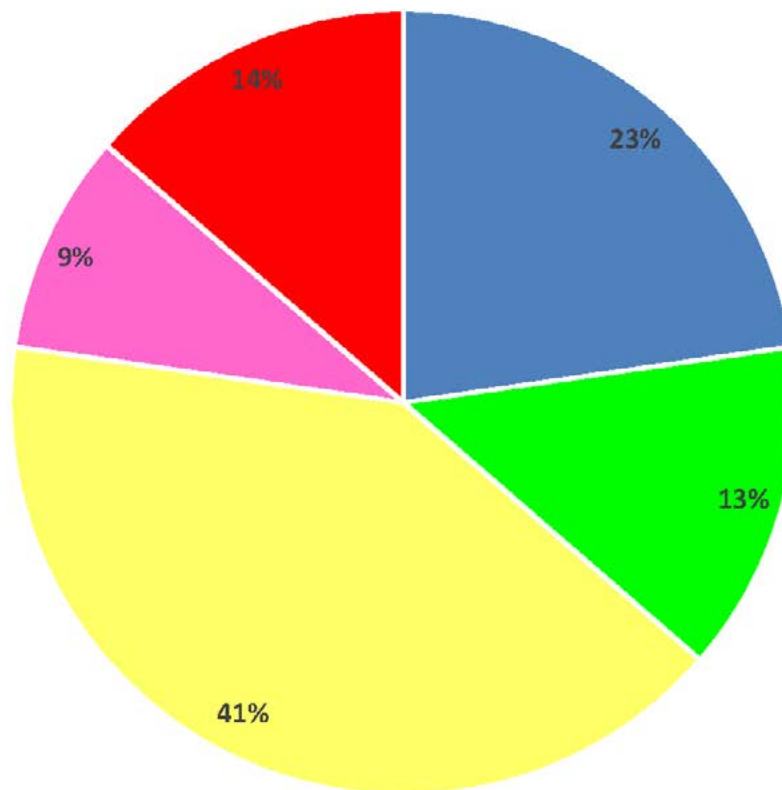
- Full of freedom of expression: Uruguay and Chile
- Low restriction: Jamaica, Dominican Republic, Canada, Costa Rica, Peru, Paraguay, Panama, USA and Honduras
- Partial restriction: Colombia, Ecuador, Argentina, Bolivia, México, Guatemala y El Salvador
- High restriction: Brazil
- Without freedom of expression: Nicaragua, Cuba and Venezuela.



COUNTRY		REALM A "Citizenship informed and free to express themselves"	Flow of information	Free Expression
Theoretical Maximum		23.00	11.00	12.00
1	Chile	21.43	10.00	11.43
2	Uruguay	21.29	9.86	11.43
3	Peru	18.71	7.57	11.14
4	Jamaica	18.57	8.57	10.00
5	Dominican Republic	18.57	8.57	10.00
6	Canada	15.00	5.86	9.14
7	USA	14.00	5.71	8.29
8	Costa Rica	13.86	5.86	8.00
9	Ecuador	13.00	6.43	6.57
10	Honduras	12.71	5.57	7.14
11	Panama	12.57	5.71	6.86
12	Argentina	12.43	4.71	7.71
13	Colombia	12.43	5.29	7.14
14	Mexico	11.57	5.29	6.29
15	Paraguay	11.43	5.14	6.29
16	Guatemala	11.00	4.71	6.29
17	Bolivia	10.57	2.57	8.00
18	El Salvador	6.57	2.00	4.57
19	Brazil	5.00	1.86	3.14
20	Nicaragua	2.71	2.71	0.00
21	Venezuela	1.57	1.57	0.00
22	Cuba	0.00	0.00	0.00



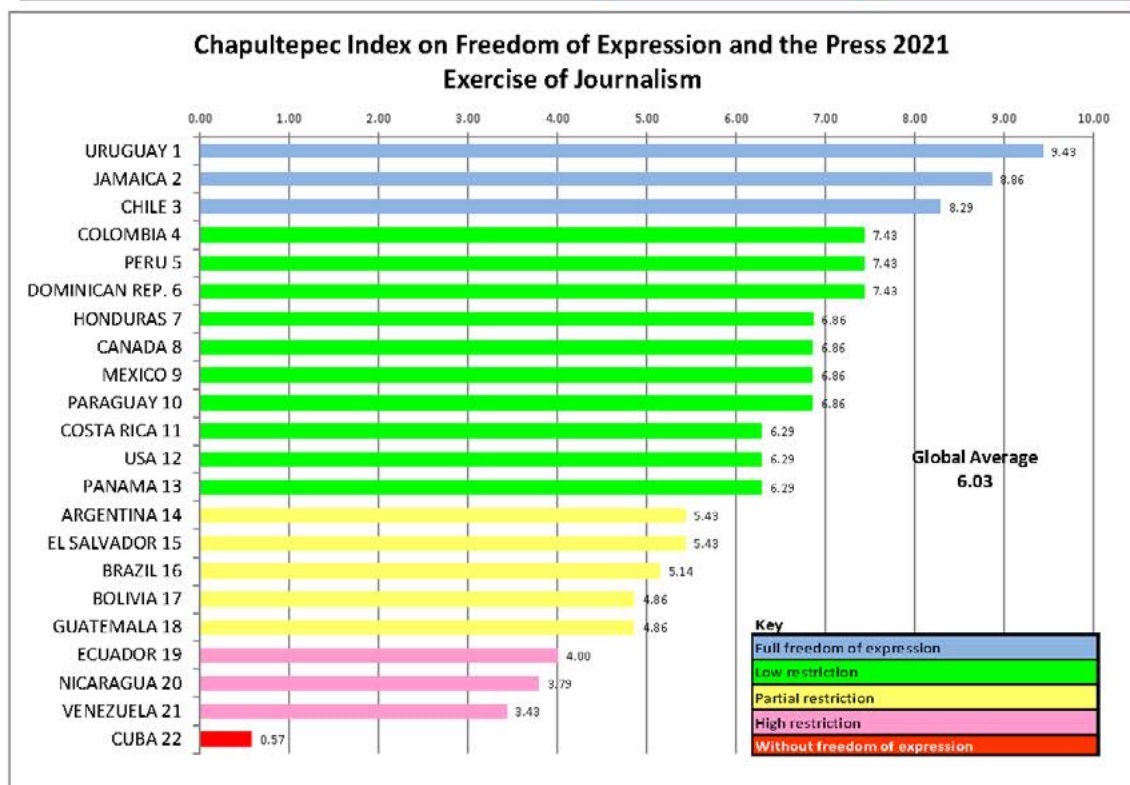
Chapultepec Index  
July 31, 2020 - August 1st, 2021  
Realm A: Citizens free to express themselves



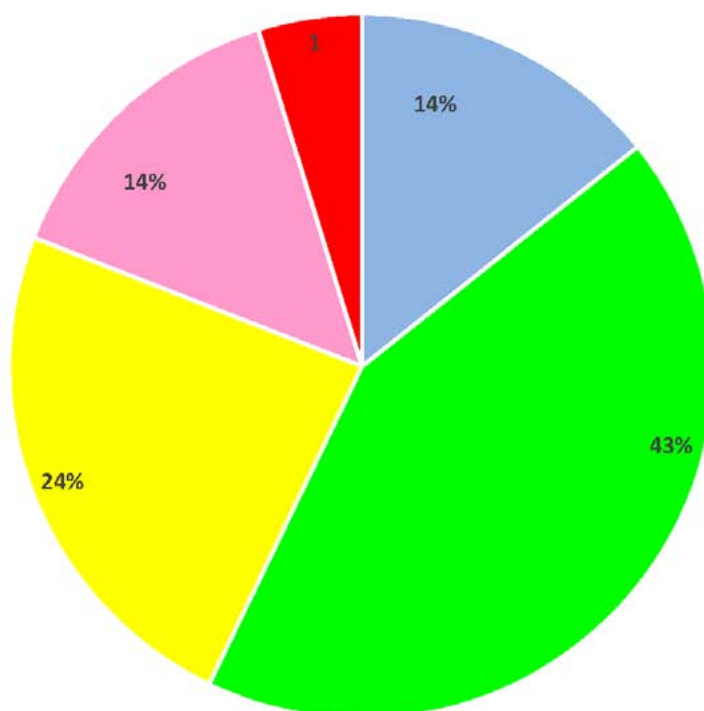
- Full of freedom of expression: Uruguay, Chile, Jamaica, Dominican Republic and Peru
- Low restriction: Canada, Costa Rica and USA
- Partial restriction: Paraguay, Panama, Honduras, Colombia, Ecuador, Argentina, Bolivia, Mexico and Guatemala
- High restriction: El Salvador y Brazil



COUNTRY		REALM B
		Exercise of Journalism
Theoretical Maximum		10.00
1	Uruguay	9.43
2	Jamaica	8.86
3	Chile	8.29
4	Colombia	7.43
5	Peru	7.43
6	Dominican Republic	7.43
7	Honduras	6.86
8	Canada	6.86
9	Mexico	6.86
10	Paraguay	6.86
11	Costa Rica	6.29
12	USA	6.29
13	Panama	6.29
14	Argentina	5.43
15	El Salvador	5.43
16	Brazil	5.14
17	Bolivia	4.86
18	Guatemala	4.86
19	Ecuador	4.00
20	Nicaragua	3.79
21	Venezuela	3.43
22	Cuba	0.57

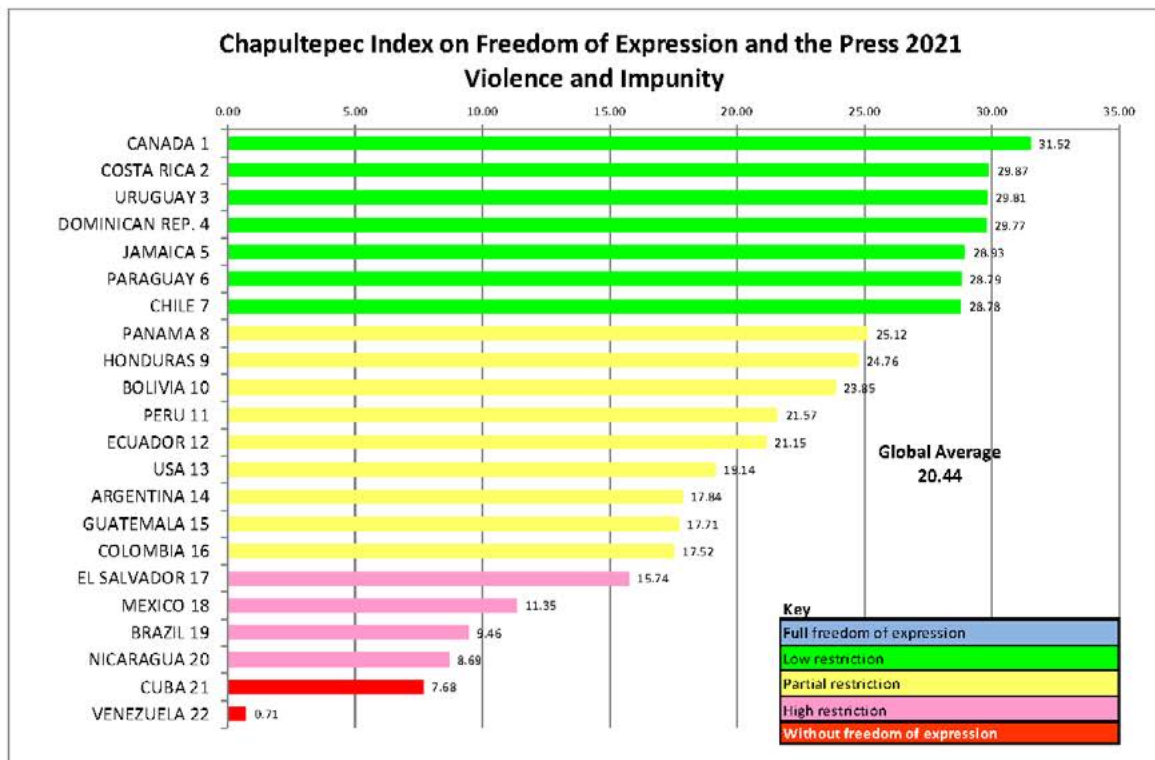


Chapultepec Index  
July 31, 2020 - August 1st, 2021  
Realm B: Exercise of Journalism

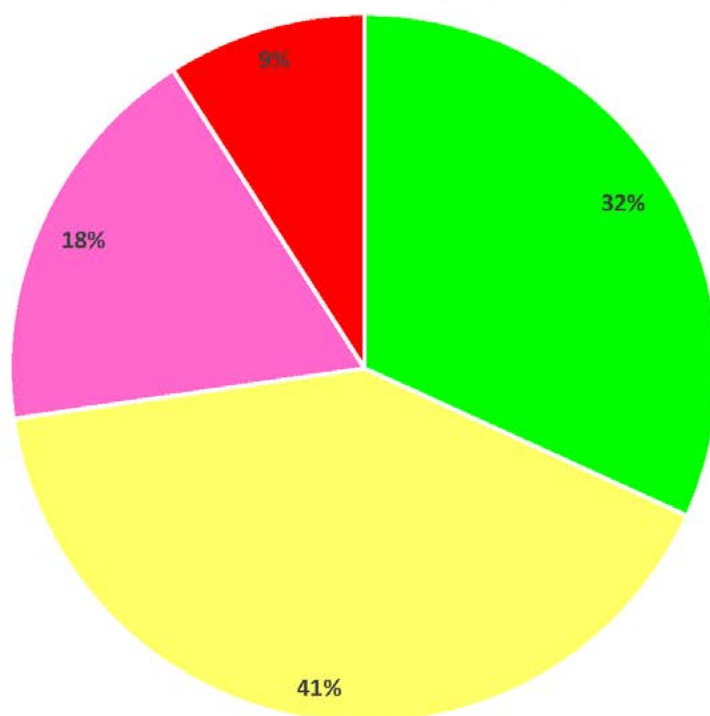


- Full of freedom of expression: Uruguay, Chile and Jamaica
- Low restricción: Dominican Republic, Canada, Costa Rica, Peru, Paraguay, Panama, USA, Honduras and Colombia
- Partial restriction: Argentina, Bolivia, Guatemala, El Salvador and Brasil
- High restriction: Ecuador, Nicaragua and Venezuela
- Without freedom of expression: Cuba

COUNTRY	REALM C Violence and Impunity	Protection	Persecution	Impunity	Registered violence
<b>Theoretical Maximum</b>	<b>42.00</b>	<b>5.00</b>	<b>7.50</b>	<b>8.50</b>	<b>21.00</b>
1 Canada	31.52	2.50	6.71	2.14	20.16
2 Costa Rica	29.87	1.43	6.64	1.36	20.44
3 Uruguay	29.81	1.57	7.00	1.43	19.81
4 Dominican Republic	29.77	0.79	7.00	1.64	20.34
5 Jamaica	28.93	1.29	5.14	1.50	21.00
6 Paraguay	28.79	1.36	5.64	2.21	19.58
7 Chile	28.78	0.79	7.50	1.43	19.06
8 Panama	25.12	0.50	3.07	1.43	20.12
9 Honduras	24.76	2.36	4.79	2.93	14.68
10 Bolivia	23.85	0.57	1.93	1.50	19.85
11 Peru	21.57	0.86	5.43	1.00	14.28
12 Ecuador	21.15	0.50	5.07	1.29	14.29
13 USA	19.14	2.71	4.57	1.93	9.93
14 Argentina	17.84	0.57	1.36	0.93	14.99
15 Guatemala	17.71	0.36	2.43	1.71	13.21
16 Colombia	17.52	2.79	3.21	1.50	10.02
17 El Salvador	15.74	0.00	0.00	0.64	15.10
18 Mexico	11.35	2.86	2.43	3.07	2.99
19 Brazil	9.46	0.86	1.00	0.36	7.24
20 Nicaragua	8.69	0.36	0.00	1.29	7.05
21 Cuba	7.68	0.00	0.00	1.21	6.47
22 Venezuela	0.71	0.00	0.50	0.21	0.00

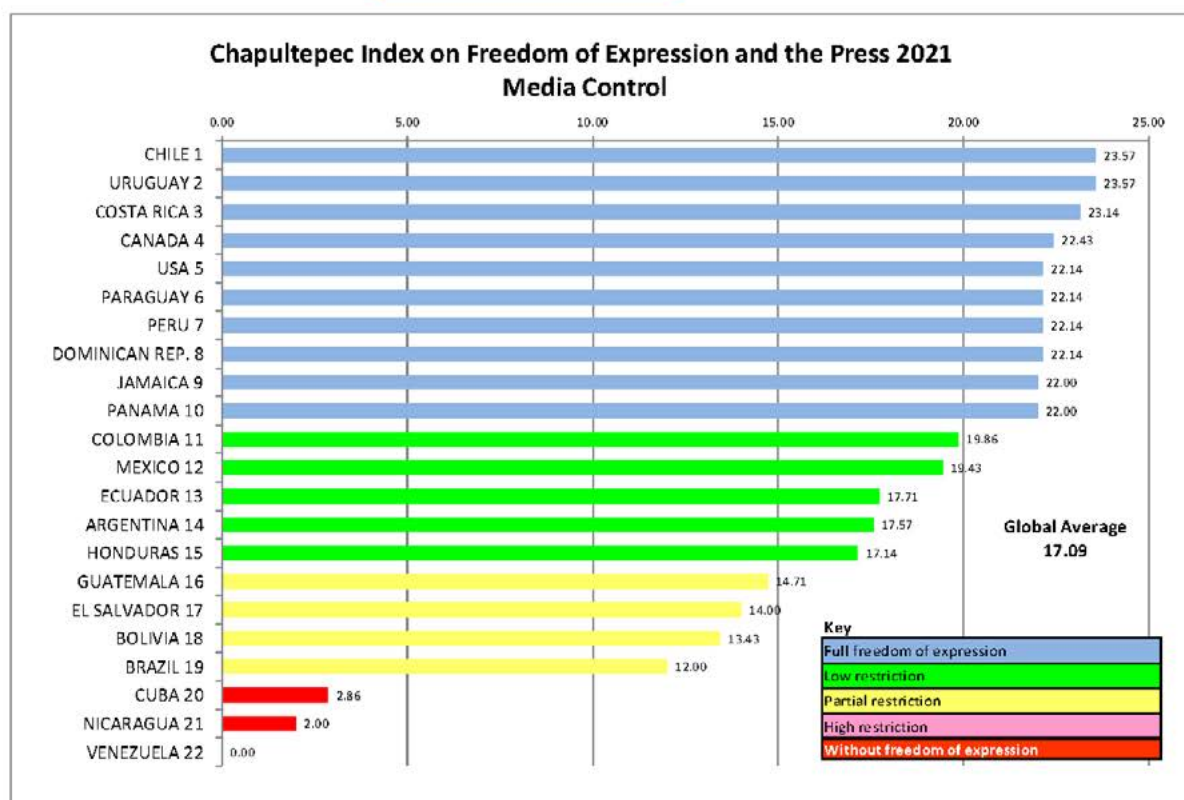


Chapultepec Index  
July 31, 2020 - August 1st, 2021  
Realm C: Violence and Impunity against journalists

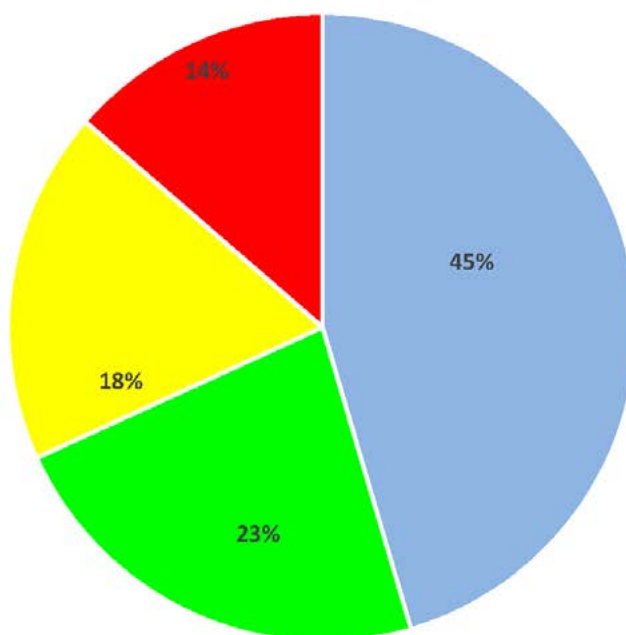


- Low restriction: Uruguay, Chile, Jamaica, Dominican Republic, Canada, Costa Rica and Paraguay
- Partial restriction: Peru, Panama, USA, Honduras, Colombia, Ecuador, Argentina, Bolivia and Guatemala
- High restriction: Mexico, El Salvador, Brazil and Nicaragua
- Without freedom of expression: Cuba and Venezuela.

COUNTRY		REALM D Media Control	Direct control	Indirect control
Theoretical Maximum		25.00	19.00	6.00
1	Chile	23.57	17.57	6.00
2	Uruguay	23.57	17.57	6.00
3	Costa Rica	23.14	17.14	6.00
4	Canada	22.43	16.43	6.00
5	USA	22.14	16.43	5.71
6	Paraguay	22.14	16.71	5.43
7	Peru	22.14	16.43	5.71
8	Dominicana Republic	22.14	16.43	5.71
9	Jamaica	22.00	16.86	5.14
10	Panama	22.00	16.29	5.71
11	Colombia	19.86	14.43	5.43
12	Mexico	19.43	14.57	4.86
13	Ecuador	17.71	11.71	6.00
14	Argentina	17.57	13.00	4.57
15	Honduras	17.14	11.71	5.43
16	Guatemala	14.71	10.43	4.29
17	El Salvador	14.00	9.71	4.29
18	Bolivia	13.43	8.57	4.86
19	Brazil	12.00	8.57	3.43
20	Cuba	2.86	2.57	0.29
21	Nicaragua	2.00	0.86	1.14
22	Venezuela	0.00	0.00	0.00



Chapultepec Index  
July 31, 2020 - August 1st, 2021  
Realm D: Media Control



- Full of freedom of expression: Uruguay, Chile, Jamaica, Dominican Republic, Canada, Costa Rica, Peru, Paraguay, Panama and USA.
- Low restriction: Honduras, Colombia, Ecuador, Argentina and Mexico
- Parcial restriction: Bolivia, Guatemala, El Salvador and Brazil.



PERIOD SURVEYED. JULY 3, 2020 –AUGUST 1ST, 2021

## **CHAPULTEPEC INDEX CONCLUSIONS**

The Chapultepec Index of Freedom of Expression and the Press, as a tool for analysis, offers a valuable opportunity to assess institutional action on freedom of expression and the press freedom in countries of the Americas, in accordance with the principles of the Declaration of Chapultepec and the Declaration of Salta, adopted by the Inter-American Press Association in 1994 and 2018 respectively.

This second edition of the Index covers the period from July 31, 2020 to August 1, 2021. The Index rates factors influencing on press freedom, grouped into four realms: Informed Citizens Free to Express Themselves, Exercise of Journalism, Violence and Impunity, and Control over the Media. In addition, the study offers supplementary information on the influence of – Executive, Legislative, and Judicial – institutional environments on situations unfavorable to freedom of expression and the press.

The results obtained show a snapshot of the situation in the region, based on the perception of experts in each country. It should be noted that, during the period under analysis, some countries changed their political system and government, others experienced major social conflicts and all continued with the political, economic, and social consequences stemming from the measures adopted to address the COVID-19 pandemic.

The overall average in the survey was 55.61 (out of 100), a difference of 4.19 points against the results of the first edition (51.42), showing a slight improvement in the perception of partial restriction of freedom of expression and the press in the region.

As for the first realm, Informed Citizens Free to Express Themselves, the overall average was 12.05, out of a maximum 23 points. Exercise of Journalism also obtained a score that shows a partial restriction, namely 6.03 out of 10 points. Both realms remained unchanged between the first edition (12.7 for Informed Citizens Free to Express Themselves and 6.7 for Exercise of Journalism) and this study period.

Regarding the realm of Violence and Impunity, the results seemed to improve in relation to the previous period (13.61), obtaining, in this second edition of the Index, an overall average of 20.44, out of a maximum of 42 possible points, considering that a sub-realm was added to this area, addressing the analysis of the violence occurred in each country. Indeed, this data provided the highest weighting in the makeup of the realm, representing 21 of the 42 maximum points, in addition to a more real and objective validation of the results.

In Control over the Media, the overall average obtained was 17.09 points out of 25, a decrease of 1.3 points compared to the previous study. The experts surveyed perceived





a particularly partial restriction in this realm, except in the case of the three lowest rated countries in the Index: Nicaragua, Cuba, and Venezuela, which remain in the bottom positions.

According to the results, two countries reviewed were placed in the bracket of Full Freedom of Expression, 81 points or more out of a possible 100: Uruguay with 84.10 and Chile with 82.06, improving from the previous study.

The rise of the Oriental Republic of Uruguay from fourth place in the last edition to first place in this period reviewed, in addition to positioning itself in the bracket of full freedom of expression, responds primarily to the consolidation of democracy as a political regime and to citizen confidence in government authorities. This situation reflects the respect for the Exercise of Journalism in the country; precisely, Uruguay leads the ranking in this realm with 9.43 out of 10. The participation of social organizations in the discussion of new laws on the media was guaranteed; but there is still room for improvement to strengthen the culture of transparency and reduce journalists' difficulty accessing official sources.

Although Chile dropped one position compared to the previous study, it remarkably improved its results, gaining 2.06 points, which places it within the range of full freedom of expression. It also leads the rankings in terms of Informed Citizens Free to Express Themselves and Control over the Media, meaning that there is no government control over the media, which has a positive influence on the population's exercise of its right to free expression. Although the crisis stemming from the constitutional discussion and from the October 2019 outburst continues to affect the country – especially from an economic perspective – the resurgence of new digital media meeting citizens' needs for information is noticed.

Now, based on the results, the following countries show a Low Restriction on freedom of expression and the press: Jamaica, Dominican Republic, Canada, Costa Rica, Peru, Paraguay, Panama, USA, and Honduras, the majority group comprising nine of the 22 countries included in the research.

Jamaica heads this second group of countries with an average of 78.36 points, ranking among the top five in three of the four realms analyzed, especially regarding respect for the Exercise of Journalism, reaching second place. The constitution guarantees freedom of expression and there are no changes in the political system that could disrupt this outlook. There is a permanent exchange between the government and the press, favoring the media and citizens' ability to access information.

The Dominican Republic has surprised favorably due to its significant rise of ten positions between the first study and this period under analysis, holding the fourth position in the 2020-2021 Index, with 77.91 points. Indeed, the Dominican Republic has recovered spaces of freedom of expression in the field of practice of journalism in mainstream and alternative media. The change of government is perceived as positive in terms of the exercise of democracy in general. There remains a need to improve public policies, still showing shortcomings that

have been dragging on from previous government terms; this could lead to greater pluralism in terms of news output.

In 5<sup>th</sup> position is Canada, with 75.81 points out of 100, also leading the realm that analyzes Violence and Impunity (31.52 out of 42). It has also maintained the same position as in the first edition of the Index, most likely due to the strength of its institutional framework in terms of checks, balances, and independence among government branches and bodies. Citizen participation is guaranteed and encouraged by a deep-seated democratic culture. Discussions focus on how to promote local content on large digital platforms, predominantly used by the younger population. However, cases of direct and indirect censorship have increased and this could have future consequences on the exercise of freedom of expression.

Costa Rica, ranked in 6<sup>th</sup> place, dropped three positions with respect to the previous study; it obtained 73.16 points, which represents a difference of 3.64 points; but it continues to be in the range of low restriction of freedom of expression. The strength is concentrated in the favorable results regarding Violence and impunity (2<sup>nd</sup> place: 29.87 out of 42) and Control over the Media (3<sup>rd</sup> place: 23.14 out of 25). Indeed, the moderate influence of the branches of government on and the low control over the media, encourage a free flow of ideas and opinions. The respect that the different government bodies have for the defense of human rights is preserved; but there is a delay in terms of access to information and an excessive reliance on data released by the Executive. There is a need to update regulation on the media. There is also concern about the looming threat posed by the next electoral process in 2022.

Peru's results, with 69.85 points, placed it in 7<sup>th</sup> position, one below the previous study but with an improvement of 2.05 points that shows a slight progress regarding freedom of expression and the press. Despite the political instability experienced at the beginning of the study, and election campaigns for president unfolding in a way that compromised the correct flow of information, the government did not cause noteworthy incidents that could block access to data. The contingency triggered by the pandemic favored the growth of alternative media and the use of news networks and platforms, arising from citizens' search for information.

Paraguay, the next country in this group with the most positive perceptions, obtained a score of 65.97. It has a moderately favorable environment for freedom of expression thanks to the actions to protect the Exercise of Journalism enshrined in the highest law of the land. During the period, the creation of alternative media was noticed, which translates into greater plurality and opportunities for access to information. Although laws for the protection of journalists are being revised, there are still criminal regulations punishing speech crimes and there are no investigation protocols in cases of aggressions against journalists, which encourages impunity in most cases.

The Republic of Panama ranks 9<sup>th</sup> among the 22 countries reviewed in the Chapultepec Index of Freedom of Expression and the Press. With 65.97 points, it has increased 10.97 against the previous edition and advanced one position, thereby appearing in the low restriction bracket. This



progress reflects the broad freedoms enjoyed by journalists and the media in terms of freedom of expression. However, there is also control over information, which is a matter of concern. Its regulatory framework continues to punish speech crimes in protection of honor, thereby affecting the free exercise of journalism. Disputes regarding electoral activity raised concern and rejection in the journalists' guild, due to the possibility of modifying regulations on the upcoming elections.

The United States of America moved forward three places in the table of positions, being in 10<sup>th</sup> place with 61.57 points; 5.96 above the overall average and a 11.97 points' difference against last edition's results, which not only represents an improvement in the perception of the free exercise of expression, but also places it in the range of low restriction thereto, solidifying constitutional guarantees for the exercise of this fundamental right. There is both independence and respect for journalistic activity and plurality among the media, as they perform their work without fear of reprisal. Red flags are raised regarding social media because of their wide penetration and their pre-eminent role in the distribution of disinformation. Although there are still consequences of the actions by the previous government, the transition into the new administration is noticeable in terms of the influence of the Executive in situations discouraging freedom of expression.

The last country in this group of low restriction on freedom of expression is Honduras, with 61.47 points. Up 8.47 points and one position compared to last year's study. The conditions regarding the exercise of journalism continue, although there is concern regarding the control over information stemming from the handling of the COVID-19 pandemic, and especially regarding the exercise of freedom of expression in view of the results of the upcoming general elections. The Secrecy Law (Ley de Secretos) continues to restrict freedom of the press. Additionally, the weak institutional framework whereby the Executive regulates the media persists.

Next are the countries with results placing them in Partial Restriction on freedom of expression and the press: Colombia, Ecuador, Argentina, Bolivia, Mexico, Guatemala, and El Salvador.

Colombia tops this list with 57.23 points, 1.62 above the overall average. It continues to stand out for having a structured system of protection for journalists – an example for the region – as well as a legal framework protecting and guaranteeing the exercise of rights linked to free speech. However, the consequences in the social and economic life of the country caused by the national strike held during the period under study, as well as the COVID-19 pandemic, and other situations such as migratory phenomena and the permanent attack of illegal groups, affect freedom of expression. Slander and libel continue to be criminalized for news professionals, which impacts the free exercise of the profession.

Ecuador ranks 13<sup>th</sup> in the Chapultepec Index of Freedom of Expression and the Press, moving up four positions from its previous rating. This progress stems from the new government's favorable discourse towards free speech. In practice, this is evident in updated laws on communications and support for the free press. The resilient spirit of journalists and the media has managed to keep the industry afloat despite the difficulties caused by the pandemic. However, the government's

inability to make structural changes in the legal framework to guarantee freedom of expression persists, and there is evidence of violent actions affecting journalists' endeavor. Disinformation schemes are increasingly threatening citizens.

The case of Argentina is striking, since it dropped from the second position in the first edition of the Index the 14<sup>th</sup> place, with a difference of 23.93 points that not only compromises its standing, but also moves it from low restriction to partial restriction. The situation of confrontation and social tension keeps the country in permanent conflict, in addition to a lawfare discourse from the top government officials, the creation of control agencies – under the guise of the pandemic, as well as acts of intimidation and harassment against journalists and the media. All the above means that freedom of expression is seriously threatened. It seems that the change of government and information management strategies have directly influenced perceptions for this period.

Bolivia is in 15<sup>th</sup> position, with 52.71 points out of 100, already below the overall average, but improving in relation to the first edition, since it went from being a highly restrictive country to partly restrictive. Civil and trade organizations vigorously defend the right to information and communication; but we are beginning to witness a greater influence of the different branches of government in situations unfavorable to freedom of expression. Information Flow is one of the sub-realms that is most affected, probably owing to the control mechanisms for allocation of government advertising funds, which leads to censorship and self-censorship. The high levels of political polarization and social violence pose a serious threat to the exercise of freedom of expression in a convulsed country immersed in an atmosphere of permanent confrontation.

Mexico obtained 49.21 points in the final study; 5.79 points less than the previous edition, dropping from 11<sup>th</sup> to 16<sup>th</sup> place. The crime rate and spiraling violence against journalists and news professionals pose a real threat to freedom of expression, as does the confrontational discourse of the Executive and the influence of the different branches of government, which contribute moderately to situations discouraging free expression. Indeed, some actions of the Executive have a negative impact on the realms of Violence and Impunity and Exercise of Journalism, either because no concrete actions have been taken to guarantee the safety and protection of journalists in a highly violent and dangerous scenario for them, or because of constant acts of stigmatization and disqualification against media professionals.

Guatemala ranks 17<sup>th</sup> in the Chapultepec Index, with 48.28 points. According to the experts' view, the hostile and unfavorable environment for the protection of journalists continues, with an increase in acts of violence and the bellicose attitude of the Executive to silence the work of the press. The lack of independence among the branches of government also constitutes a disadvantage for the exercise of journalism, since there is evidence of acts of intimidation and criminalization coming from the alliance among the three branches of government. Citizens' ability to get news is seriously impaired because of restrictions on access to public information,

which reflects the weakening of the protection of human rights, despite international support for the journalistic profession.

With a difference of 13.87 points below the overall average is El Salvador, scoring 41.74 out of 100 points. Additionally, high approval rates for the regime, its ecosystem of disinformation, use of law enforcement bodies to the detriment of human rights and due process, growing impunity, and the lack of a democratic culture, constitute the main weaknesses of the country, making room for repression and the presence of paramilitary armed groups threatening, to a very concerning extent, the nation's democratic stability. In contrast, citizen mobilization and the impact of local media on foreign media have grown.

In Brazil, freedom of expression and the press is highly restricted according to the results. It ranks 19<sup>th</sup> – the same position as in the previous study – but with a difference of 5.6 points less, obtaining 31.60 out of 100 total points, thereby persisting in a performance unfavorable towards the exercise of freedom of expression and the press. The authoritarian discourse of the Executive not only affects the press with constant attacks and offenses, but also deteriorates the already fragile democracy in the country. The disinformation fueled by organized groups and the control over information flow raise suspicions about the links of these actions to the Executive, which exerts a very strong influence on the exercise of journalism in the country. In response to this, cohesion among the media has strengthened in defense of democratic principles and free speech.

According to the experts' perception, Nicaragua, Cuba, and Venezuela repeated as the worst rated countries in the Index in the category Without Freedom of Expression, while human rights violations generally continue in this period.

Nicaragua, with 17.20 points, is in second-to-last place in the Index, above only Cuba and Venezuela. The passage of laws curbing freedom of expression and the exercise of journalism provide the ideal legal framework to encourage not only persecution of journalists, but also self-censorship from the public for fear of imprisonment. There are few opportunities for free self-expression in a highly hostile environment caused by constant threats, aggressions, and attacks from officials, which has coerced many journalists into forced displacement to stand up for the right to freedom of expression and the press from exile. Social media and digital platforms still offer a glimmer of opportunity for citizens to get news.

Cuba, with 11.11 points out of 100, repeats as the penultimate country in the region in the Chapultepec Index. Despite efforts from dissident voices, the country remains under a totalitarian regime that has controlled the nation for decades. Independent journalism and free expression are considered unconstitutional and only official journalism providing news run by the only Party, far removed from the reality of the people, is allowed. The constant aggressions against journalists and citizens who express themselves independently of political ideology even go to such lengths as violating personal freedom. However, many news professionals capitalize technology in their efforts to serve news to an indoctrinated citizenry.





Finally, Venezuela remains as the lowest rated country in the region, with 5.71 points. This is 49.9 points below the overall average and 78.39 points below the top-rated country. There are no checks and balances among the branches of government and this has a very strong influence on situations unfavorable to freedom of expression. Violence against news professionals has increased in the form of arrests, disappearances, and arbitrary court actions. Censorship and self-censorship persist in a downbeat and deteriorating press industry. Citizens are seriously affected as they have little or no access to public information. Independent journalism has overcome restrictions and found a place in the digital domain; however, social media – the only remaining space for information – are under threat of control by custom-tailored laws.

In closing, the Executive appears as the most influential environment in situations discouraging free speech in 15 of the 22 countries reviewed.

In three of the five lowest rated countries, the Legislative environment appears as the second most influential in situations unfavorable to freedom of expression and the press: El Salvador, Brazil, and Venezuela. The other two, where it exerts the greatest influence, are the cases of Nicaragua and Cuba, which reflects the consolidation of a statutory framework that legally restricts the exercise of freedom of expression and the press.

In five countries, the Judiciary appears as the second most influential branch: Argentina, Bolivia, Chile – where it is as influential as the Legislative Branch, Costa Rica, and Mexico. In Paraguay, it is the most influential.

In Uruguay, the highest rated country in this edition, the Judiciary is the branch least influential in situations adverse to freedom of expression and the press.

## VARIATION IN COUNTRY POSITIONS

	2020	2021
FULL OF FREEDOM OF EXPRESSION		Uruguay (↗3) Chile (↘1)
LOW RESTRICTION	Chile Argentina Costa Rica Uruguay Canada Peru Paraguay Jamaica	Jamaica (↗5) Dominican Rep. (↗10) Canada (=) Costa Rica (↘3) Peru (↘1) Paraguay (↘1) Panama (↗1) USA (↗3) Honduras (↗1)
PARCIAL RESTRICTION	Colombia Panama Mexico Honduras USA Dominican Rep. Guatemala El Salvador Ecuador	Colombia (↘3) Ecuador (↗3) Argentina (↘12) Bolivia (↗3) Mexico (↘5) Guatemala (↘2) El Salvador (↘2)
LOW RESTRICTION	Bolivia Brazil	Brazil (=)
WITHOUT FREEDOM OF EXPRESSION	Nicaragua Cuba Venezuela	Nicaragua (=) Cuba (=) Venezuela (=)

Chapultepec Index 2021	Variation 2021 vs 2020	2021	2020
1 Uruguay	↗3	1	4
2 Chile	↘1	2	1
3 Jamaica	↗5	3	8
4 Dominican Rep.	↗10	4	14
5 Canada	⇒0	5	5
6 Costa Rica	↘3	6	3
7 Peru	↘1	7	6
8 Paraguay	↘1	8	7
9 Panama	↗1	9	10
10 USA	↗3	10	13
11 Honduras	↗1	11	12
12 Colombia	↘3	12	9
13 Ecuador	↗4	13	17
14 Argentina	↘12	14	2
15 Bolivia	↗3	15	18
16 Mexico	↘5	16	11
17 Guatemala	↘2	17	15
18 El Salvador	↘2	18	16
19 Brazil	⇒0	19	19
20 Nicaragua	⇒0	20	20
21 Cuba	⇒0	21	21
22 Venezuela	⇒0	22	22



**CHAPULTEPEC INDEX**  
of Freedom of Expression and Press



2

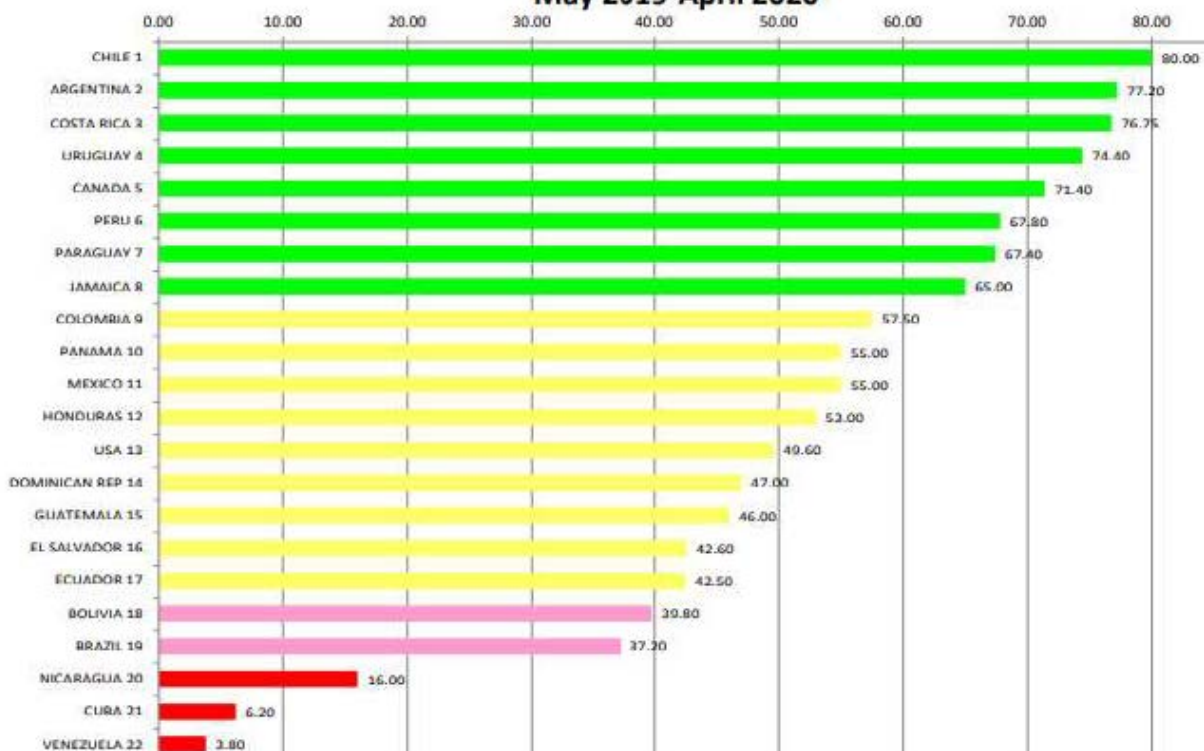
**RESULTS  
FOR COUNTRY**

## 2.1. ARGENTINA

### 2.1.1 ARGENTINA 2019-2020

ARGENTINA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>77.2</b>
REALM A: "Citizens informed and free to express themselves"	23	21.8
Flow of information	11	9.8
Free Expression	12	12.0
REALM B: Exercise of Journalism	10	7.8
REALM C: Violence and Impunity	42	25.6
Protection	10	6.4
Persecution	15	13.6
Impunity	17	5.6
REALM D: Control over the media	25	22.0
Direct control	16	13.6
Indirect control	9	8.4

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

ARGENTINA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	2.92	3.09	3.74
REALM A: "Citizens informed and free to express themselves"	2.75	1.88	3.25
Flow of information	5.50	3.75	6.50
Free Expression	0.00	0.00	0.00
REALM B: Exercise of Journalism	4.67	6.22	5.33
REALM C: Violence and Impunity	2.33	2.33	2.33
Protection	1.00	1.00	1.00
Persecution	5.00	5.00	5.00
Impunity	1.00	1.00	1.00
REALM D: Control over the media	3.38	4.25	6.25
Direct control	5.75	4.50	8.50
Indirect control	1.00	4.00	4.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## Argentina: turbulence and judicial persecution in electoral times

### Executive summary

During 2019 in Argentina, the judicial environment, particularly some judges, have notoriously prosecuted journalists on questionable and scarce evidence, while the Executive has not been able to vigorously oppose this type of abuse. A period marked by elections and a pandemic, the Legislative has lingered in a slumber that has made it drift away from any significant role.

## INTRODUCTION

2019 was an election year in Argentina, marking the end of Mauricio Macri's term and the return of a ticked with Cristina Fernández de Kirchner as vice president and Alberto Fernández as president. This revived the so-called "gap" (divide between *kirchneristas* and *anti-kirchneristas*) in Argentina – which was never really closed – and journalism noticed its massive impact.

The electoral campaign was not free from verbal attacks against several journalists on grounds of their job and the Judiciary was dragged into this game since it was an unprecedented year regarding court cases targeting journalists, among them, the landmark case of Daniel Santoro, charged with "involvement necessary to commit the crimes of coercion and extortion".

Consequently, it is noteworthy that, with 77.2 points out of a possible 100 in the overall Index, Argentina appears as a country with a low level of restriction in the exercise of journalism. Mauricio Macri's administration continued to allow an unencumbered activity of the media; but some statements from the *kirchnerista* faction, which emerged victorious from the elections, fueled fears of revenge against the media and journalists.

In addition, the unique circumstances arising from the pandemic and one of the strictest quarantines worldwide, significantly impact on media revenue that was already very compromised by the recession, making it difficult for them to fully exercise their democratic role.

## Data analysis

Between May 1, 2019 and April 30, 2020, the exercise of journalism could be performed without major institutionalized obstacles, reprisals, or systematic harassment from the government (IAPA, 2019).

Although the presidential elections held in 2019 heightened political tensions, which took the form of verbal and physical attacks on many journalists, the Judiciary gave the greatest reasons for concern with the prosecution of investigative journalist Daniel Santoro.

The issue of greatest concern point surfacing from this report is the direct or indirect control over the media by the Executive. While this is a phenomenon witnessed on a national scale, it is evident and very significant in some provinces.

## Executive environment

Of the three environments in this Index, the Executive is the one with the best performance (3.74) regarding ensuring freedom of expression.

Mauricio Macri's term in office (2015-2019) as the head of the national executive branch had a positive balance in regards to freedom of the press: "Press conferences of government officials resumed, information flows were restored, state-owned media were depoliticized, the law on access to public information was signed into law, and the allocation of government advertising was regulated" (ADEPA, 2019).

However, with the electoral campaign kickoff and the end of Macri's term in office, intolerant behavior from certain groups started. A milestone was marked by the verbal attacks sustained by journalist María Eugenia Duffard on May 9, 2019 at the Buenos Aires Book Fair during the presentation of Cristina Fernández de Kirchner's book, in what would be one of her initial public appearances as candidate for vice president (Perfil, 2019).

As the victory of the *Frente de Todos* (Front for Everyone) ticket became clearer, certain groups became increasingly vocal until the establishment of a Conadep (National Commission on the Disappearance of Persons [Comisión Nacional de Desaparición sobre la Personas]) of sorts to judge journalists was proposed (Filo.news, 2019).

The truth is that, regarding both situations, the then candidate for president expressed his total rejection. However, it should be pointed out that certain groups very close to his vice presidential running mate continued to give free rein to this type of initiative (Clarín, 2019). However, it is worth noting the outburst of the then president-elect when, on social media, he described a journalistic speculation by Hugo Alconada Mon as "despicable" (La Nación, 2019).

Even more seriously, posts describing a piece published in La Nación newspaper and another in Clarín as intended “in bad faith” or to “deceive” were posted on the official Twitter account of the Senate of the Nation, headed by the Vice President of the Nation, Cristina Fernández de Kirchner, and no retraction was issued (FOPEA, 2020).

To this ambivalent attitude is added the crisis caused by COVID-19, which put on hold many of the initiatives that would reportedly be promoted by the new president of the nation, especially after, in the fourth month of the new administration, “there had partially dissipated the fears of attacks on press freedom that existed during the previous Kirchner government” (IAPA, 2020).

Among these measures, the then-candidate proposed to sponsor a law regulating the use of social media for content created by the [mainstream] media. “This is the debate in the European Union: How to regulate these communication channels on which many times the social conscience is defamed and manipulated, with an enormous damage to societies” said Fernández (Cantando, 2019).

The presidential initiative to reform the justice system is causing more concern among certain groups because its only purpose is suspected be the closing of criminal investigations involving the vice president and her inner circle.

## Judicial environment

Based on this study, it is clear that the exercise of journalism in Argentina was greatly affected by the role of the Judiciary (3.09).

As mentioned above, the most concerning fact is the prosecution of journalist Daniel Santoro, which took place in August 2019. The federal judge in Dolores (Province of Buenos Aires), Alejo Ramos Padilla, found Santoro guilty of the counts on coercion and attempted extortion against Gonzalo Brusa Dovat and Mario Víctor Cifuentes, and imposed a fine of 3 million Argentine Pesos on him. Santoro is accused of being complicit with a false lawyer, Marcelo D’Alessio, closely tied to different business, judicial and political groups, to extort money from businesspersons. According to Santoro (as quoted in FOPEA, 2020), D’Alessio was just another source for his journalistic work who fell victim to a snare set up by *kirchnerismo*.

Additionally, in that case, Santoro was requested to turn in his cell phone; but this journalist, unlike other journalists mentioned, refused to do so, as guaranteed by Argentine Constitution Article 43, in order to protect his sources.

In another unprecedented ruling, on June 29, 2019, María Edith Rodríguez, a judge from the province of Salta, demanded that local and national media desist from publishing images of musical group *Los Nocheros* or its individual members, in the wake of news coverage of a court case for which the son of one of the band members was being held.



Likewise, in October 2019, a case was reopened against journalists Gerardo Young and Rodis Recalt, indicted for releasing secret information and revealing the name of an intelligence agent. In November 2018, Federal Judge Sebastián Casanello had shelved the complaint on grounds that it might violate the right to freedom of expression. On October 6, 2019, Judges Bruglia, Betuzzi, and Llorens, of the State Appeals Court 1<sup>st</sup> Chamber (Sala I de la Cámara Federal), ordered that it be reopened (FOPEA, 2020).

But the list of judicial attacks against free information flow is extensive, including attempts at prior censorship of a video of a traffic accident (La Voz, 2019), lawsuits seeking large award amounts admitted by judges departing from the doctrine of punishable intent and putting at risk the survival of a media outlet (Tiempo del Este, 2019).

All these actions evidently harm the free flow of information since, after witnessing the experience of other colleagues, journalists may feel intimidated and choose not to cover certain issues, thereby adversely affecting society.

## Legislative environment

The period under analysis largely covered an electoral season and then the quarantine that has spanned over almost a quarter of the timeline reviewed. These two factors have contributed to inaction from the Legislative (2.92) to the extent that, during the period under study (May 1, 2019 to April 30, 2020), the House Committee on Freedom of Expression (Comisión de Libertad de Expresión de la Cámara de Diputados) did not admit a single draft bill for debate. However, there are several draft bills of a similar nature to regulate government advertising whose authors did not deem important to submit through the above committee.

A similar situation occurred in the Senate, where no decisions on bills were announced by its Committee on ICT, Media, and Freedom of Expression (Comisión de Sistemas, Medios de Comunicación y Libertad de Expresión) during the whole period.

A draft bill presented in February this year by *Frente de Todos* senators María Catalfamo, Ana Ianni, Nancy González, Ana Almirón and María Inés Pilatti Vergara, seeking to waive pre-emptive detention in corruption cases by means of limiting freedom of the press is certainly of concern. This is because the project considers “the publication of content by one or more media outlets, which could have affected the public perception on the presumption of innocence regarding a person to whom a ruling is issued” (Infobae, 2020), as grounds for exemption from pre-trial detention.

## REALM A: Informed citizens free to express themselves

In this realm, the experts inquired agree that, in Argentina, citizens can obtain information and express themselves freely.



However, the Executive, along with the Legislative environment, does not make an effort to enforce its own laws, seeking ways to avoid providing public information to petitioners and making transparency processes cumbersome.

Although 19 of the 24 jurisdictions currently have statutes on access to public information – with the provinces of Formosa, La Pampa, La Rioja, San Juan, and Tucumán still lacking a legal framework – among those that do have regulations, there is a great disparity in statutory quality and implementation (World Bank Group, 2019).

This fact highlights unwillingness and sometimes inability to enforce policies of transparency and access to information in order to reduce corruption, protect rights, and improve the quality of utilities. The lack of political commitment can be witnessed largely in the inaction of parliaments (as mentioned above) merely in reason of an electoral cycle underway.

## **REALM B: Exercise of journalism**

The free exercise of journalism implies that the authorities must allow journalists to work in a context of freedom, with the ability to protect their information sources as guaranteed by National Constitution Article 43. Unfortunately, the branch of government supposed to be most concerned with the enforcement of the Magna Carta, the judicial environment, is pointed out as the one putting the most obstacles in the way of journalists' work, for instance, the interest of such judges as Alejo Ramos Padilla in knowing the sources used by journalists. "Based on the wiretapping [admitted] in the D'Alessio case, the judge charged Santoro with alleged crimes; and, although he decided to strike the transcripts obtained by that means, he did so based on the right to privacy and not on the confidentiality of sources" (La Nación, 2019).

These actions have thrived, to say the least, on the impassive attitude of the Executive environment that has not counteracted with the resolve necessary to ensure the free exercise of journalism.

## **REALM C: Violence and impunity**

Comparatively, in the realm of violence and impunity against journalism, Argentina shows a good [low] record. Although there are unfortunate acts of violence and abuse in the country, as pointed out above, we do not have any deaths to regret, and physical violence against journalists is very infrequent.

According to the report prepared annually by FOPEA, in 2019, the cases of assault against journalists were among the lowest since this organization keeps records. Additionally, it can be stated that physical aggression against journalists represents a quarter of the attacks

reported in that document. Intimidation is the most common form of threat against journalists (FOPEA, 2020).

## REALM D: Control over the media

The discretionary use of resources allocated for government advertising remains a tool to control opinion and information in large portions of the country. Nationwide, there are several draft bills seeking to regulate the way that government advertising is allocated; but they are still far from being debated, especially in the current quarantine context.

Only two of the country's 24 districts have a law regulating the allocation of government advertising and eight have an executive order to that end. Even in the case of those that do report, such information is incomplete, since they do not disclose which campaigns have been funded with public resources.

Not only does the province of Buenos Aires, the most important in the country, not report in this regard but also has not replied to access to public information petitions (Maradeo, 2019).

This authority for regulation and information rests with the legislative and executive branches, respectively, hence the rating of this Index.

## CONCLUSION

After the 12 years in which Argentina was under *kirchnerismo* (first Nestor Kirchner and then his wife), Mauricio Macri's rise to power in 2015 brought about a major change in the relationship between government institutions and journalism.

Macri's accession meant the return of press conferences, easier access to government sources, and a less confrontational relationship with journalists. Some argue that this is because President Macri was business-friendly and helped ease the enforcement of the so-called media law (Infobae, 2016).

Nevertheless, the truth is that, at least in words, the government of Mauricio Macri, which ended in December 2019, had a better relationship with the press and allowed journalists to work more freely.

The current government headed by Alberto Fernández and Cristina Fernández de Kirchner took office in December and was in charge a few months before the advent of the COVID-19 pandemic and subsequent lockdown. Dissenting journalists and media see in the vice president a person who is not greatly fond of critical journalism and the free exercise of freedom of the press, and fears of returning to old times further raise the stakes.

For his part, according to Casullo (as quoted in Smink, 1029), during the electoral campaign, President Fernandez tried to detach himself from the confrontational image towards the media of his running mate, and there are those who even held that the candidate for vice president was hardly seen throughout the campaign.

So far in 2020, little has been known of what the relationship between the National Executive and journalism will be like; but fears lurk behind a judicial reform that could endanger not only the exercise of freedom of the press but also the functioning of the democratic republic as a whole (Infobae, 2020).

The pandemic and one of the strictest quarantines in the world have not helped diffuse concerns; but it is yet to be seen whether the current Argentine government will choose the path of hindering the free exercise of journalism or it will continue on the path of openness and transparency that the previous government seemed to have initiated.

## REFERENCES

- Amato, A. (2019, October 16). Miradas ¿Una Conadep para periodistas? In: *Clarín*. Retrieved from: [https://www.clarin.com/opinion/conadep-periodistas\\_0\\_KoE4\\_uyW.html](https://www.clarin.com/opinion/conadep-periodistas_0_KoE4_uyW.html)
- Asociación de Entidades Periodísticas Argentinas - ADEPA. (2019). Informe de la Comisión de Libertad de Prensa. 57ª Asamblea de Adepa – Termas de Río Hondo, Pcia. de Santiago del Estero. Retrieved from: <http://adepa.org.ar/wp-content/uploads/2019/09/INFORME-DE-LA-COMISION-DE-LIBERTAD-DE-PRENSA-ADEPA.pdf>
- Cantando, M. (2019, July 30). Alberto prometió una ley para regular a Google y Facebook y combatir las fake news. In: *LaPolíticaOnline*. Retrieved from: <https://www.lapoliticaonline.com/nota/120699-alberto-prometio-una-ley-para-regular-a-google-y-facebook-y-combatir-las-fake-news/>
- World Bank Group. (2019). Informe de política del Banco Mundial. Índice de Acceso a la Información Pública en las Provincias Argentinas: un análisis de la calidad normativa. Retrieved from: [https://www.argentina.gob.ar/sites/default/files/indice\\_de\\_acceso\\_a\\_la\\_informacion\\_publica\\_en\\_las\\_provincias\\_argentinas\\_un\\_analisis\\_de\\_la\\_calidad\\_normativa-web.pdf](https://www.argentina.gob.ar/sites/default/files/indice_de_acceso_a_la_informacion_publica_en_las_provincias_argentinas_un_analisis_de_la_calidad_normativa-web.pdf)
- Ferrer, F. Infobae (2020, August 15). Pablo Lanusse: “El objetivo de la reforma judicial es convertir a la Argentina en un espejo de la dictadura chavista”. In: *infobae*. Retrieved from: <https://www.infobae.com/politica/2020/08/15/pablo-lanusse-el-objetivo-de-la-reforma-judicial-es-convertir-a-la-argentina-en-un-espejo-de-la-dictadura-chavista/>
- Filo.news. (2019, November 6). Hoja de ruta: ¿quiénes y por qué plantean una “CONADEP de periodistas”? In: *Filo news*. Retrieved from: <https://www.filo.news/Hoja-de-ruta-quienes-y-por-que-plantan-una-CONADEP-de-periodistas-t201911060002.html>

- Foro de periodismo argentino - FOPEA. (2020). Cuando aumentan las necesidades, son aún más importantes las libertades. Los desafíos para la libertad periodística en la Argentina en la era de la pandemia, las fake news y el lawfare. Buenos Aires. Retrieved from: <http://monitoreofopea.com/19/wp-content/uploads/2020/05/LIBRO-FOPEA-LIBERTAD-DE-EXPRESIO%CC%81N.pdf>
- IAPA (2019) Argentina Report to the 75<sup>th</sup> General Assembly of the IAPA October 4-7, 2019. Coral Gables. Retrieved from: <https://en.sipiapa.org/notas/1213410-argentina>
- IAPA (2020) Argentina Report to the IAPA March 28, 2020. Retrieved from: <https://en.sipiapa.org/notas/1213739-argentina>
- Infobae. (2016, April 6). El Congreso puso punto final a la ley de medios del kirchnerismo. In: *infobae*. Retrieved from: <https://www.infobae.com/2016/04/06/1802437-el-congreso-puso-punto-final-la-ley-medios-del-kirchnerismo/>
- Infobae. (2020, February 18). Impulsan un proyecto para eliminar la prisión preventiva en los casos de corrupción. In: *infobae*. Retrieved from: <https://www.infobae.com/politica/2020/02/18/impulsan-un-proyecto-para-eliminar-la-prision-preventiva-en-los-casos-de-corrupcion/>
- La Nación. (2019, October 10). Debe defenderse el secreto profesional de los periodistas. In: *La Nación*. Retrieved from <https://www.lanacion.com.ar/editoriales/debe-defenderse-el-secreto-profesional-de-los-periodistas-nid2295762>
- La Nación. (2019, December 2). Como Cristina, Alberto Fernández atacó a la Justicia y a la prensa: “Se van a acabar los operadores judiciales”. In: *La Nación*. Retrieved from <https://www.lanacion.com.ar/politica/alberto-fernandez-ataco-justicia-medios-se-van-nid2311780>
- La Voz. (2019, August 8). Recolector atropellado en Córdoba: Adepa rechaza orden judicial que prohíbe la difusión de un video. *La Voz*. Retrieved from <https://www.lavoz.com.ar/ciudadanos/recolector-atropellado-en-cordoba-adepa-rechaza-orden-judicial-que-prohibe-difusion-de-un>
- Maradeo, J. (2019, October 8). Publicidad oficial: 22 provincias no informan a quiénes les asignan pauta. In: *Chequeado*. Retrieved from <https://chequeado.com/el-explicador/publicidad-oficial-22-provincias-no-informan-a-quienes-les-asignan-pauta/>
- Perfil. (2019, May 10). Video | Militantes K insultaron a la periodista de TN en la Feria del Libro: “Un delirio todo”. In: *Perfil*. Retrieved from <https://www.perfil.com/noticias/politica/militantes-kirchneristas-insultaron-periodista-tn-eugenia-duffard-feria-libro-sinceramente-cristina-kirchner.phtml>
- Smink, V. (2019, October 28). Elecciones en Argentina: la “estrategia perfecta” de Cristina Fernández y otras 2 claves que permitieron al kirchnerismo volver al poder 4 años

después de dejarlo. In: *BBC News Mundo*. Retrieved from: <https://www.bbc.com/mundo/noticias-america-latina-50143731>

Tiempo del Este (2019, September 6). El «Mendoza Post» fue condenado por la justicia a pagar 600 mil pesos a Marcos Nuarte por generar “denuncias falsas: el funcionario donará esa suma a entidades de bien público santarrosinas. In: *Tiempo del este*. Retrieved from: <http://tiempodeleste.com/el-mendoza-post-fue-condenado-por-la-justicia-a-pagar-600-mil-pesos-a-marcos-nuarte-por-generar-denuncias-falsas-el-funcionario-donara-esa-suma-a-entidades-de-bien-publico-santarrosinas/#:~:text=El%20Tribunal%20de%20Gesti%C3%B3n%20Asociada,Gobierno%20de%20Santa%20Rosa%2C%20Marcos>



## ARGENTINA

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

### Argentina. Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	The Executive has been open to dialogue with the press, at least during the first six months of government. It has held media conferences and its ministers have been accessible sources for journalists.
<b>WEAKNESSES</b>	The stark political division that prevents dialogue persists in the media and journalist ecosystem, making the defense of the right to freedom of expression often seen as a mere politically motivated attack against the government and therefore loses momentum.
<b>OPPORTUNITIES</b>	Civil society organizations in general, media and journalists in particular are very alert to attempts by different branches of the national government to violate freedom of expression. Different organizations monitor the guarantees of this right in the country and are vigilant to these situations.
<b>THREATS</b>	The Executive has introduced a draft reform that may put the remaining independence of the Judiciary at risk, which could negatively affect freedom of expression.

## 2.1.2 ARGENTINA 2020-2021

ARGENTINA	Theoretical Max	Index
Chapultepec Index	100,0	53,27
REALM A: "Citizens free to express themselves"	23,00	12,43
Information flow	11,00	4,71
Free speech	12,00	7,71
REALM B: "Exercise of journalism"	10,00	5,43
REALM C: "Violence and impunity"	42,00	17,84
Protection	5,00	0,57
Persecution	7,50	1,36
Impunity	8,50	0,93
Registered violence	21,00	14,99
REALM D: Control over the media	25,00	17,57
Direct control	19,00	13,00
Indirect control	6,00	4,57

Chapultepec Index on Freedom of Expression and the Press 2021



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>ARGENTINA</b>	ENTORNO LEGISLATIVO	ENTORNO JUDICIAL	ENTORNO EJECUTIVO
Degree of Unfavorable Influence	2,77	2,97	4,12
REALM A: "Citizens informed and free to express themselves"	2,00	2,21	2,57
REALM B: Exercise of Journalism	5,14	5,57	7,57
REALM C: Violence and Impunity	3,52	3,52	5,05
REALM D: Control over the media	0,43	0,57	1,29

Type of Influence      Points

SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED.  
JULY 31, 2020 - AUGUST 1<sup>ST</sup>, 2021

## **Argentina: The pandemic as an excuse, a weaponized justice system, and journalism under siege**

### **Executive Summary**

The exercise of journalism in Argentina experiences a significant deterioration of its conditions during the period surveyed. On many occasions, the pandemic and the long quarantine imposed by the national government served as an excuse to curtail journalists' freedom. To this was added the lawfare discourse instigated from high levels of government, the creation of regulatory agencies to allegedly fight disinformation, and the justice system as an element of intimidation and harassment.

## **INTRODUCTION**

In December 2019, the change of administration from Mauricio Macri to the Alberto Fernández-Cristina Fernández de Kirchner ticket took place. A president who, at the outset of his government was conciliatory and moderate, was hardening his position and that of his inner circle towards journalism as months went by, the imposition of restrictions stemming from the pandemic, and its subsequent impact on the country's economy.

Between July 31, 2020 and August 1<sup>st</sup>, 2021, the free exercise of journalism in Argentina was strongly impaired with respect to the previous period. The strict quarantine imposed by the national and local governments was used, in many cases, as a tool to restrict and encumber the mobility and work of journalists in general. This fact can be clearly noticed in the strong influence shown by the Executive environment on the exercise of journalism. Likewise, these restrictions were expressed in several instances of violence against journalists in clear abuse of power by the security forces.

The second culprit for the deteriorating conditions for journalists was the Judicial environment. The concept of lawfare – resort to the justice system for political purposes – was again used as alleged evidence of collusion between politicians, judges, and certain journalists or media outlets to destabilize the government.

All this added together is reflected in the fact that Argentina has dropped from a rating of over 77 out of 100 (low restriction zone) in the 2019-2020 period to 53 out of 100 in the current period, placing it in a strong influence zone.

## Results Analysis

On March 20, 2020, the Argentine national government imposed a strict quarantine on its entire population that has remained in effect, to varying degrees, until the end of the period surveyed in this report. Although journalism was always considered by the regulations as an “essential activity” and therefore mostly free of mobility restrictions, on several occasions this was not observed in practice.

For example, excessive restrictions in the province of Formosa prevented the press from entering its territory to document the conditions for cases of COVID-19 in quarantine centers. In addition to this, there were acts of intimidation by national and provincial public officials, intimidation by law enforcement bodies, and even disregard of Federal Justice rulings which guarantee the work of the press.

In turn, the “infodemic” (World Health Organization [WHO], 2020) was also used as an excuse by the Executive environment to control media contents. In October 2020, in a discretionary and surprising manner, the Ombudsman’s Office, an entity at national government level, announced the creation of an “Observatory of disinformation and symbolic violence in media and digital platforms (Nodio)” (“El kirchnerismo creó un organismo...”, 2020), with the stated purpose of “protecting the citizenry from false, malicious, and misleading news”. This triggered the outright rejection of different national and international press associations for considering it a “subtle method to discipline or as a reprisal for motivations that are alien to the principles they claim to promote” (Inter American Press Association [IAPA], 2020).

## Environments: The Executive seeks to control journalism

During the period surveyed, the very strong influence of the Executive environment on the realm of Exercise of Journalism herein stands out, being the worst score achieved by the country. With an index of 7.57 points, it shows a very strong influence of the executive environment on the exercise of journalism. Undoubtedly, the president’s own statement that the media “abuse democracy” contributed to this low rating (“Alberto Fernández dijo que la oposición...”, 2020).

Overall, this environment obtained a rating of 4.12 for moderate influence. However, a deterioration of the conditions for the free exercise of journalism is clearly noticed when compared to the score of 3.74 achieved by this environment in the period 2019-2020.

Nonetheless, in relative terms against what was surveyed in the previous period, there is no deterioration in the judicial environment. Its influence continues to be moderate on journalism. According to the IAPA, unfounded allegations from groups linked to those in power or judges aligned with *Kirchnerismo* encourage filing lawsuits to prosecute journalists’ work or neutralize investigations (IAPA, 2021).

In addition to the lawsuits filed against journalists Daniel Santoro, Diego Cabot, and Irene Benito, which are still underway, a judge requested that Santiago O'Donnell hand over the recordings of testimonies transcribed in his book on the brother of former President Mauricio Macri.

On the other hand, it is worth mentioning that the City of Buenos Aires Federal Court dismissed the prosecution of Daniel Santoro. Similarly, the Supreme Court of the Nation dismissed the prosecution of journalists Carlos Pagni and Roberto García on charges of espionage.

At a slightly better rating than the Executive and Judicial environments, but with moderate influence, the Legislative environment (2.77 points) did not refrain from attempts at controlling the contents published by journalists. In Tucumán, for example, a law was passed whereby fine or arrest of up to ten days may be imposed on anyone who disseminates, "through social media, news that are false in whole or in part" (Law 9290, 2020).

At a national level, it is worth mentioning the opinion stated by the National Congress Bicameral Oversight Committee on Intelligence Agencies and Activities (Comisión Bicameral de Fiscalización de los Organismos y Actividades de Inteligencia del Congreso de la Nación), which accused the media of being part of "a systematic plan of illegal political espionage as a method of domination and extortion, in the best mafia-style practices" ("La Bicameral concluyó que...", 2021).

## **REALM A: The pandemic as an excuse to restrict access to information**

Score 12.43 (Partial restriction). Although in general no great efforts are noticed on the part of the Legislative and Judicial environments regarding the right to access information and citizens' right to freely express themselves, it is once again from the Executive environment that this realm is most undermined.

As mentioned above, the case of Formosa is landmark since, on several occasions, the provincial Executive denied entry to journalists from other provinces to its territory. Although press conferences were held at the beginning of the pandemic, they were gradually hampered. As questions became more and more uncomfortable for authorities, they began to impose conditions and restrictions on the participation of certain journalists.

In San Luis, on the other hand, and under the same pretext of the pandemic, media workers were not allowed to enter the provincial Legislature for the inauguration of sessions. A similar situation occurred with the City of Berazategui Deliberative Council [municipal Legislative] in the province of Buenos Aires which, stemming from the pandemic, decided to meet behind closed doors (and continued to do so until April 2021) without providing information regarding the order of the day to be discussed either to the press or to the public.



## REALM B: Exercise of journalism under siege

Score 5.43 (Partial restriction). From the Executive, Legislative and Judicial environments, the exercise of journalism was the realm on which most influence was noticed during the period under analysis. In October 2020, Miriam Lewin created the Nodio, an observatory for “debunking fake news and going after the source of disinformation campaigns” (“Polémica por el Nodio...”, 2020). Entities with a similar role started appearing in different provinces and cities of the country, generally promoted by the executive or legislative environments.

In addition to this measure, court decisions have criminalized and discouraged the exercise of journalism. While a Federal Court, the highest in Federal Justice, overruled the prosecution of Daniel Santoro, another judge decided to prosecute him again for “attempted extortion”, under the same argument put forward in the previous case.

At the same time, there were repeated attempts from courts to gain access to the sources of several journalists. To the lawsuit naming Santiago O'Donnell mentioned above must be added that naming Jorge Caloiro in Mendoza (Foro de Periodismo Argentino [FO-PEA], 2021).

## REALM C: Agitation, verbal and physical violence against journalists

Score 17.84 (Partial restriction). This realm is the second most undermined in the three environments reviewed. Threats, intimidation, and, on many occasions, physical attacks against journalists and the media proliferated during this period.

In times of social media and online communications, threats and smear campaigns against journalists and media multiplied on these platforms. Such was the case of journalist Osvaldo Cherep in Santa Fe, Leonardo Fernández Acosta in Formosa, or Irene Benito in Tucumán.

Unfortunately, these campaigns bring about physical confrontations with journalists, mostly by government officers and, in many cases, they also suffer anonymous attacks that are not investigated or disclosed.

Journalist Exequiel Ávalos, from [the province of] Chaco, was detained by the police after being assaulted by demonstrators while covering the protest. Several similar events occurred in Formosa, Santa Fe, Santiago del Estero, among other locations. However, it is also worth noting the case involving journalist Lautaro Maislin, physically assaulted by security detail of former President Macri, or that of photojournalist Ornella Vezzoso, assaulted by police officers in Chubut. In addition to attacks on broadcast radio transmission facilities and

provincial newspapers' newsrooms, as in Formosa, Neuquén, and Río Negro, this speaks of the fragility and risks involved in journalists' endeavor (IAPA, 2021).

## **REALM D: Despite attempts at control, freedom prevails.**

Score 17.57 (Low restriction). As has been stated, there were many attempts to control the media and its contents. However, it should be mentioned that this realm is the one with best results for Argentina regarding the three environments reviewed. This may be attributed to the fact that even social and political institutions observe a generally democratic attitude and dismiss implementing certain ideas, or downplay them.

In general terms, Argentina's civil society has reacted in defense of the democratic principles of freedom of the press and free expression, which has prevented the implementation of rules, control bodies and measures that have arisen in the period surveyed. It remains to be seen whether this social fabric will be sustained.

## **CONCLUSIONS**

In this Chapultepec Index, Argentina ranks 14<sup>th</sup> among the 22 countries reviewed. Except in the realm of Control over the Media, in all other realms and in its overall score, Argentina shows a partial restriction of press freedom.

As mentioned above, the most severely affected realm is that of the Exercise of Journalism. Factoring in this realm only, Argentina would be ranked 14<sup>th</sup> among the 22 countries surveyed.

The situation is serious, especially in a country that barely a year ago achieved a rating of over 20 points above the current one. The radicalization of the lawfare discourse and the use of the pandemic as an excuse to increase controls over journalists and the media trace an alarming path of institutional deterioration.

2021 is a year of legislative elections and, as every election year, it is likely to bring greater attacks against journalists with it. It remains to be seen if after such elections the national government chooses to take the path of moderation or prefers to radicalize its confrontation with critical journalists, leaning on those who say what the government wants to hear.

## REFERENCES

- Alberto Fernández dijo que la oposición y los medios “maltratan a la democracia”. (2020, September 24). *La Nación*. <https://www.lanacion.com.ar/politica/alberto-fernandez-nid2459029/>
- El kirchnerismo creó un organismo para supervisar qué noticias se publican en los medios de comunicación. (2020, October 11). *Infobae*. <https://www.infobae.com/politica/2020/10/11/el-kirchnerismo-creo-un-organismo-para-supervisar-que-noticias-se-publican-en-los-medios-de-comunicacion/>
- Foro de Periodismo Argentino [FOPEA] (2021, May 11) *FOPEA rechaza la pretensión de un juez federal de Mendoza de acceder a las fuentes de información del periodista Jorge Caloiro*. <https://www.fopea.org/fopea-rechaza-la-pretension-de-un-juez-federal-de-mendoza-de-acceder-a-las-fuentes-de-informacion-del-abogado-y-periodista-jorge-caloiro/>
- La Bicameral concluyó que “hubo un plan sistemático” de espionaje durante el macrismo. (2021, April 20). *Telam*. <https://www.telam.com.ar/notas/202104/551418-comision-bicameral-dara-a-conocer-informe-sobre-espionaje-ilegal.html>
- Ley 9290, de 21 de agosto, modificatoria de la ley 5141 (2020). *Honorable Legislatura de Tucumán*, PL 67/202 <http://rig.tucuman.gov.ar/leyes/scan/scan/leyes/L-9290-21082020.pdf>
- World Health Organization [WHO]. (2020, September 23). *Managing the COVID-19 infodemic: Promoting healthy behaviours and mitigating the harm from misinformation and disinformation*. <https://www.who.int/news/item/23-09-2020-managing-the-covid-19-infodemic-promoting-healthy-behaviours-and-mitigating-the-harm-from-misinformation-and-disinformation>
- Polémica por el Nodio, el observatorio estatal para desarticular fake news. (12 de octubre de 2020). *Ámbito Financiero*. <https://www.ambito.com/politica/nodio/polemica-el-observatorio-estatal-desarticular-fake-news-n5139643>
- Inter American Press Association [IAPA]. (2020, October 21-23). *Argentina. Report to the 76th IAPA General Assembly*. <https://en.sipiapa.org/notas/1214135-argentina>
- \_\_\_\_\_. (2021, April, 20-23). *Argentina. Report to the Midyear Meeting*. <https://en.sipiapa.org/notas/1214445-argentina>.

## ARGENTINA

PERIOD SURVEYED.

JULY 31, 2020 - AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	Argentina has a good social and legal fabric that ensures certain protections for the media. There are institutions and journalistic associations that watch over the respect for freedom of the press and act domestically and abroad to report any situations in case of abuse.
<b>WEAKNESSES</b>	The significant social and political fragmentation causes confrontations between some media and certain political leaders, and among some media outlets. This situation of confrontation and social tension generates a climate of permanent conflict.
<b>OPPORTUNITIES</b>	The 2021 legislative elections may send a signal to the government regarding the need to moderate the confrontational discourse towards the media. Moderation in restrictions resulting from the pandemic will allow a normal level of journalistic activity to resume.
<b>THREATS</b>	Some judges continue to make questionable interpretations of the law and criminally prosecute journalists for simply doing their job, or demand access to their sources.

## 2.1.3 OVERVIEW

### ARGENTINA

**Argentina** is the nation with the most dramatic change between the two releases of the Chapultepec Index published to date. The nation dropped 12 positions, from second place to No. 14. A context of political shift, in which Mauricio Macri was replaced by Alberto Fernández, brought communicational changes.

In Realm A, Informed Citizens Free to Express Themselves, the country dropped from 21.80 to 12.43 points, out of a possible 23 points. Restrictions on access to information were noted, especially amid the COVID-19 pandemic. In this regard, the events in the province of Formosa became landmark cases. In them, the local government denied access to journalists from other locations; additionally, the press was banned in the City Council (Consejo Deliberante) of Berazategui, Province of Buenos Aires.

In Realm B, Exercise of Journalism, Argentina also shows a decline, dropping from 7.80 to 5.43 points out of a theoretical maximum of 10. Institutional actions regarding controversies against independent journalism were aimed at establishing entities allegedly tasked with debunking fake news and dismantling disinformation campaigns, generally promoted by the executive or legislative environments. Furthermore, media professionals were pressured to reveal the sources of their news items by means of court actions.

Argentina had been rated with 25 points out of a possible 42 in Realm C, Violence and Impunity during the first edition of the Index. This figure dropped to 17.84 points for its second iteration, according to the experts' perception, amid an increase in threats and aggressions against newsmen. There were arrests of and attacks on journalists by government officials and individuals who were not identified by law enforcement, as well as attacks on media facilities, which impacted institutional performance in this area.

In Realm D, Control over the Media, Argentina dropped from a very positive score of 22 points out of a theoretical maximum of 25, to 17.57 points. However, this does not reflect as steep a decline as in other realms, thereby placing it in the bracket of low restriction for this set of indicators. Despite actions aimed at controlling the media and journalists, society as a whole has stood by media companies and resisted attempts at imposing new restrictions on them.

The new executive administration caused a significant change in institutional actions regarding communications and the media. The three environments preserved a moderate influence on instances unfavorable to freedom of expression and the press in Argentina, but escalated to a very strong influence in some realms. The Executive had the greatest negative impact in this regard, especially in Realm B, Exercise of Journalism.



## 2.2. BOLIVIA

### 2.2.1 BOLIVIA 2019-2020

BOLIVIA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>39.8</b>
REALM A: "Citizens informed and free to express themselves"	23	8.4
Flow of information	11	4.4
Free Expression	12	4.0
REALM B: Exercise of Journalism	10	6.8
REALM C: Violence and Impunity	42	8.0
Protection	10	1.2
Persecution	15	3.2
Impunity	17	3.6
REALM D: Control over the media	25	16.6
Direct control	16	8.8
Indirect control	9	7.8

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**





## Influence of environments on unfavorable situations to freedom of expression

[Scale 1 to 10, where 10 is very influential]

[Value "0" for cases where there is no unfavorable influence]

BOLIVIA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	6.88	6.95	7.63
REALM A: "Citizens informed and free to express themselves"	7.00	7.20	7.91
Flow of information	7.24	7.26	8.08
Free Expression	6.75	7.15	7.75
REALM B: Exercise of Journalism	6.67	5.75	6.42
REALM C: Violence and Impunity	6.81	7.09	7.62
Protection	4.80	5.30	6.00
Persecution	6.63	6.97	7.87
Impunity	9.00	9.00	9.00
REALM D: Control over the media	7.02	7.04	7.98
Direct control	8.04	8.08	8.46
Indirect control	6.00	6.00	7.50

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

## Bolivia: From dictatorship to democracy

### Executive summary

Bolivia ranks among the middle positions of the Chapultepec Index of Freedom of Expression, not because it has had a moderate behavior in the twelve months under study, but because that period covers six months of Evo Morales's dictatorship and six months of the democratic government that emerged, as a constitutional solution, after the dictator's resignation and flight. Therefore, the Index – as an average – is comprised of two starkly opposite situations, to the point that the report could be divided into two different parts, the first of which could hypothetically resemble the conditions in Venezuela, and the second one, those in Chile.

## INTRODUCTION

The study period includes the last six months of Evo Morales's mandate, marked by his ouster in the wake of a nationwide protest against the fraudulent electoral process of October 20, 2019, corruption, and violations of the constitution and laws. Additionally, this study includes the first six months of the government of Jeanine Áñez, the senator in charge of filling the vacuum left by Morales's sudden flight, and tasked with calling for new elections.

Regarding freedom of expression, the change was radical. Almost overnight, on November 12, when Morales fled, the violations to the freedom of expression, persecution of journalists, and abuse against of the Law of Printing (Ley de Imprenta), in force since 1925 in Bolivia, ceased. These violations had begun in 2006, at the inception of the dictatorship of the coca growers' leader.

The advent of the new government, which guarantees freedom of the press, means that independent media benefit from this new situation. However, concurrently, the media acquired or launched by the dictatorship can continue to operate, benefitting from the currently existing guarantees, which are standard in a full democracy.

The restored freedom of expression benefits even those media that are subservient to the deposed dictatorship. This occurs with the media monopolized by the dictatorship – even employing criminal means: 130 radio stations operating on equipment given away by [Venezuela's] Hugo Chávez and a television channel given by the Iranian dictatorship. Some media that had enjoyed the favors during the Morales's government and are allegiant to the party of the *cocalero* (coca grower) have demanded that new government allocate the

advertising quotas that they enjoyed, since – they argue – the freedom of the press would otherwise be violated.

## Report

With 39.8 points out of 100, Bolivia's rating does not seem to fairly assess both sides, since, on the one hand, it benefits a dictatorship that could have achieved a score similar to that of Venezuela; but, on the other, it does not do enough justice to the improved scenario underway since November 12, when ended. Therefore, it would hypothetically deserve a higher rating, rather similar to that of Chile. This report attempts at giving an account of two different realities, two different countries. The six months of the new government, until April, helped improve Bolivia's rating in the index, offsetting the conditions that had existed over the previous six months: Mr. Hyde and Dr. Jekyll, in that order, regarding freedom of expression.

## Environments: All the power of the State against freedom

During the first six months of the dictatorship covered by the study, all the media in Bolivia had to comply with Law 164 of October 2012, whereby they were under the obligation of broadcasting, free of charge, all of the rulers' speeches and addresses, or otherwise be penalized with fines or the shutdown of their media outlets. The speech of Evo Morales on August 6, 2019, the anniversary of Bolivia, was broadcast on a mandatory basis, so were his media campaigns.

On January 22, 2020, at a press conference, President Jeanine Áñez announced that she had repealed the provision under which broadcasting government addresses was mandatory for the media. She did so during her speech honoring the restoration of democracy.

A campaign by the dictatorship was aimed at dubbing a "cartel of lies" the media broadcasting the opposition's whistleblowing on the February 21, 2016 referendum. With their votes, citizens decided that Morales could not run for office over again. *Página Siete* (Page Seven) newspaper, *Fides* radio station, as well as journalists Carlos Valverde, Raúl Peñaranda, Andrés Gómez, and Amalia Pando were singled out as members of the so-called "cartel" by the powerful government media system.

In the period covered by the study, journalists Juan Pablo Guzmán and Erwin Valda had to quit their television shows and the program *Pares Opuestos* (Opposite Pairs) under government pressure, as denounced by them and by journalists' organizations. Carlos Valverde, a radio host from Santa Cruz, was forced into exile after threats by the government, so was Wilson García Mérida, who had blown the whistle on Minister Juan Ramón Quintana for smuggling. This reporter was forced to print his newspaper, *El Sol de Pando* (The Sun of Pando), from Brazilian territory.

Since he took office, Morales endeavored to seize control of flagship media. Both *La Razón* (The Reason) newspaper and ATB (Bolivian Broadcasting Association [Asociación Teledifusora Boliviana]) television channel were bought out by Carlos Gill Ramírez, a Venezuelan national, and then put at the service of the government. Businessman Abdallah Daher denounced in 2019 that he was forced to sell his stock in PAT (Associated Journalists Television [Periodistas Asociados Televisión]) television channel to a high-ranking government official, because his son had been kidnapped by those interested in the buyout, all of them with close ties to the regime.

The management of the dictatorship's television channels, including the state-owned media outlet, fled the country along with Morales in November and are now his advisors in exile. They have worked from abroad on building an image that Morales's flight from Bolivia was the product of a "coup d'état" and they receive the support of foreign media aligned with the China-Russia-Iran axis. On social media, a tweet set the record straight on Morales's ouster: "It was not a coup d'état, it was a kick in the a...", grounds not included among the causes for deposing a ruler.

## **REALM A: Bolivians have lost the habit of obtaining information**

The hostage taking of the media by the dictatorship also included hiring teams of journalists willing to bow down to the demands of the authorities. This persisted for six months of the study. Radio news programs became mere spaces for spewing propaganda on government projects, and political topics were excluded. Political commentary shows on television channels, such as *El Abogado del Diablo* (The Devil's Advocate), on Unitel channel, were canceled and, in their stead, this channel had to broadcast shows covering crime news; or soap operas, usually of Turkish origin, were featured.

This made Bolivians turn to the Internet to get news, thereby engaging in social media. The mainstream media had ceased to serve as an avenue of information for the people. It was by means of social media that the unprecedented nationwide protest from October 20 to November 12, 2019, was organized. Mainstream media remained silent over the issue.

By pressuring with tax penalties or by extremely curbing government advertising for critical media, the government managed to get the most critical columnists expelled. Santa Cruz newspaper *El Deber* (The Duty) had to provide permanent office space for two internal revenue service officers to work from its premises, a sign of constant threat, so that neither news nor opinions would be critical. *Los Tiempos* (The Times) of Cochabamba had to remove columnists critical of the government from its opinion pages.

## REALM B: Conditions for the exercise of journalism

The exercise of journalism in these two very different stages of the Bolivian outlook showed starkly opposite conditions, with the reality of a dictatorship in the first six months, and the reality of full democracy in the remaining six. This allowed fellow newsmen gripped by fear, accustomed to a yoke, to adjust to a new reality.

Over the second semester of the study period, it was notorious that, in certain media outlets, some journalists had remained well settled, acting as “political commissars”, in charge of censoring their colleagues, avoiding news reporting on issues contrary or sabotaging the publication of opinion columns penned by personalities critical of the regime.

The journalists who had criticized Morales began demanding punishment for those who had helped the *cocalero* or had been his servants; but then they realized that democracy and freedom of the press protect even those, still operating from certain media outlets, who were the subservient to the dictator.

## REALM C: The dictatorship’s impunity

Civil society organization *Voces del Sur* (Voices of the South), according to newspaper *Página Siete*, found that, in 2018, the cases of attacks on the press reported in Bolivia reached 65. With 21 alerts, the most frequent type of attack is “stigmatizing speech”. This category implies invectives or attacks by major public officials or personalities on the reputation of journalists or the media. It also includes systematic campaigns aimed at discrediting them. In this regard, 12 instances of abuse of government power and three access to information cases also got on record in Bolivia. According to the report, in 46 cases (out of a total 65) the perpetrator was the State.

During the study period, none of these cases was investigated by the dictatorship, which also failed to respond to complaints filed by the National Press Association (Asociación Nacional de la Prensa, ANP) regarding the “asphyxiating” situation in which the government had left uncomfortable media outlets. Deputy Communications Minister Isabel Fernández revealed that 94% of the advertising budget benefited media outlets owned by their shareholders themselves or by front men, as is the case of *La Razón* newspaper, owned by Venezuelan-born Carlos Gill. In early 2019, this businessman admitted before a group of Bolivian journalists that he was not privy of how this morning paper, which at the time was the most important in the country, was being managed.

*Página Siete* newspaper and *Fides* radio station filed complaints against the government’s allegations that they were part of the “cartel of lies” for reporting on the defeat of *cocalero* Morales in the referendum of February 21, 2016; but the justice system would not hear these complaints.

From the Legislative, there were, even during the period under review, several attempts at drafting and passing a new Law of Printing to replace the one of 1925, claiming that, at that time, there were no radio or television stations, let alone Internet.

Officials of the dictatorship argued that the establishment of special courts could not be tolerated, that journalists should answer to the Law for the crimes that they had committed, but not to courts that could let those crimes go by, to the detriment of citizens. The democratic government, on the other hand, gave full guarantees of respect for freedom of expression. The press conferences held by Ms. Áñez open the possibility for journalists to ask questions and no one is offended, in contrast to the *cocalero's* style.

## REALM D: The dictatorship's media

The Morales's period first move on the media was to create a powerful ecosystem of state-owned radio stations and television channels, in addition to print media buyouts. This system has remained intact in the study period.

To this end, it counted on the help of Hugo Chavez, in the form of equipment for 130 radio stations sent into Bolivia. The Bolivian government had to award them to organizations of loyalists named "farmers' communities". The most powerful equipment was given to coca producers, Morales's associates, who established *Kawsachun Coca* ("Long Live Coca" in Quechua) radio, with a wide network of relay stations. The bills for the electric power consumed by this equipment are paid by the Bolivian state, even to date, when the dictatorship has been deposed.

Another dictatorship, that of Iran, gave the Morales government equipment for a very powerful television channel, *Abya Yala* ("Land in Bloom" in Guna), which still operates, without the democratic government having done anything to silence it. These "journalists" have opted to demand the respect for the freedom of expression not shown by them during the dictatorship, and have pointed fingers at the democratic government for committing abuses against them, accusations that have only been echoed by foreign media with authoritarian views or international organizations of socialist leanings.

## CONCLUSIONS

Bolivia has freed itself, last November 12, from a government aligned with the São Paulo Forum, the 21<sup>st</sup> Century Socialism or, as named by Colombian President Ivan Duque, the "organized crime multinational". That dictatorship had, up to the last day, the same attitude towards the media that the governments of China, Russia, Iran, Venezuela, or Cuba have had.

The advent of democracy has put an end to this situation and its practices of disregard for freedoms, starting with freedom of expression.



In October, Bolivia will hold general elections. The party that embodied the dictatorship will have a candidate. The demise of the government of Morales in November is explained by the fact that, in spite of their political instability background, Bolivians do not like dictatorships. The one headed by Evo Morales lasted nearly fourteen years, which is a record for this country.

The National Association of Journalists (Asociación Nacional de Periodistas) and the National Press Association – the latter affiliated to the IAPA – played a major role in defending freedom of expression during the dictatorship. More than once, their leaders announced the intent to bring complaints against the dictatorship up to international bodies, including the Inter-American Commission on Human Rights.

The advent of the transitional government, headed by Jeanine Áñez on November 12, 2019, was a godsend for Bolivian journalism as it put an end to the abuse against freedom of expression. She took office with the approval of the parliament, where two thirds of the representatives and senators are members of the party of Morales. This denies that a coup d'état ended the regime.

## REFERENCES

- Aguilar, M. (2019, August 25). Bolivia: en 2018 se registraron 65 ataques a la prensa, el Estado es el principal agresor. *Página siete*. Retrieved from: <https://www.paginasiete.bo/sociedad/2019/8/26/bolivia-en-2018-se-registraron-65-ataques-la-prensa-el-estado-es-el-principal-agresor-228690.html>
- Opinión. (2016, July 28). El Presidente Evo Morales inicia juicio al periodista Humberto Vacaflor, premio Libertad 2016. *Opinión*. Retrieved from: <https://www.opinion.com.bo/articulo/el-pais/presidente-evo-morales-inicia-juicio-periodista-humberto-vacaflor-premio-libertad-2016/20160728000100556184.html>
- Opinión. (2016, October 6). Afamados periodistas iberoamericanos firman declaración de respaldo a Vacaflor. *Asociación Nacional de la prensa de Bolivia*. Retrieved from: <http://anp-bolivia.com/afamados-periodistas-iberoamericanos-firman-declaracion-de-respaldo-a-vacaflor/>
- Peñaranda, R. (2014). Control remoto. Bolivia: Raúl Peñaranda U.
- Vásquez, T. (2019, May 3). La guerra de Evo Morales contra la prensa: periodistas dejan su trabajo por presiones del Gobierno. *infobae*. Retrieved from: <https://www.infobae.com/america/america-latina/2019/05/03/la-guerra-de-evo-morales-contra-la-prensa-periodistas-dejan-su-trabajo-por-presiones-del-gobierno/>

Viceministerio de Comunicación. (2020, May 14). Pauta publicitaria: Ministra no descarta procesos. *Ministerio de Comunicación del Estado Plurinacional de Bolivia*. Retrieved from: <https://comunicacion.gob.bo/?q=20200514/29414>

## BOLIVIA

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

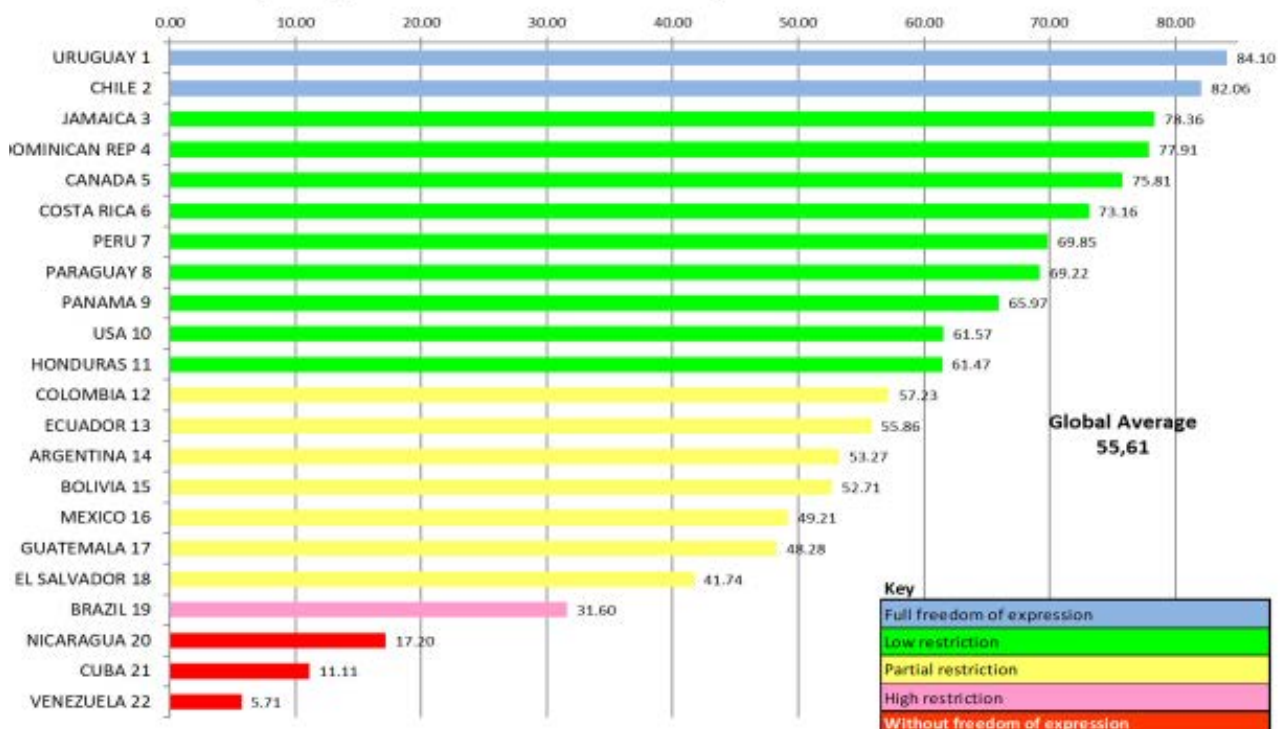
### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	The citizen movement that overthrew the government of Evo Morales remains firm and appreciative of the freedom of expression that has been regained, even while tolerating the subsistence of media outlets created by <i>Chavismo</i> and the regime of Iran, because the principle of freedom gives them strength.
<b>WEAKNESSES</b>	The defeat of Morales left intact the media established with the support of his administration and his partners from abroad. These outlets, hiding behind freedom of expression, plot against democracy and promote the return of Morales to power.
<b>OPPORTUNITIES</b>	Since the change in government, media outlets – especially digital – that strengthen democracy have been launched. Meanwhile, mainstream media, some of which had been subject to pressure, are creating websites to expand their information offer.
<b>THREATS</b>	The main threat to freedom of expression is the return of authoritarian practices from the past administration, supported by an electoral system full of irregularities planted by the ousted regime and funds from drug trafficking.

## 2.2.2 BOLIVIA 2020-2021

<b>BOLIVIA</b>	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>52,71</b>
<b>REALM A: "Citizens free to express themselves"</b>	<b>23,00</b>	<b>10,57</b>
Information flow	11,00	2,57
Free speech	12,00	8,00
<b>REALM B: "Exercise of journalism"</b>	<b>10,00</b>	<b>4,86</b>
<b>REALM C: "Violence and impunity"</b>	<b>42,00</b>	<b>23,85</b>
Protection	5,00	0,57
Persecution	7,50	1,93
Impunity	8,50	1,50
Registered violence	21,00	19,85
<b>REALM D: Control over the media</b>	<b>25,00</b>	<b>13,43</b>
Direct control	19,00	8,57
Indirect control	6,00	4,86

**Chapultepec Index on Freedom of Expression and the Press 2021**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>BOLIVIA</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	3,45	3,57	3,87
REALM A: "Citizens informed and free to express themselves"	2,57	2,19	2,05
REALM B: Exercise of Journalism	6,14	6,43	6,57
REALM C: Violence and Impunity	3,10	3,14	4,29
REALM D: Control over the media	2,00	2,50	2,57

Type of Influence      Points

<b>SLIGHT INFLUENCE</b>	0,1 - 2,50
<b>MODERATE INFLUENCE</b>	2,51 - 5,00
<b>STRONG INFLUENCE</b>	5,01 - 7,50
<b>VERY STRONG INFLUENCE</b>	7,51 - 10,00

MEASURING PERIOD.  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## **Bolivia: polarization, violence and persecution**

### **Executive Summary**

Bolivia is in a situation of partial restriction of free speech and freedom of the press. After the 2019 political crisis, the climate of division, violent polarization, threats and attacks against those labeled as “adversaries” has worsened. Both in the government of Jeanine Áñez and Luis Arce, stigmatizing, attacking, intimidating, hindering not only journalistic work but also freedom of expression and citizen protest became instruments of political control. With the MAS’ returning to power, the scenario for the exercise of journalism is on thin ice, in the midst of the attempt to set up the “coup d’État” version of the facts. The distribution of pro-government advertising represents the most effective –and at the same time subtle– instrument to exert control over the media, while the surge of judicial persecution in the country promotes censorship and self-censorship processes that have impacted citizens and the democratic system itself.

## **INTRODUCTION**

The situation regarding free speech and freedom of the press in Bolivia has escalated negatively after the socio-political conflicts unleashed by the process and results of the failed October 2019 general elections. The climate of political polarization has endured since 2016 with the Constitutional Referendum, which sought to modify the presidential reelection limit, and the disregard of its results by the Movimiento Al Socialismo (MAS). For 2020 and 2021, the COVID-19 health crisis has further weakened the conditions for journalists to do their job. Also, we must add the climate of the highly confrontational and violent 2020 and 2021 political-electoral campaigns, as well as the change of national, departmental and municipal governments. All of the above are cumulative factors that have driven stigmatizing and hate speeches against journalists and the media, on the one hand, and against social movements, on the other, to further extents.

The recent electoral processes (October 2020 general elections and March-April 2021 elections of Departmental, Regional and Municipal Authorities) have been a hotspot for attacks, threats, smear campaigns and, in general, systematic violence aimed at journalists and the media from different fronts, as well as at citizen organizations or social movements in dispute. Making up the context of these acts of violence, there are confrontations between



political organizations and forces supporting either side (MAS and opponents of MAS), which have hindered and infringed the work of journalists at different degrees and realms.

After MAS' new electoral victory, in October 2020, and its return to power, an adverse climate has been unleashed on several journalists and media due to allegations of alleged alliances and legitimizing actions with the transitional term of Jeanine Áñez and the tragic events of October and November 2019 in the country.

For this reason, Bolivia scores in the 2020-2021 Chapultepec Index in a situation of partial restriction of freedom of expression and freedom of the press (52.71/100), below the global average of 55.61, among 22 countries in the Americas.

Several facts recorded and disclosed along the twelve months of observation (August 2020-July 2021) tell about tensions and serious aggressions directed at journalists while covering social and political conflicts and electoral campaigns, primarily; threats for ongoing journalistic investigations; fake news discrediting the work of journalists critical of the current government; cyber-violence and cyber-bullying through digital platforms and actions or threats of legal actions, among others. Although there have been no reports of murders, kidnappings and disappearances of journalists or destruction of media offices, violence has been on the rise with different types of physical injuries committed against journalists, destruction and confiscation of equipment, forced deletion of photographic and audiovisual records or evidence collected by press workers at the scene of the events.

It must be added to this the legislative attempts of the MAS caucus to restrict free speech and freedom of the press by means of regulations basically linked to the use of socio-virtual networks and tax charges on digital services; or, from the legal void, the distribution of pro-government advertising as a way for the government to exert pressure on and subjugation of the media. Journalists and media unions have made permanent, firm and clear public statements against the violations and demanding guarantees for journalistic work, besides demanding to clarify and investigate the facts, which have been almost completely left aside from police or judicial tasks.

## **Analysis of Results**

### **The Government as Aggressor**

From the institutional action of the Legislative Environment, the score was 3.45, with a mild influence. Although the regulatory framework in the country ensures full exercise of the freedom of expression and freedom of the press rights, there have been attempts to restrain them within the discussion of two draft bills, both proposed by the MAS caucus at the Plurinational Legislative Assembly between 2020 and 2021.

The first of them, in August 2020, in the heat of the general election campaign, the House of Representatives, took back the controversy about the “Bill that sanctions the inappropriate use of social networks in the Plurinational State of Bolivia” (PL 733-19), after the dissemination of inappropriate and offensive images against the dignity of women that allegedly corresponded to Chair of the House of Representatives Eva Copa, from MAS (Aguilar, 2020). Although legislators did not get to discuss the document, it generated high opposition and contestation from the public when the new attempt at criminalizing the use of socio-virtual networks became known, so it was frozen within the 2020 presidential campaign.

The second try by legislators took place in May 2021 when Draft Bill 164 was discussed to have the Value Added Tax (VAT) extended to digital services operating in Bolivia, such as Netflix, Spotify, Amazon Prime Video, video game purchases, subscriptions to foreign digital newspapers, among others. From the point of view of analysts and the perception of users, this tax proposal was considered to be harmful to final consumers; first, because it would make access to these services more expensive and, second, because it would also lead to progressive restrictions (Vásquez, 2021). Likewise, the proposal was an initiative stemmed from MAS caucus and was laid off until the regulation gets “socialized”.

On the other hand, the Judicial Environment scored 3.57 with a mild incidence. Although no sentences or precautionary measures were issued, and no proceedings were initiated against journalists, neither did they proceed to investigate and prosecute those responsible for street aggressions or other types of those against journalists. Some actions have rather been evaluated as restraints to the exercise of journalism. For example, limiting access to journalists for the coverage of the inauguration of 25 judges in the Departmental Court of Justice of La Paz, in June 2021, which included a former departmental prosecutor under investigation for hiding evidence in a trial an innocent man ended up jailed for four years thereupon (ANP, June 3, 2021).

Likewise, the action of a prosecutor investigating the death of a police officer in the Department of La Paz coca-growing area of Yungas, in the midst of conflicts with coca growers in the region. The judicial authority required two local radio stations to hand over lists of people the broadcast stations interviewed during the confrontation period as “evidence” for the corresponding investigations. The executives of the two radio stations refused to comply such a request invoking the inviolability of press secrecy (ANP, July 10, 2021).

Another case tells about an indicted lawyer’s request who requested information aimed at prosecuting journalists covering his case for alleged slander and defamation (April, 2021). Also invoking the protection of the news source, the editors of three print media, El Deber, Los Tiempos and Opinión, out of 12 to whom this request was made, rejected the request, sent through a sentencing judge. The National Press Association (Asociación Nacional de la Prensa, ANP) issued a statement on the matter, to safeguard the rights of journalists. From

this environment, there have been no investigation in any of the reported cases of attacks on journalists, nor have those responsible been punished.

Lastly, the Executive Environment scored 3.87 with mild unfavorable influence. The struggle of the October 2020 electoral campaigns highlighted a picture of aggressions and violence against journalistic work; the change of government caused that smear campaigns and “hate lists” against several communicators (activities which pointed out that the media persons had been favored with “special contracts” from the transitional term of Jeanine Áñez) were unleashed from fake accounts in socio-digital networks. Those affected strongly denied such accusations (Opinion, April 26, 2021).

In one more circumstance, during a press conference, the Minister of Education himself rebuked a journalist from newspaper *Página Siete* and accused him of not relying on the official version of the complaints under investigation by the Attorney General’s Office of La Paz on alleged acts of corruption within that government agency (ANF, July 28, 2021); both the journalist and the newspaper he works for filed the complaint before the ANP along with evidence that they unsuccessfully tried to contact the authority regarding his version on the subject. An additional flagship case is that of the land grab and the efforts to set up radars for the Armed Forces in the Catholic-Church owned area of San Ignacio de Velasco, Santa Cruz de la Sierra, which would have an impact over the transmission antennas of radio Juan XXIII and Channel 9. These broadcasting media belonging to the Church have provided community service to the region during many years, which is why they are endorsed by the community and the installation of the antennas is now in a hiatus (ANF, April 19, 2021).

In terms of broadcasting bands distribution policies, in August 2021 it was announced a call aimed at projects for the Assignment of Broadcasting Bands for the community social sector and the sector of Indigenous Peasant Peoples, intercultural and Afro-Bolivian communities (ATT, 2021). These actions fall within the framework of the Broadcasting Band Assignment Plan for Broadcasting Services and the provisions of the Telecommunications and Information and Communication Technologies Act, and the right of access to the radio electric spectrum by four sectors: i) government; ii) private; iii) community social; and iv) indigenous native peasant peoples, intercultural and Afro-Bolivian communities. Results are expected for the respective analysis of their relevance and transparency.

## **REALM A: Violent Restrictions to Information and Hazards Resulting from Expressing Themselves**

The political conflict and polarization exacerbated by the October and November 2019 post-electoral events, which resulted in the resignation of former President Evo Morales and the presidential succession of Jeanine Áñez, had two parties violently confront each other in the streets: on the one hand, MAS supporting militants and movements, and on the other hand, protest movements against the manipulation of electoral data, as evidenced by the



OAS Electoral Observation Mission. Aggressions between one and the other side have been constant and have become the scenario of permanent aggressiveness that both the citizens and journalists have assumed. In particular, the pro-government MAS factions have been the protagonists of violent acts that have violated other groups and organizations' rights of expression and protest.

In turn, the street confrontation has a correlate of intense denigration in the digital space. The violent and denigrating cyberactivism from fake accounts of the so-called "digital warriors" has been fierce, above all due to the struggle of versions between the electoral fraud versus the "coup d'État" version of the facts by MAS. Several accounts of socio-digital networks have been barred, messed with, for taking positions of upfront opposition to official narratives and policies. For example, the hacking of and content deletion from journalist Carlos Valverde's Facebook page (Ijurko, December 17, 2020). Valverde has whistleblown several instances of irregularities and corruption by MAS, and his account reached 670,000 followers. Or the relentless attacks and insults on institutional sites and accounts of media and journalists.

Likewise, from the government's media (Bolivia TV, Red Patria Nueva, newspaper Ahora el Pueblo, Agencia Boliviana de Información) information and opinion spots are occupied only by MAS government or pro-government sources, lacking the necessary and fundamental balance and plurality. These media are tirelessly used as the "coup d'État" version of the facts' replicators. Fortunately, and as a counterpart, several critical journalists have returned to take media spots in recent months when previously, and systematically, they were cornered during the 2006-2019 period.

## **REALM B: Exercise of Journalism, Risks and Stigmas from Informing**

The exercise of journalism remains under threat and has been furthermore weakened by political and social violence and the pandemic scenario. With the November 2020 change of administration, smear campaigns have been driven against long-career journalists, establishing "hate lists" to "lynch them in the media". For example, Evo Morales' tweet (@evopueblo) accused Bolivia Verifica, a fake news verification site, and its head of receiving funding from the US. (ANF, July 11, 2021).

In the absence of a Bill of Access to Public Information, the government has relied on different methods to exert pressure or control over the media. In February 2021, Minister of Justice Iván Lima announced the establishment of the debate on the Draft Bill on Access to Public Information, a regulation that has been delayed on several occasions due to the distrust that produced the decisions and proposals made by MAS among the unions and associations of journalists and media in the country. However, the issue has not addressed again on the legislative or public agenda (Los Tiempos, February 07, 2021).



Judicial attempts to force the disclosure of source secrecy have been unsuccessful. Trade organizations have always been sturdy to have the right enforced, within the framework of the Political Constitution of the State and the Printing Press Law. As commented regarding the Judicial and Executive environments, some situations led to limit the work of journalists or to rebuke those of media who are critical, accusing them of being biased and liars. This practice was openly implemented during the years of Evo Morales' term, who labeled the media as his "archenemy".

## **REALM C: The Reign of Indifference and Impunity**

Whether by using law enforcement (the police or military corps), or by the very supporters of the party in power, or by government supporters, the government has allowed attacks to journalists in the midst of street conflicts and face-offs. These attacks have gone unpunished, and no one responsible for such offenses has been prosecuted. The instance of a journalist who was injured by a policeman who shot him with tear gas directly in the face while making his telephone dispatch is a daily and tangible example of the frequent actions against the media and journalists, without investigation or prosecution (ANP, April 07, 2021).

Additionally, digital platforms set up to disseminate hate speech, intimidation, threats and mudslinging against journalists and media have not been investigated or given penalties (October 2020). "Hate lists" against 22 journalists who, allegedly, would have been allies of the Añez government and its actions –the Sacaba and Senkata massacres (in November 2019)– were calling for a "media lynching" (ANP, 01 April 2021).

The Ombudsman's Office, whose first authority is also accused of being a MAS supporter, requested an investigation into these events, reminding the government of its obligation to ensure freedom of expression and look into every act of violence against the press and other agencies (Ombudsman's Office, 2020); however, no action was taken and the government remains indifferent and fails to comply with its duty to get under investigation and prosecute the perpetrators of these acts.

## **REALM D: Pro-Government Advertising, The Most Effective Control**

In Bolivia, there is no regulation making the distribution of pro-government advertising transparent and justified. Decisions to assign government advertising to private or community media err on being gratuitous and following political criteria of pressure, economic asphyxiation or media cooptation. The MAS' government –both in the 2006-2019 period and in this new 2020-2021 round– has used the direct control through advertising funding method. In April 2021, through Supreme Executive Order 4484, it was increased the Vice-Ministry of Communication's budget to a total amount of approximately USD 16 million, out of which more than USD 100,000 were allocated to the Indigenous Peoples Radio Stations (Radios de



los Pueblos Originarios, RPIO), which support and submit to the official network (Fundación Construir, 2021).

During the Áñez term, in 2020, through information from the Ministry of Communication, the flow of funds for advertising obtained by the so-called “para-state” media, in particular channels ATB and PAT and newspaper La Razón, was made public. For example, the two television stations received between 2017 and 2019 an approximate amount of USD 29 million, while more than 100 national, regional and local-wide newspapers in the country barely received between them about USD 12 million for the same period (Flores, May 13, 2020). This triggered attacks and mudslinging towards those media, under allegations of being MAS’ “palos blancos” –that is, they have dummy owners covering up the real owners; a covert form to divert public resources to enrich groups associated with the government– (El Diario, May 15, 2020).

Official advertising, which lacks a clear rule defining distribution criteria, has become a method that: i) suffocates the media that assume a critical position towards the government and its authorities; ii) enriches groups associated with the government party itself; iii) blackmails the media to promote censorship and self-censorship on issues that harm the political circles of the government in power.

## CONCLUSIONS

It is evident that the country’s framework of polarization and political conflict has worsened after the 2019 political crisis and the COVID-19 pandemic, and all of this has led to a situation in which infringement of free speech and freedom of the press is present, clearly impacting the right of citizens to be informed and access to communication, and with countless records of aggressions from late 2019 and 2020 (see Unitas, 2021; ITEI, 2020).

Jeanine Áñez’s term and the new administration of Luis Arce, from MAS, have fueled more attacks on the work of journalists, accusations and threats, in addition to the ever-increasing violence that prevents citizens from freely expressing themselves. The tradition of MAS in its first and second stages (2006-2019 and 2020 to date) has been to label the mass media and journalists as “liars”, “enemies”, “right-wing cronies”, “opponents”, among other epithets. In the midst of MAS’ struggle of versions of the facts to make the “coup d’État” version prevail as the cause of the serious events and the November 2019’s toll of victims, several journalists have been the target of smear campaign, speeches and “hate lists” in which allegedly they are allies of Áñez’ interim government.

Building up on the climate of social and political tension are legislative attempts to debate or approve restrictive laws against freedom of expression, particularly in socio-virtual networks, free from government control. Also attempts to create new taxes for subscription-based digital services. Likewise, the online skirmish exposes “digital warriors” who per-



manently rage against media and journalists. The strategy of hacking accounts and the deletion of information of some journalist critical of the government has not been lacking.

From the Judicial environment, prosecutorial orders that try to disclose sources of journalistic information, thus breaching the right to keep secrecy of the source. But, undoubtedly, the most effective method to directly control the media is that of pro-government advertising, not touched by any clear regulation whatsoever, which this allows to damage or benefit some or others, depending of what is convenient to the government of the day.

It can be concluded that Bolivia presents a thin-ice scenario for free speech and freedom of the press that is on the verge of going from a “partial restriction” to a “high restriction”. Citizens, mass media and journalists are “partially free” to express themselves and to do their job of informing. In some cases, the limits such as violence and direct threats are blatant; in others they are more subtle (e.g. the distribution of pro-government advertising that brings on censorship or self-censorship).

Such conditions are being nurtured in a climate of political polarization that unequally confronts official forces, state apparatuses and civilian groups supporting the government, on the one hand, and the political opposition, critical and anti-government sectors of the MAS government, on the other. So, constant violence remains in all areas, leaving those who do not subscribe to the government’s position and policies in a situation of defenselessness.

## REFERENCES

Autoridad de Telecomunicaciones y Transporte (ATT) (27 de agosto de 2021). Resolución Administrativa Regulatoria ATT-DJ-RAR TL LP 303/2021 (Aprobar la Convocatoria y Cronograma para el Concurso de Proyectos para la Asignación de Frecuencias de Radiodifusión del Sector Social Comunitario Available at: <https://www.att.gob.bo/content/resoluci%C3%B3n-administrativa-regulatoria-att-dj-rar-tl-lp-3032021-aprobar-la-convocatoria-y>

Agencia de Noticias Fides (ANF) (2021, 7 de abril). Periodista: Un policía me disparó un proyectil de gas lacrimógeno al rostro. *Agencia de Noticias Fides*. <https://anp-bolivia.com/periodista-un-policia-me-disparo-un-proyectil-de-gas-lacrimogeno-al-rostro-2/?fbclid=IwAR31WdlwHv9F815KUQ53dp4GuTX8LNQqJ83HWy7VfL0Djmrg-4gEpPVsWLw>

Fides News Agency (ANF) (19, April 7). Gobierno instalará un radar aéreo y afectará a radio Juan XXIII con más de medio siglo de vida. *Agencia de Noticias Fides*. [https://www.noticiasfides.com/nacional/politica/gobierno-intenta-acallar-un-medio-de-comunicacion-de-la-iglesia-de-mas-de-medio-siglo-de-vida-409269?fbclid=IwAR1zFy-WUqjTxNkaWWUj18v3enyX\\_8m-5jTENjOmc6lkPtAqONM7jGr061YY](https://www.noticiasfides.com/nacional/politica/gobierno-intenta-acallar-un-medio-de-comunicacion-de-la-iglesia-de-mas-de-medio-siglo-de-vida-409269?fbclid=IwAR1zFy-WUqjTxNkaWWUj18v3enyX_8m-5jTENjOmc6lkPtAqONM7jGr061YY)

Agencia de Noticias Fides (ANF) (11 de julio de 2021). #ANF El expresidente Evo Morales arremete contra medios de comunicación y la organización Bolivia Verifica, ase-



guró que es financiada desde Estados Unidos pero no mostró pruebas al respecto. *Agencia de Noticias Fides* <https://www.facebook.com/ANFidesBolivia/photos/a.737874072998867/3994656750653900/>

Agencia de Noticias Fides (ANF) (28 de julio de 2021). Ministro Quelca y sus funcionarios increpan a periodista en conferencia de prensa. *Agencia de Noticias Fides*. [https://www.noticiasfides.com/nacional/sociedad/ministro-quelca-y-sus-funcionarios-increpan-a-periodista-en-conferencia-de-prensa-410906?fbclid=IwAR2RiBfhRmiKN-NEvLczAChp2p\\_ddjoXuwwV92m5l7-cSHhZbCXM5o83PKlg](https://www.noticiasfides.com/nacional/sociedad/ministro-quelca-y-sus-funcionarios-increpan-a-periodista-en-conferencia-de-prensa-410906?fbclid=IwAR2RiBfhRmiKN-NEvLczAChp2p_ddjoXuwwV92m5l7-cSHhZbCXM5o83PKlg)

Aguilar, W. (August 23, 2020). El MAS promueve nuevamente normas para regular uso de las redes sociales. *Los Tiempos*. <https://www.lostiempos.com/actualidad/pais/20200823/mas-promueve-nuevamente-norma-regular-uso-redes-sociales>

Asociación Nacional de la Prensa (ANP) (01 de abril de 2021). Periodistas atacados por campaña de descrédito desmienten acusaciones. <https://anp-bolivia.com/periodistas-atacados-por-campana-de-descredito-desmienten-acusaciones/?fbclid=IwAR1ZUVKe6N-jVKlRRkwR9P2icXP8lVxpji5ypZn-cDEntFfbGFaXgBOy3AVg>

Asociación Nacional de la Prensa (03 de junio de 2021). Impiden acceso de periodistas al acto de posesión de 25 jueces. *Asociación Nacional de la Prensa*. [https://anp-bolivia.com/impiden-acceso-de-periodistas-al-acto-de-posesion-de-25-jueces/?fbclid=IwAR2b-8wnf8JDV-U17NuOUNaHAzvdDL56eqbAo50oL\\_2yFg6TfI7bVQI\\_QlVI](https://anp-bolivia.com/impiden-acceso-de-periodistas-al-acto-de-posesion-de-25-jueces/?fbclid=IwAR2b-8wnf8JDV-U17NuOUNaHAzvdDL56eqbAo50oL_2yFg6TfI7bVQI_QlVI)

Asociación Nacional de la Prensa (10 de julio 2021). Fiscalía pide lista de entrevistados a dos radios que cubrieron conflicto. <https://anp-bolivia.com/fiscalia-pide-lista-de-entrevistados-a-dos-radios-que-cubrieron-conflicto/?fbclid=IwAR2fIOrWRg1qr93LXxWHmaTb-BIng7zkqxbu9ZCJABmvx9RxTmOBkP2msgbl>

Defensoría del Pueblo (2020, 30 de octubre). Defensoría del Pueblo exige se investigue el origen de las “listas de odio” en contra de periodistas y garantizar la libertad de expresión <https://www.defensoria.gob.bo/noticias/defensoria-del-pueblo-exige-se-investigue-el-origen-de-laslistas-de-odio%E2%80%9D-en-contra-de-periodistas-y-garantizar-la-libertad-de-expresion>

El Diario (15 de mayo de 2020). Medios afines al MAS se beneficiaron con publicidad. *El Diario*. <https://www.eldiario.net/movil/index.php?n=42&a=2020&m=05&d=15>

Flores, A. (May 13, 2020). Decenas de periódicos desconocidos tuvieron millonaria publicidad. *Brújula digital*. <https://brujuladigital.net/politica/decenas-de-periodicos-desconocidos-tuvieron-millonaria-publicidad>

Fundación Construir (2021, 16 de abril). Gobierno busca fortalecer medios originarios a través de consultorías. Available at: <https://www.fundacionconstruir.org/monitoreo/gobierno-busca-fortalecer-medios-originarios-a-traves-de-consultorias/>



Ijurko, J.M. (December 17, 2020). Hackean y eliminan la página de Carlos Valverde, pero anuncia que volverá nuevamente. *El Deber*. [https://eldeber.com.bo/santa-cruz/hackean-y-elimin-an-la-pagina-de-carlos-valverde-pero-anuncia-que-volvera-nuevamente\\_212625?fbclid=IwAR3Y\\_Ge4jaw\\_VJvwQG7ibxoKCnc7T-MJ\\_HaridHzH5SfGa7gk8vxedV5YNE](https://eldeber.com.bo/santa-cruz/hackean-y-elimin-an-la-pagina-de-carlos-valverde-pero-anuncia-que-volvera-nuevamente_212625?fbclid=IwAR3Y_Ge4jaw_VJvwQG7ibxoKCnc7T-MJ_HaridHzH5SfGa7gk8vxedV5YNE)

Instituto de Terapia e Investigación sobre las secuelas de la tortura y la violencia de Estado (ITEI) (2020). Estado de la libertad de prensa en Bolivia. <https://www.itei.org.bo/post/estado-de-la-libertad-de-prensa-boliviana>

Los Tiempos (February 07, 2021). Lima anuncia abrir debate nacional sobre proyecto de Ley de Acceso a la Información Pública. *Los Tiempos*. <https://www.lostiempos.com/actualidad/pais/20210207/lima-anuncia-abrir-debate-nacional-proyecto-ley-acceso-informacion-publica>

Opinión (26 April 2021). ANP y tres diarios rechazan pedido de abogado transgresor de leyes. *Opinión*. <https://www.opinion.com.bo/articulo/pais/anp-diarios-rechazan-pedido-abogado-transgresor-leyes/20210426174415817113.html?fbclid=IwAR1VTmWVAD6I7d4o-cLouK926epILZ4xHAr8Oy9TcrktUvhXPjJEODBTXmyg>

UNITAS (2021). *Informe de situación. Condiciones del entorno en el que las organizaciones de la sociedad civil desarrollan su acción en Bolivia. Gestión 2020*. [https://redunitas.org/wp-content/uploads/2021/07/Informe\\_de\\_situacion\\_2021.pdf](https://redunitas.org/wp-content/uploads/2021/07/Informe_de_situacion_2021.pdf)

Vásquez, M. (May 12, 2021). Gobierno justifica cobros a servicios digitales; expertos la cuestionan. *El Deber*. [https://eldeber.com.bo/economia/gobierno-justifica-cobros-a-servicios-digitales-expertos-la-cuestionan\\_231444](https://eldeber.com.bo/economia/gobierno-justifica-cobros-a-servicios-digitales-expertos-la-cuestionan_231444)

## Statements by Journalists Organizations

### Asociación de Periodistas de La Paz (APLP)

October 28, 2020

Enérgico repudio a las “listas del odio” contra periodistas

<https://www.facebook.com/photo/?fbid=1036745440098703&set=a.138116453294944>

February 11, 2021

Debate del anteproyecto de Ley de acceso a la información pública

<https://www.facebook.com/photo/?fbid=1110384722734774&set=a.138116453294944>

April 02, 2021



Rechazo a denuncias sin pruebas contra periodistas. (*Rejection of complaints without evidence against journalists*) <https://www.facebook.com/aplapaz/photos/a.300087346679968/4041632915858707/>

April 26, 2021

Rechazo a querrella interpuesta por el abogado sentenciado Jhasmani Torrico contra colegas periodistas. <https://www.facebook.com/photo/?fbid=1157207024719210&set=a.138116453294944>

July 14, 2021

En repudio a las presiones de la Fiscalía contra periodistas de radios yungueñas. <https://www.facebook.com/photo/?fbid=1206293819810530&set=a.138116453294944>

## Asociación de Periodistas de Santa Cruz

August 6, 2020

Rechazo a actos vandálicos en contra del colega David Sapiencia. <https://www.facebook.com/722559494431725/photos/a.944122902275382/3361967120490936/>

October 22, 2020

Repudia la expulsión de periodistas de la Red Unitel de casa de campaña de CREEMOS. <https://www.facebook.com/722559494431725/photos/a.944122902275382/3597019643652348/>

October 27, 2020

Enérgico repudio a las “listas del odio” contra periodistas. <https://www.facebook.com/722559494431725/photos/a.944122902275382/3612106618810317/>

December 03, 2020

Enérgico repudio a amenazas masistas a la prensa. <https://www.facebook.com/722559494431725/photos/a.944122902275382/3715247525162892/>

December 18, 2020

En defensa de Carlos Valverde Bravo. <https://www.facebook.com/722559494431725/photos/a.944122902275382/3753733371314307/>

April 28, 2021

Alerta por fallo que exige revelar nombres de periodistas. <https://www.facebook.com/photo/?fbid=287830336246363&set=a.284911936538203>

## Association of Journalists of Chuquisaca

April 27, 2021

Condema enérgicamente la grosera decisión de la justicia caso Jhasmani Torrico. <https://www.facebook.com/APChuquisaca/photos/a.289198348696424/797486714534249/>



## BOLIVIA

MEASURING PERIOD.

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Strengths, Weaknesses, Opportunities and Threats Analysis

<b>STRENGTHS</b>	The Printing Press Law, the constitutional text and the international regulations subscribed by the Bolivian government with respect to freedom of expression and press represent the legal support and the framework for appeals and challenges against abuses by both the government itself and different groups of power. Although there has been no defined action from the government to sanction the abuses, both trade unions, mass media and human rights organizations, as well as civil organizations and the very journalists who are critical of the government in power have shown firmness in whistleblowing these crimes and a stating clear position in defense of the right to information and communication.
<b>WEAKNESSES</b>	The climate of threats, intimidation, attacks, overall violence and control mechanisms such as the distribution of pro-government advertising lead to censorship and self-censorship that weakens the exercise of free speech and freedom of the press. Citizen movements and social organizations outside the government in power, faced with repression from the state apparatus, street violence from groups who support it and the prosecution and persecution of “adversaries”, are being prevented from expressing themselves and demonstrating freely, which has led to a certain disbanding and discouragement to confront abuses and outrageousness.
<b>OPPORTUNITIES</b>	Although there are multiple restrictions on the exercise of free speech and freedom of the press, as of yet there have not been serious infringements upon journalists such as murders or disappearances, destruction/silencing of mass media or imprisonment and judicial persecution against press workers or media owners, so there are ways to complain and protest to have abuses be known by the public, both domestically and internationally. The international authorities that would counterweight abuses from the government continue to be a go-to when it comes to making visible and possibly containing the excesses of both the government and the groups it protects.

<p><b>THREATS</b></p>	<p>Context of high political polarization and social violence settled down after several years of Movimiento al Socialismo (MAS)' office (2006-2019 and 2020 to date) and fueled after the November 2019 political and social crisis. During the Áñez's administration and now in the Arce's administration, there's encouragement of a violent confrontation between adversaries, a situation that has left the citizens, journalists and the media defenseless when facing the violation of their right to express themselves, to demonstrate or to seek, process and spread journalistic information, respectively. The co-optation of the branches of government, especially the Judiciary branch, creates a risk for those who do not agree with the government and its cronies.</p>
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## 2.2.3 OVERVIEW

### Bolivia

Bolivia ranked 18th in the 2019-2020 edition of the Chapultepec Index with a score of 39.80; for the 2020-2021 study, it climbed three positions, with a final score of 52.71 points. This improvement in the perception of Freedom of Expression and the Press for both periods under analysis stems from the transition from a dictatorial regime to a fledgling and stumbling democracy which began to make its presence felt during the 2019-2020 study.

Regarding Realm A, Informed Citizens Free to Express Themselves, the difference between former and latter studies was 2.17 points. This indicates that the population witnessed a slight improvement in terms of access to [government] information and their ability to express themselves in society, but especially in terms of free speech, even despite the high levels of political conflict resulting from the resignation of Evo Morales and the subsequent events involving Jeanine Añez.

However, regarding Realm B, Exercise of Journalism, the difference between 2019-2020 and 2020-2021 was -1.94 points, being one of the issues reviewed that did not improve from one period to another. Although citizens have more access to information, there are still many obstacles for journalists stemming from the deep-seated habits from the dictatorial period. Threats and accusations against journalists continue.

The most positive difference for the country was noticed in Realm C, Violence and Impunity, going from 8.00 points in 2020 to 23.85 points in 2021. This represents a difference of 15.85 points between both studies. It should be noted that, in the 2021 survey, a quantitative indicator was added in this realm: Incidences of violence on record. However, indifference and impunity continue to reign in the face of crimes against journalists and freedom of expression.

Finally, in Realm D, Control over the Media, there was also a drop between 2019-2020 (16.6 points) and 2021 (13.43 points). This difference is more evident in the sub-realm of Direct Control than that of Indirect Control. This result corresponds with the data obtained in Realm B, influencing the exercise of the profession even with pressure on journalists' associations. Indeed, the dictatorship held a tight control over the media, a practice that remained during the transition, through the control of the allocation of advertising budget by government agencies.

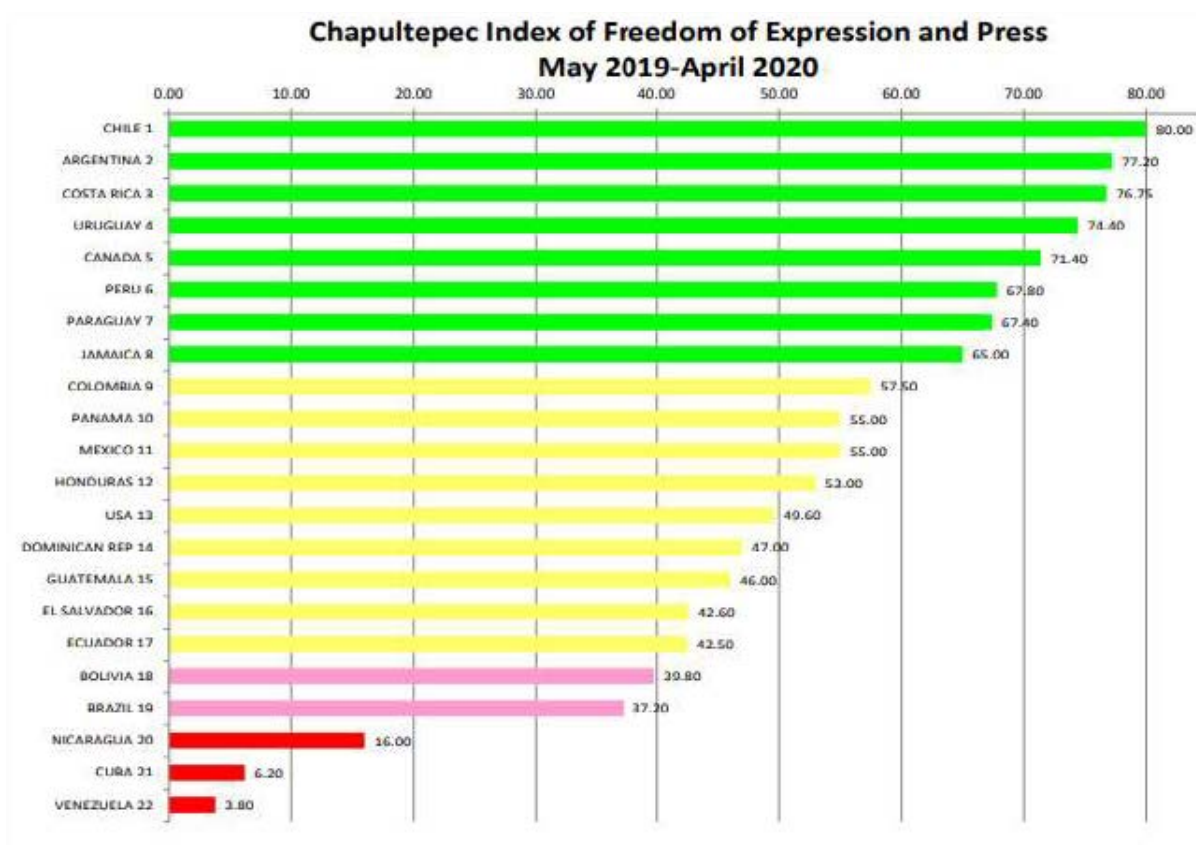
Now, in regard with the influence of the environments, the greatest change in perception is noticed for the executive environment, showing results of a very strong influence on decisions in 2019-2020 to moderate influence in almost all realms, a visible improvement in the perception of the respondents surveyed in 2020-2021. Only in Realm B, all the legislative,

judicial, and executive environments strongly influenced policies, maintaining results very similar to those of the previous period. In fact, during the last period studied, these branches of government aroused controversy through specific actions that hindered the exercise of journalism, such as requesting lists of interviewees from the media as part of a tax investigation, or restrictions to cover certain government events. Jeanine Añez's repeal of Law 164 of October 2012, compelling the media to broadcast all addresses and messages from top officials free of charge under penalty of fines and even closure, influenced the results of the executive environment.

## 2.3. BRAZIL

### 2.3.1 BRAZIL 2019-2020

BRASIL	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>37.2</b>
REALM A: "Citizens informed and free to express themselves"	23	6.2
Flow of information	11	3.6
Free Expression	12	2.6
REALM B: Exercise of Journalism	10	6.6
REALM C: Violence and Impunity	42	6.0
Protection	10	4.4
Persecution	15	0.0
Impunity	17	1.6
REALM D: Control over the media	25	18.4
Direct control	16	11.2
Indirect control	9	7.2



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

BRASIL	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	2.46	2.86	8.39
REALM A: "Citizens informed and free to express themselves"	2.92	3.90	8.07
Flow of information	2.84	3.41	7.83
Free Expression	2.99	4.40	8.31
REALM B: Exercise of Journalism	1.10	2.20	9.30
REALM C: Violence and Impunity	2.27	3.03	7.94
Protection	3.00	3.00	6.33
Persecution	2.30	2.10	9.00
Impunity	1.50	4.00	8.50
REALM D: Control over the media	3.08	1.79	9.17
Direct control	4.17	1.33	9.83
Indirect control	2.00	2.25	8.50

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## Brazil: Freedoms threatened in the midst of an institutional crisis

### Executive summary

This report addresses Brazil with regard to the Chapultepec Index of Freedom of Expression between May 1, 2019 and April 30, 2020. Among 22 countries in the Americas, it ranks 19th, with a score of 37.2, on a scale of 0 to 100. It performs the poorest in the realms of violence and impunity and informed citizens free to express themselves. The realms of exercise of journalism and control over the media show the best figures. The data also points to the Executive as the greatest threat to freedom of expression.

## INTRODUCTION

This report addresses Brazil's performance regarding the Chapultepec Index of Freedom of Expression and the Press for the period between May 1, 2019 and April 30, 2020. In order to approach this institutional environment, however, it is necessary to retrace the track record of the country in recent years, especially since 2013, along which we find essential facts for a better understanding of the outlook reflected by the figures herein.

That year, there was a series of street protests known as the June Demonstrations (Jornadas de Junho, Harvey et al, 2015; Bucci, 2016). The rallies had multiple and rather unclear agendas, but with some common highlighting issues as follows: Absence of clear political leadership and rejection of the basic institutions of liberal representative democracy, especially political parties, as well as the press. Media crews were attacked and mobile broadcast units burned in the streets (Rossi & Bedinelli, 2014). The discontent expressed during the protests was gradually channeled by political groups opposed to the government of the Workers' Party (Partido dos Trabalhadores, PT), holding the presidential office since 2002.

This movement was reinvigorated after the 2014 elections, from which then President of the Republic Dilma Rousseff (PT) was re-elected. However, she would undergo a controversial impeachment process in 2016, which resulted in her dismissal, amidst biased and largely unfavorable media coverage (van Dijk, 2017). The context of what became known as *antipetismo*<sup>1</sup> was further encouraged by the media coverage of a series of corruption allegations, consolidated in Operation Lava Jato<sup>2</sup> ([Operation Carwash] Venceslau, 2014; Feres Júnior & Sassara, 2016).

1 Translator's Note (TN): That is, "against the PT", a term coined to refer to stances and political movements or thinking opposed to the Workers' Party.

2 TN: A comprehensive anti-corruption probe into high-ranking government offices, agencies, and state-owned companies.



The actions of then Judge Sérgio Moro and the Federal Ombudsman's Office (Ministério Público Federal, MPF) Working Group in Curitiba against the political and business elite received wide media coverage (Baptista, 2018; Cioccari, 2015). Several political leaders were targeted by law enforcement and court proceedings, among them former head of State and then pre-candidate for president in the 2018 elections Luís Inácio 'Lula' da Silva (PT – left). Convicted and serving time, Lula could not run. From this context emerged as a candidate former Army Captain (Carvalho, 2019) and then Federal Representative Jair Messias Bolsonaro, elected based on a background of anti-systemic discourse and authoritarian bias, including attacks on freedom of expression.

Since then, there has been a context of intense institutional conflict between, on the one hand, the Executive and, on the other, the Legislative and Judiciary, as well as news media and journalists.

## Analysis of results

Brazil holds, among 22 countries of the Americas, the 19<sup>th</sup> position in the Chapultepec Index for Freedom of Expression, according to data collected in the period from May 1, 2019 to April 30, 2020. The rating achieved is 37.2 on a scale of 0 to 100. This number placed Brazil only ahead of Nicaragua (16), Cuba (6.2), and Venezuela (3.8).

On a scale of 0 (slight influence) to 10 (very strong influence), the executive environment stands out negatively as the most unfavorable influence on free speech (8.39). The institutional action of the Judiciary, in turn, was assessed as having a moderate influence (2.86). Finally, the action of the Legislative was perceived as having a slight influence (2.46) when it comes to situations discouraging free speech.

In relation to the realms reviewed, Realm A (informed and free citizens) stands out negatively, with 6.2, on a scale from 0 (no free speech) to 23 (full free speech); and Realm C (violence and impunity), with 6 for high restriction and no freedom, on a scale from 0 (no freedom) to 42 (full freedom). On the other hand, Realm B (exercise of journalism), with 6.6 on a scale from 0 to 10, and Realm D (control over the media), with 18.4 on a scale from 0 to 25, both reflecting low restriction.

## Environments: Institutional action and freedom of expression

Data related to institutional action show the Executive (8.39) with the highest degree of unfavorable influence on free speech in Brazil. In this context, two realms in particular stand out negatively: Realm B, regarding exercise of journalism, which achieved a rate closer to the maximum negative influence (9.3) on a scale from 0 to 10; and Realm D, regarding control over the media (9.17). The above study period was marked by an intense confrontation



between the Federal Executive and some major Brazilian media, which contributes to this interpretation of the ratings.

President Jair Bolsonaro usually identifies the press in general as his political opponent (Folha de S.Paulo, 2019), with regular attacks on print media companies and newsmen (Congresso Em Foco 2019; Jiménez, 2019; Federação Nacional dos Jornalistas 2019). Gradually, threats have become actions, such as the selective removal of newspaper *Folha de S. Paulo* from a bidding process for supplying digital signatures to the federal government (Uribe, 2019) and a decrease in allocation of official advertising on media to those accused of unfavorable coverage (Fabrini, 2019).

The climate of conflict between the federal government and the press further worsened after the *#vazajato* (“car” leaks) scandal, which began on June 9, 2019. The hashtag refers to a series of reports prepared by *The Intercept Brasil*, headed by award-winning journalist Glenn Greenwald, but also published by other media, such as newspaper *Folha de S. Paulo*, magazine *Veja* and *Grupo Band* (Grupo Bandeirantes de Comunicação, GBC). These reports reveal messages exchanged among prosecutors and a judge, which would question the fairness of the procedures in place for the Operation *Lava Jato* Task Group ((The Intercept Brasil, 2019). At that time, the head judge in this process, Sérgio Moro, had already become Minister of Justice in the Jair Bolsonaro government. This episode led the President of the Republic to publicly threaten the American journalist (Satriano, 2019).

Aggressive behavior towards the press, both by the president and his supporters, has become frequent (BBC News Brasil, 2020; Redação Notícias, 2020). This led media companies *Rede Globo* and *Folha de S. Paulo* to suspend coverage from the *Palácio do Alvorada* seat of the president’s office due to “lack of security” (Do UOL, 2020). This stance, however, caused reactions from the National Congress (Congresso Nacional) [Legislative – bicameral] in defense of freedom of expression and criticism of the president’s hostility. This adds up to the interpretation of data regarding the legislative environment, with a score on free speech much more favorable against that of the Executive. Negative influence is generally perceived to be slight: 2.46 on a scale from 0 to 10.

As a response of sorts to the Executive, the House Committees on Human Rights and Minority and Culture held a joint session on the issue “Freedom of the Press and Communication: the Culture of Violence against Journalists and Communicators as a Threat to Human Rights and Democracy” on June 4. In the wake of the *#vazajato* episode, the House of Representatives and the Federal Senate summoned then Minister of Justice Sérgio Moro ((*Estadão*, 2019), as well as journalist Glenn Greenwald (Da Redação, 2019 a, 2019; Audiência Pública Ordinária, 2019), for a hearing. During the debate, the minister defended the legality of the relationship between him and the government attorneys in charge of the prosecution in Operation *Lava Jato* and accused the press of sensationalism, while Greenwald praised investigative journalism for improving democracy. Both received wide media coverage.



With regard to the legislative environment, Realm B (exercise of journalism) stands out at 1.10, as well as the C Realm (violence and impunity) at 2.27, with an even lower degree of influence. To illustrate these issues, it is worth mentioning the demonstrations of Speaker of the House Rodrigo Maia (Democratas [Democratic Party – center-right]), on July 30, 2019 (Redação, 2019 a). Following the scandal of *#vazajato* revelations, he defended the secrecy of the source in the face of allegations that this series of reports had obtained information illegally. The congressman, for example, recorded a video after the arrest of alleged hackers who illegally tapped telephone conversations from public officials. The video was shown in support of journalist Glenn Greenwald at the headquarters of the Brazilian Press Association (Associação Brasileira de Imprensa, ABI), in Rio de Janeiro, on July 30, 2019 (Molica & da Silva, 2019).

Another noteworthy episode regarding institutional actions of the Legislative is the establishment of the Joint Congressional Inquiry Committee (Comissão Parlamentar Conjunta de Investigação, CPMI), formed by federal representatives and senators on September 4, 2019, to investigate the dissemination of fake news. The so-called ‘Fake News CPI’ was created with the aim of probing into, among other things, cyber-attacks against democracy and public debate (Senado Federal, 2020). During depositions given in public sessions, which began on October 22, 2019, there were aggressions against *Folha de S. Paulo* journalist Patrícia Campos Melo, behavior that was condemned by Speaker of the House Rodrigo Maia (Galvani, 2020). Patrícia Campos Melo revealed, in a report published by *Folha de S. Paulo*, that the campaign of then-candidate Jair Bolsonaro had used bulk messaging on WhatsApp, something prohibited by electoral legislation (Campos Melo, 2019). This caused Jair Bolsonaro himself to publicly insult her on February 18, 2020 (UOL play, 2020).

As for institutional actions from the Judiciary, the data points to an unfavorable influence on free speech at a moderate level: 2.86 on a scale of 0 to 10; an unfavorable influence at a low level in Realm B (exercise of journalism), with 2.2 and, particularly, Realm D (control over the media), at 1.79. Realm C (violence and impunity), in turn, is rated with an unfavorable influence at a moderate level, with 3.03, as well as Realm A (informed citizens free to express themselves), at 3.9.

Amidst conflict between the Executive and the Legislative over freedom of expression, the Brazilian Judiciary would therefore stand by the latter rather than the former. Some actions help illustrate what the ratings reveal. In the turmoil of reports published on *#vazajato*, there was news, on July 25, 2019, of what would be the intent of then Minister of Justice Sérgio Moro to destroy proof of leaked messages obtained after the arrest of the suspected hackers of phone calls among officials (Coelho, 2019). The alleged intention of the then minister was immediately disapproved by members of the Judiciary, who described it as an authoritarian action if accomplished (Fernandes, 2019). The reaction may have led the minister to change his mind and desist (Coelho, 2019). The debate about leaked messages spawned by the *#vazajato* reports was also coupled with questions about a relativistic approach on the



confidentiality of sources, which was quickly rejected by justices to the Supreme Court, as reported by the media on June 11 (Da Redação, 2019 b).

The Brazilian Supreme Court (Supremo Tribunal Federal, STF), however, found itself cornered by accusations of restricting the exercise of freedom of the press. This episode involved two media outlets, *O Antagonista* website and *Crusoé* magazine, which published, on April 11, 2019, an excerpt of the testimony by Operation *Lava Jato* defendant Marcelo Odebrecht, in which he mentions the name of Chief Justice Dias Toffoli (Rangel & Coutinho, 2019). Under the allegation that this was fake news, Justice Alexandre de Moraes ordered to remove the report from the sites of the above media outlets immediately and imposed a fine<sup>3</sup> of R\$100,000 per day in case of contempt, as announced by the press on April 15 (Brigido, 2019). Following criticism from STF colleagues, three days later, the justice reversed his order (de Carvalho, 2019). This incident illustrates the data regarding institutional actions seeking to control the media and thereby restrict free speech under vague allegations.

## REALM A: Informed citizens free to express themselves

The data in general indicate a decline of freedom of expression worldwide, but the Brazilian case seems particularly peculiar. Among 161 countries, Brazil experienced the third largest drop according to a survey by NGO Artigo 19 (Tajra, 2019). The numbers in the Chapultepec Index confirm this view of a fragile environment regarding free speech. Realm A scored 6.2 (on a scale of 0 to 23), which indicates a high restriction according to the parameters of the Chapultepec Index. This realm is composed of two sub-realms, information flow and free speech, in which Brazil scored 3.6 and 2.6, respectively. Widely known examples, some of which are detailed below, help illustrate the reality shown by these figures.

It is noteworthy what happened at the Rio de Janeiro Book Biennial 2019, when, on September 7, 2020, the Attorney General's Office (Advocacia-Geral da União, AGU) requested that the STF injunct the recall of LGBT-themed books exhibited at the event (Juca, 2019). The initiative to recall books from the literary fair came from the Mayor of Rio de Janeiro, Marcelo Crivella, an incident considered as "very serious" by the most senior member of the Supreme Court, Justice Celso de Mello. To support his actions, the mayor invoked the Statute on Children and Adolescents (Estatuto da Criança e do Adolescente, ECA), claiming that the material on exhibit was unsuitable for children because it was pornographic or obscene.

The incident generated another reaction on social media, led mainly by YouTuber Felipe Neto. He bought 14,000 copies of books on the subject and distributed them for free, with a sticker reading, "This book is not appropriate for the backward-thinking, the retrograde, or the prejudiced" (Juca, 2019; Estadão Conteúdo, 2019). This YouTuber, who has close to 40 million followers, began to be harassed online and in real life, as reported by the press on September 16, to the point of needing to remove his own mother from the country in view

3 TN: Real (pl. Reais), Brazil's currency (ISO: BRL).



of threats against her family (Redação, 2019 b). At the same time, he began to increasingly antagonize President Jair Bolsonaro and his sons, who have very active profiles on social media (Redação, 2019 c).

## **REALM B: Exercise of journalism**

Regarding journalistic activity, as reviewed by Realm B, Brazil achieved a score of 6.6 on a scale ranging from 0 to 10, and therefore ranked in the low-restriction range. These results can be interpreted as reflecting the understanding that, despite the hostile relationship between Jair Bolsonaro and a significant portion of the press, the media have done their job (Padiglione, 2020).

However, it is possible to cite certain events that could be catalogued as an attempt to weaken both the journalists as a professional class and the activity of a portion of the press considered by the federal government as its opponent. One of them is Temporary Order (Medida Provisória, MP) No. 905/19, of November 11, 2019, which declared the affiliation to a professional association non-mandatory for the exercise of various activities, including that of journalists and announcers. The initiative was viewed as another offensive by the Federal Executive against the endeavor of news professionals (Scardoelli, 2019). The MP was ultimately repealed after demonstrations against it by unions and legislators.

It is also worth mentioning the exercise of journalism in the face of the government's practice of adopting alternative versions of reality when facts do not suit its convenience, with noted incidents occurred during the period covered by this report. In June 2019, the Minister of Citizenship banned the release of a research by the Oswaldo Cruz Foundation (Fundação Oswaldo Cruz, Fiocruz) on controlled substance use in the country, to the point that the Attorney General's Office was called to overcome the impasse (Oliveira, 2019). The president himself even shed doubts about official data on hunger and deforestation in the country (Pereira, 2019). During the recent coronavirus pandemic, mistrust of official data and access to evidence-based information was fueled (Muniz, Fonseca & Oliveira, 2020).

## **REALM C: Violence and impunity**

On a scale ranging from 0 to 42, Realm C, violence and impunity, scored only 6, which reflects a situation of no free of speech, stressed on the sub-realms of persecution (0) and impunity (0.6). To illustrate this outlook, it is worth mentioning a report by the National Federation of Journalists (Federação Nacional dos Jornalistas, FENAJ) released in early 2020, which states that, in 2019, violence against newsmen increased 54% over 2018 (FENAJ, 2020). The document lists 114 attempts at discrediting the press and 94 direct attacks on professionals. President Jair Bolsonaro was responsible for 58% of these attacks, with a total of 121 instances. FENAJ understands that the head of the Federal Executive has institutionalized discrediting speech towards the work of the press as a political strategy.



There were also 2 assassinations, 28 instances of threats and intimidation, 15 physical attacks, 10 instances of censorship or obstruction to professional practice, 5 instances of restrictions on freedom of the press by means of court actions, 2 instances of racial slurs, and 2 acts of violence against said profession's labor union. The Southeastern Region concentrates most cases of violence (46.81%), probably because it gathers the largest number of print media outlets in comparison with the other regions. Then comes the Midwestern Region (19.15%), in which the federal capital of the country, Brasília (13.83%) is the seat of the federal government. Finally, there are the Southern (15.96%), Northeastern (11.70%) and Northern (6.38%) Regions.

Another study, this time by the Brazilian Association of Radio and TV Broadcasters (Associação Brasileira de Emissoras de Rádio e Televisão, ABERT), a body with ties to owners of audiovisual media, also points to an average of 11,000 daily attacks against the press on social media in 2019 (Lis, 2020). Once more, the President of the Republic stood out negatively. The document reports that, of the 5,708 posts by Jair Bolsonaro on Twitter, 432 included criticism, innuendo, and warnings regarding the media and journalists. This was reflected in 51.7 million interactions.

## REALM D: Control over the media

As for Realm D, regarding control over the media, Brazil achieved a score of 18.4 on a scale ranging from 0 to 25, indicating low restrictions in this matter. Data on the sub-realms indicate greater indirect (7.2) than direct control (11.2). This extent of indirect control over free speech seems evident when looking at data on budget allocation for government advertising among media companies or even favoring some by granting them exclusive interviews on prime time to defend the government's agenda.

During the traditional Brazilian Independence Day parade, held on September 7, in its 2019 edition in Brasília, Jair Bolsonaro ([Social Liberal Party] Partido Social Liberal, PSL – right) stood between Bishop Edir Macedo (*Rede Record*) and Silvio Santos (*SBT*), two of Brazil's most important media businessmen. Historically benefiting from the largest share of government advertising budget, the *Globo* Organizations (Organizações Globo) fell behind *Rede Record*, which received R\$ 10.3 million in advertising allocations during the first half of 2019, followed by *SBT*, with R\$ 7.3 million. *Globo*, which was not on the main stand on September 7, received R\$ 7.1 million.

Media coverage on President Jair Bolsonaro and his government is mostly negative, including that by major broadsheet newspapers (*O Globo*, *O Estado de S. Paulo*, and *Folha de S. Paulo*), as well as *TV Globo*, while TV networks *Record*, *Band* and *SBT* have portrayed a softer side to the president (Manchetômetro, 2020). The editorial direction taken seems to reflect and, at the same time, be motivated precisely by a negotiation process, through indirect control over the media.



## CONCLUSIONS

The overview presented in this report reflects a process that Brazil has been experiencing intensely since 2013, with the demonstrations known as *Jornadas de Junho*. At that time, an environment of gradual political polarization was evident, in which the main victims have been basic democratic values, including freedom of expression. Legal issues regarding Operation *Lava Jato* consolidated this climate of discrediting institutions, including the press, from which a candidate who openly flirts with authoritarianism rose to victory in the 2018 presidential elections.

The Chapultepec Index confirms in numbers the process of deterioration of the historically fragile Brazilian democracy, with a prominent role of the environment embodied by the Executive, especially President Jair Bolsonaro. His influence is expressed verbally, with regular attacks on news staff and organizations, or formally, through acts of government, such as discrimination in allocation of advertising funds. This ultimately encourages a climate of intolerance that does not contribute to increasing freedom of expression, but quite the opposite.

At the same time, the data highlights the role of the legislative and judicial environments as responsible for applying checks and balances against the attacks from the Executive against freedom of expression and the press. Two elements that seem to be intertwined should be decisive in this regard. The first one is the activity of the Joint Congressional Inquiry Committee on fake news, as its probe may clarify whether there exists or not a ring with ties to the Executive for spreading disinformation. The second one is the ruling by Federal Supreme Court Justice Alexandre de Moraes, whereby Facebook and Twitter accounts of President Jair Bolsonaro's supporters suspected of spreading messages of slander and defamation were blocked.

This is an ongoing debate. On the one hand, most political groups opposed to President Jair Bolsonaro have saluted the parliamentary inquiry of the CPMI on fake news and the decision of the STF considering it a fundamental measure to stop the fabrication and spread of fake news. On the other hand, the President's allies adopt the counterargument by blaming the Legislature and the Judiciary for restricting basic individual freedoms. Amidst this crossfire stands freedom of expression.

## REFERENCES

- Audiência Pública Ordinária. (2019, June 25). Comissão de direitos humanos e minorias. Câmara dos Deputados. Retrieved from: <https://www.camara.leg.br/evento-legislativo/56219>
- The Intercept Brasil. (2019). As mensagens secretas da Lava Jato. Retrieved 2000, August 12 from <https://theintercept.com/series/mensagens-lava-jato/>





- A van Dijk, T. (2017, February 28). How Globo media manipulated the impeachment of Brazilian President Dilma Rousseff. *Discourse & Communication*, 11(2), 199–229. Retrieved from <https://doi.org/10.1177/1750481317691838>
- Baptista, E. (2018). Corrupção política e avaliação de governo: O caso da Lava Jato.. São Paulo: Aurora. *Revista de Arte, Mídia e Política*. v.II (32), 128–148. Retrieved from: [https://www.researchgate.net/profile/Erica\\_Anita\\_Baptista/publication/329197650\\_Corruptao\\_politicapolitica\\_e\\_avaliacao\\_de\\_governo\\_o\\_caso\\_da\\_Lava\\_Jato/links/5bfc8ad8299bf10737f9a084/Corruptao-politicapolitica-e-avaliacao-de-governo-o-caso-da-Lava-Jato.pdf](https://www.researchgate.net/profile/Erica_Anita_Baptista/publication/329197650_Corruptao_politicapolitica_e_avaliacao_de_governo_o_caso_da_Lava_Jato/links/5bfc8ad8299bf10737f9a084/Corruptao-politicapolitica-e-avaliacao-de-governo-o-caso-da-Lava-Jato.pdf)
- BBC News Brasil. (2020, May 5). 9 ataques de Bolsonaro a jornalistas – e quais os temas que levaram presidente a perder a linha. *BBC News Brasil*. Retrieved from: <https://www.bbc.com/portuguese/brasil-52553647>
- Bedinelli, T y Rossi, M. (2014, February 10). Morre cinegrafista atingido por um rojão em manifestação no Rio. *El país*. Retrieved from: [https://brasil.elpais.com/brasil/2014/02/10/politica/1392046355\\_124283.html](https://brasil.elpais.com/brasil/2014/02/10/politica/1392046355_124283.html)
- Brígido, C. (2019, April 15). STF censura sites e manda retirar do ar reportagem que cita Dias Toffoli. *O Globo*. Retrieved from: <https://oglobo.globo.com/brasil/stf-censura-sites-manda-retirar-do-ar-reportagem-que-cita-dias-toffoli-23600856>
- Bucci, E. (2016). A forma bruta dos protestos (Edição: 1). Brasil: Companhia das Letras.
- Cioccarri, D. (2015). Operação Lava Jato: Escândalo, agendamento e enquadramento. São Paulo: *Revista Alterjor*. 12(2), 58–78. Retrieved from: <http://www.revistas.usp.br/alterjor/article/view/aj12-a04>
- Congresso Em Foco. (2019, December 2) Bolsonaro fez ao menos 111 ataques à imprensa em 2019. Veja lista. *Congresso em Foco*. Retrieved from: <https://congressoemfoco.uol.com.br/governo/bolsonaro-fez-ao-menos-111-ataques-a-imprensa-em-2019-veja-lista/>
- Coelho, G. (2019, August 8). Moro agora diz ao STF que não mandou destruir provas obtidas com hackers. *Consultor Jurídico*. Retrieved from: <https://www.conjur.com.br/2019-ago-08/moro-agora-stf-nao-mandou-destruir-provas-hackers>
- De Carvalho, J. (2019, April 18). Alexandre de Moraes recua de decisão anterior e suspende censura de reportagem que cita Toffoli—Jornal O Globo. *O Globo*. Retrieved from <https://oglobo.globo.com/brasil/alexandre-de-moraes-recua-de-decisao-anterior-suspende-censura-de-reportagem-que-cita-toffoli-23609743>
- Da Redação. (2019 a, June 11). Gilmar indica que prova obtida de forma ilegal pode beneficiar condenado. *VEJA*. Retrieved from: <https://veja.abril.com.br/politica/para-gilmar-mendes-e-possivel-que-prova-ilegal-beneficie-condenado/>

- Da Redação. (2019 b, July 8). CCJ recebe Glenn Greenwald para falar sobre diálogos de Sergio Moro. Senado Noticias. Retrieved from: <https://www12.senado.leg.br/noticias/materias/2019/07/08/ccj-recebe-glenn-greenwald-para-falar-sobre-dialogos-de-sergio-moro>
- Do UOL. (2020, May 25). Globo e Folha não cobrirão mais Bolsonaro no Alvorada por “segurança”. UOL Notícias. Retrieved from: <https://tvefamosos.uol.com.br/noticias/redacao/2020/05/25/jn-anuncia-que-globo-parara-de-cobrir-bolsonaro-no-alvorada-por-seguranca.htm>
- Estadão. (2019, July 2) Confusão encerra audiência de Moro na Câmara. *Estadão*. Retrieved from <https://politica.estadao.com.br/ao-vivo/sergio-moro-na-camara>
- Estadão Conteúdo. (2019, September 6). Felipe Neto distribuirá 14 mil livros com temática LGBT na Bienal. *VEJA*. Retrieved from: <https://veja.abril.com.br/cultura/felipe-neto-distribuir-14-mil-livros-com-tematica-lgbt-na-bienal/>
- Fabrini, F. (2019, November 12). Globo perde participação em verba oficial de publicidade sob Bolsonaro. *Folha de S.Paulo*. Retrieved from <https://www1.folha.uol.com.br/poder/2019/11/globo-perde-participacao-em-verba-oficial-de-publicidade-sob-bolsonaro.shtml>
- Federação Nacional dos Jornalistas. (2019, November 1). Jornalistas são alvo de Bolsonaro ao menos duas vezes por semana. *FENAJ*. Retrieved from: <https://fenaj.org.br/jornalistas-sao-alvo-de-bolsonaro-ao-menos-duas-vezes-por-semana/>
- Federação Nacional dos Jornalistas. (2020). Violência contra Jornalistas e Liberdade de Imprensa no Brasil. Relatório 2019. Retrieved from: [https://fenaj.org.br/wp-content/uploads/2020/01/relatorio\\_fenaj\\_2019.pdf](https://fenaj.org.br/wp-content/uploads/2020/01/relatorio_fenaj_2019.pdf)
- Feres J. y Sassara, L. (2016). Corrupção, escândalos e a cobertura midiática da política. São paulo: Novos estudos CEBRAP, 35(2), 205-225. Retrieved from: <https://doi.org/10.25091/s0101-3300201600020011>
- Fernandes, T. (2019, July 25). Fala de Moro sobre destruir provas é autoritarismo, diz ex-ministro do STJ. *Folha de S.Paulo*. Retrieved from: <https://www1.folha.uol.com.br/poder/2019/07/fala-de-moro-sobre-destruir-provas-e-autoritarismo-diz-ex-ministro-do-stj.shtml>
- Folha de S.Paulo. (2019, September 13). Bolsonaro diz que parte da “grande imprensa” é inimiga. *Folha de S.Paulo*. Retrieved from: <https://www1.folha.uol.com.br/poder/2019/09/bolsonaro-diz-que-parte-da-grande-imprensa-e-inimiga.shtml>
- Galvani, G. (2020, February 12). Rodrigo Maia chama de “baixaria” ataques à jornalista da Folha. *CartaCapital*. Retrieved from: <https://www.cartacapital.com.br/politica/rodrigo-maia-chama-de-baixaria-ataques-a-jornalista-da-folha/>

Harvey, D., Maricato, E., Davis, M., Braga, R., Žižek, S., Iasi, M. L., Brito, F., Vainer, C., Lima, V. A. de, Maior, J. L. S., Peschanski, J. A., Secco, L., Sakamoto, L., Paulo, M. S., Oliveira, P. R. de, & Viana, S. (2015). *Cidades rebeldes: Passe livre e as manifestações que tomaram as ruas do Brasil*. Brasil: Boitempo Editorial.

Jiménez, C. (2019, December 30). Bolsonaro intensifica perseguição à imprensa e ONGs enquanto desgasta base de apoio. *El país*. Retrieved from <https://brasil.elpais.com/politica/2019-11-30/bolsonaro-intensifica-perseguiacao-a-imprensa-e-ongs-enquanto-desgasta-base-de-apoio.html>

Juca, B. (2019, September 7). No dia da independência, Brasil vive ato de censura de obras de temática gay na Bienal do Rio. *El país*. Retrieved from [https://brasil.elpais.com/brasil/2019/09/07/politica/1567885180\\_132047.html](https://brasil.elpais.com/brasil/2019/09/07/politica/1567885180_132047.html)

Lis, L. (2020, March 11). Imprensa sofreu 11 mil ataques diários nas redes sociais em 2019, diz associação de rádio e TV. *G1*. Retrieved from <https://g1.globo.com/politica/noticia/2020/03/11/casos-de-violencia-contra-jornalistas-caem-pela-metade-em-2019-na-comparacao-com-2018-diz-abert.ghtml>

Manchetômetro. (2020). Boletim Manchetômetro. Mídia grande e governo Bolsonaro. Capítulo 1 Apresentação. Retrieved from <http://manchetometro.com.br/wp-content/uploads/2020/03/boletim-2019.1.pdf>

Maklouf, L. (2019). O cadete e o capitão: A vida de Jair Bolsonaro no quartel. Brasil: Todavia.

Mello, P. (2019, October 8). WhatsApp admite envio maciço ilegal de mensagens nas eleições de 2018. *Folha de S.Paulo*. Retrieved from <https://www1.folha.uol.com.br/poder/2019/10/whatsapp-admite-envio-massivo-ilegal-de-mensagens-nas-eleicoes-de-2018.shtml>

Molice, F., y Da Silva, J. B. (2019, July 30). Ato de apoio a Glenn tem vídeo de Maia em defesa do sigilo de fonte. *VEJA*. Retrieved 2020, August 13 from <https://veja.abril.com.br/politica/ato-de-apoio-a-glenn-tem-video-de-maia-em-defesa-do-sigilo-de-fonte/>

Muniz, B., Fonseca, B., y Oliveira, R. (2020, March 25). Ministério da Saúde deixou de contabilizar centenas de casos suspeitos de Covid-19. *Agência Pública*. Retrieved from <https://apublica.org/2020/03/a-caixa-preta-do-coronavirus-no-brasil/>

Oliveira, M. (2019, June 3). Após pesquisa sobre uso de drogas ser censurada, AGU ouve Fiocruz e Ministério da Justiça. *G1*. Retrieved 2020, August 28 from <https://g1.globo.com/politica/noticia/2019/06/03/apos-pesquisa-sobre-uso-de-drogas-ser-censurada-agu-ouve-fiocruz-e-ministerio-da-justica.ghtml>

Padiglione, C. (2020, March 16). Globo dá banho na CNN Brasil no tocante à prática do jornalismo. *Folha de S.Paulo*. Retrieved from <https://telepadi.folha.uol.com.br/globo-da-banho-na-cnn-brasil-no-tocante-desobediencia-presidente-bolsonaro/>



- Pereira, R. (2019, July 19). Desmatamento, fome, desemprego. Os números do próprio governo que Bolsonaro contesta. *Gazeta do Povo*. Retrieved from <https://www.gazetadopovo.com.br/republica/bolsonaro-contesta-numeros-desmatamento-fome-desemprego/>
- Rangel, R., y Coutinho, M. (2019, April 11). O amigo do amigo de meu pai. *Crusoé*. Retrieved from <https://crusoe.com.br/edicoes/50/o-amigo-do-amigo-de-meu-pai/>
- Redação. (2019 a, July 30). Rodrigo Maia grava vídeo de apoio a Glenn: “O sigilo da fonte é um direito democrático”. *Revista Fórum*. Retrieved from <https://revistaforum.com.br/politica/rodrigo-maia-grava-video-de-apoio-a-glenn-o-sigilo-da-fonte-e-um-direito-democratico/>
- Redação. (2019 b, September 16). Felipe Neto relata ameaças: ‘Já tirei minha mãe do Brasil’. *VEJA*. Retrieved from: <https://veja.abril.com.br/cultura/felipe-neto-relata-ameacas-ja-tirei-minha-mae-do-brasil/>
- Redação. (2019 c, October 31). Felipe Neto percebe tom de ameaça em Carlos Bolsonaro após bate-boca pesado na web e desabafa. *Catraca Livre*. Retrieved from: <https://catracalivre.com.br/cidadania/felipe-neto-bate-boca-com-carlos-bolsonaro-e-percebe-tom-de-ameaca/>
- Redação Hypheness. (2019, September 9). Super herói: Felipe Neto compra e distribui 10 mil livros censurados na Bienal. *Hypheness*. Retrieved from <https://www.hypheness.com.br/2019/09/super-heroi-felipe-neto-compra-e-distribui-10-mil-livros-censurados-na-bienal/>
- Redação Notícias. (2020, January 16). Bolsonaro proíbe jornalista da Folha de fazer pergunta e emenda ofensa: “Cala a boca!”. *Yahoo Notícias*. Retrieved from: <https://br.noticias.yahoo.com/bolsonaro-proibe-jornalista-da-folha-de-fazer-pergunta-e-emenda-ofensa-cala-a-boca-135713481.html>
- Revista Consultor Jurídico. (2019, 25 de julio). Moro diz que mandou destruir provas apreendidas com hackers presos pela PF. *Consultor Jurídico*. Retrieved from <https://www.conjur.com.br/2019-jul-25/moro-mandou-destruir-provas-apreendidas-hackers-presos>
- Satriano, N. (2020, July 27). “Talvez pegue uma cana aqui no Brasil”, diz Bolsonaro sobre Glenn Greenwald. *G1*. Retrieved 2020, August 12 from <https://g1.globo.com/rj/rio-de-janeiro/noticia/2019/07/27/talvez-pegue-uma-cana-aqui-no-brasil-diz-bolsonaro-sobre-glenn-greenwald.ghtml>
- Senado Federal. ([s.d.]). CPMI - Fake News—Comissão Parlamentar Mista de Inquérito—Fake News—Atividade Legislativa—Senado Federal. Senado Federal. . Retrieved 2020, August 13 from <https://legis.senado.leg.br/comissoes/comissao?O&codcol=2292>

- Scardoelli, A. (2019, November 15). “Governo Bolsonaro age para destruir jornalismo”, acusa Fenaj. *Portal Comunique-se*. Retrieved from <https://portal.comunique-se.com.br/governo-bolsonaro-age-para-destruir-jornalismo-acusa-fenaj/>
- Souza, R. (2019, November 13). MP acaba com necessidade de registro para jornalista e publicitário. *Correio Braziliense*. Retrieved from [https://www.correiobraziliense.com.br/app/noticia/economia/2019/11/13/internas\\_economia,806116/mp-acaba-com-necessidade-de-registro-para-jornalista-e-publicitario.shtml](https://www.correiobraziliense.com.br/app/noticia/economia/2019/11/13/internas_economia,806116/mp-acaba-com-necessidade-de-registro-para-jornalista-e-publicitario.shtml)
- Tajra, A. (2020, December 10). Entre 161 países, Brasil é o 3º com maior queda na liberdade de expressão. *UOL Notícias*. Retrieved 2020, August 13 from <https://noticias.uol.com.br/politica/ultimas-noticias/2019/12/10/entre-161-paises-brasil-e-o-3-com-maior-queda-na-liberdade-de-expressao.htm>
- UOL Play. (2020, February 18). Bolsonaro insulta repórter da Folha: “ela queria dar o furo”. *UOL Notícias*. Retrieved from: <https://noticias.uol.com.br/videos/2020/02/18/bolsonaro-insulta-reporter-da-folha-ela-queria-dar-o-furo-0402CD99366AD8B96326.htm>
- Uribe, G. (2019, November 28). Bolsonaro cumpre ameaça e exclui Folha de licitação da Presidência para assinatura de jornais. *Folha de S.Paulo*. Retrieved from <https://www1.folha.uol.com.br/poder/2019/11/bolsonaro-cumpre-ameaca-e-exclui-folha-de-licitacao-da-presidencia-para-assinatura-de-jornais.shtml>
- Venceslau, P. (2015, July 19). Antipetismo se aproxima do ‘cinturão vermelho’. *Estadão*. Retrieved 2020, August 12 from <https://politica.estadao.com.br/noticias/geral,antipetismo-se-aproxima-do-cinturao-vermelho,1727885>

## BRAZIL

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Institutional action of the Legislative and the Judiciary in defense of free speech represents a strength in the current Brazilian outlook, as checks and balances to actions from Executive. Another important strength consists of the way media companies withstand verbal threats and aggressions against the press.
<b>WEAKNESSES</b>	The remarkably negative action of the Executive against freedom of expression and media professionals represents a major weakness in the Brazilian outlook. The President's hostile and authoritarian bias is associated with the weakening of citizen, critical, and public interest journalism.
<b>OPPORTUNITIES</b>	Threats to and restrictions on freedom of expression have gained wide visibility in the media, representing an opportunity to make this a widespread issue among the population. Its relevance to the improvement of democratic institutions is on the agenda of the public in general and not only that of professionals and academics in the field.
<b>THREATS</b>	The political environment itself represents a threat to freedom of expression. It is highly polarized, with almost daily displays of intolerance by political leaders, which encourages threats and verbal attacks against media professionals, amidst communication policies aimed at controlling the dissemination of information.



## 2.3.2 BRAZIL 2020-2021

BRAZIL	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>31,60</b>
<b>REALM A: "Citizens free to express themselves"</b>	<b>23,00</b>	<b>5,00</b>
Information flow	11,00	1,86
Free speech	12,00	3,14
<b>REALM B: "Exercise of journalism"</b>	<b>10,00</b>	<b>5,14</b>
<b>REALM C: "Violence and impunity"</b>	<b>42,00</b>	<b>9,46</b>
Protection	5,00	0,86
Persecution	7,50	1,00
Impunity	8,50	0,36
Registered violence	21,00	7,24
<b>REALM D: Control over the media</b>	<b>25,00</b>	<b>12,00</b>
Direct control	19,00	8,57
Indirect control	6,00	3,43

Chapultepec Index on Freedom of Expression and the Press 2021



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

BRAZIL	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	4,73	4,46	6,13
REALM A: "Citizens informed and free to express themselves"	4,79	3,57	4,21
REALM B: Exercise of Journalism	6,00	5,86	8,00
REALM C: Violence and Impunity	4,76	4,48	7,29
REALM D: Control over the media	3,36	3,93	5,00

Type of Influence	Points
SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED.  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Brazil: Frail freedom of expression

### Executive Summary

This report presents the results of the Chapultepec Index of Freedom of Expression and the Press for Brazil between July 2020 and August 2021. Out of 22 countries, Brazil ranks 19th, barely above Nicaragua, Cuba, and Venezuela. Its worst performance refers to the realm of Informed Citizens Free to Express Themselves and to the realm of Violence and Impunity. In terms of the influence of institutional environments discouraging freedom of expression, the role played by the Executive Branch stands out, which exerts a negative influence rated as very high.

## INTRODUCTION

This report gives an account of the results of the Chapultepec Index of Freedom of Expression and the Press for Brazil. The data refer to the period from July 2020 and August 2021, in terms of the influence exerted by the institutional environment of the Executive, Legislative and Judicial branches, as well as four realms, namely: Informed Citizens Free to Express Themselves (Realm A), Exercise of Journalism (Realm B), Violence and Impunity (Realm C) and Control over the Media (Realm D).

While the overall index improved against that of the 2019-2020 report – going from 50.84 to 55.61 on a scale of zero to 100 – that of Brazil worsened: It dropped from 37.2 to 31.60. Out of 22 countries, it ranks 19<sup>th</sup>, barely above Nicaragua (17.20), Cuba (11.11), and Venezuela (5.71). However, the current adverse context for the exercise of freedom of expression and the press in Brazil has been building over the last decade and has deepened in recent years.

Particularly since the 2018 presidential elections, a process of weakening of the country's democratic institutions, including the media, has intensified. This background takes us back to 2013, when a series of protests overflowed the streets of the country. At the time, these demonstrations were geographically located in the city of São Paulo, coordinated by groups linked to the student movement and motivated by a specific agenda opposing an increase in public transportation fares.

However, police repression and the inability of the São Paulo government encouraged more numerous and decentralized protests. Demonstrations emerged in other cities, fueled by the most diverse agendas and marked by acts of vandalism – without it being possible to identify a political leader responsible for their conduct – in what became known as “June Days” (Harvey *et al*, 2015; Bucci, 2016).

At that time, a rejection of basic democratic principles, among which is the free exercise of journalistic activity, could be detected. Reporters were beaten in the streets, a camera operator was killed and live broadcast vehicles were burned (Rossi & Bedinelli, 2014). This context was mirrored by the political polarization during the 2014 presidential elections, at which Dilma Rousseff, from the Workers’ Party (Partido dos Trabalhadores, PT), was reelected. However, a climate of instability in the relationship between the Executive and the Legislative branches had solidified, added to a context of economic crisis and street protests against the president, which had wide media coverage, and in an environment mostly unfavorable to PT governments (van Dijk, 2017).

This turmoil worsened in 2016, following a controversial impeachment process – or coup, resulting in Rousseff stepping down from office. Amid these events, the so-called “Operação Lava Jato” (Operation Carwash) went underway, a comprehensive investigation to fight corruption primarily targeting the business and political establishment, and which received extensive positive media coverage (Baptista, 2018; Cioccari, 2015; Venceslau, 2014; Feres Júnior & Sassara, 2016).

Among the political leaders detained following Judge Sérgio Moro’s decision was former President Luiz Inácio Lula da Silva, who, as a result, was unable to run for the 2018 presidential elections. Then Federal Congressman Jair Bolsonaro, from the Social Liberal Party (PSL), won this contest by means of a discourse with an authoritarian bias, being the press one of his favorite targets for attacks and slurs.

Two other precedents stand out, both related to the same topic: production and dissemination of fake news and hate speech. The first, within the scope of the Judiciary, regarding Inquiry No. 4781, better known as *Inquérito das Fake News* (Inquiry on Fake News), started on March 14, 2019 on the initiative of then-Chief Justice of the Federal Supreme Court (Supremo Tribunal Federal, STF [Judiciary]), Dias Toffoli, to investigate into crimes against members of the Court. The second, in the Legislative, deals with the creation of a Joint Parliamentary Inquiry Commission (Comissão Parlamentar Mista de Inquérito, CPMI), on September 4, 2019, with the objective of investigating, among other matters, allegations of illegal use of digital social media during the 2018 elections in favor of then-candidate Jair Bolsonaro.

In both cases, groups directly or indirectly linked to the President of the Republic began to be investigated – some individuals arrested – on charges of feeding a network of dissemination of disinformation and hate speech, possibly aiming at catalyzing the breakdown of normal democratic institutional activity. The already contentious relationship between the

president and the media intensified, during the arising coronavirus pandemic, resulting from the positions on both sides.

## Results Analysis

This results analysis is based on the reporting of data regarding four realms and eight sub-realms. Realm A on Informed Citizens Free to Express Themselves, subdivided into Information Flow and Free Speech; Realm B concerning the Exercise of Journalism; Realm C regarding Violence and Impunity based on data on protection, persecution, impunity, and violence on record; finally, Realm D covering Control over the Media, through the sub realms of Direct and Indirect Control.

This report also includes data regarding the unfavorable influence exerted by the institutional environments (Executive, Legislative and Judicial) on each of these realms, which poses a threat to freedom of expression. On a scale of influence levels, we have: mild influence, from 0.1 to 2.5 points; moderate influence, from 2.51 to 5; strong influence, from 5.01 to 7.5; and, finally, very strong influence, from 7.51 to 10.

In Realm A, Brazil achieved an index of 5 points, from a maximum possible of 23; in Realm B, 5.14 from a maximum possible of 10; in Realm C, 9.46 from a maximum possible of 42; and in Realm D, 12, from a maximum possible of 25. As for the influence of the institutional environment, the Executive branch prevails, with a strong level of overall influence, being very strong specifically in Realm B, while the Judicial and Legislative branches totaled 4.46 and 4.73, respectively. These data are detailed in the sections below.

## Environments: The Executive stands out

The Executive stands out among the institutional environments in terms of the extent of unfavorable influence on freedom of expression. On a scale from 0 (very mild) to 10 (very strong), it obtained 6.13 points as an overall index, qualifying as strong influence, a lower figure against the 2019-2020 report, when it totaled 8.39. As in the previous report, the most significant impact was found in Realm B (Exercise of Journalism): 8.0; that is, very strong influence. Then, there is Realm C (Violence and Impunity), at 7.29, a strong influence; Realm D (Control over the Media), 5.0, a moderate influence; and, finally, Realm A (Informed Citizens Free to Express Themselves), at 4.21, a moderate influence.

The result for Realm B is not surprising. President Jair Bolsonaro already had a history of hostile attitude towards journalists and news media throughout his activity as a legislative representative (Mesquita, 2017). This behavior continued even after his inauguration as president of the Republic; there is the case of an official event in São Paulo on July 25, during which he shouted at a CNN reporter and called her an idiot when she asked him about allegations of delay in the procurement of COVID-19 vaccines (Albuquerque and Valença, 2021).

A week earlier, the president had called members of the press “scoundrels” when a reporter inquired him on not wearing face covering (“Bolsonaro ataca repórter...”, 2021).

Bullying journalists for their work is not limited to the president himself. It is also a practice of his supporters, as happened on February 27, 2021, in the city of Rio Branco, capital of Acre State, at the north of Brazil. Reporter João Renato Jácome, who worked as a freelancer for the newspaper *O Estado de S. Paulo* during the presidential visit, asked a question at a press conference regarding a decision by the STF that broke the bank secrecy of one of Bolsonaro’s children (Senator Flávio Bolsonaro), being investigated on corruption charges. The question infuriated the president and the reporter, who was also a city government official, was fired after the episode (“Jornalista é demitido...”, 2021).

The Legislative environment exerts a moderate unfavorable influence on freedom of expression, with an index of 4.73, twice as much as that on record in the 2019-2020 report, when this environment had a slight influence, 2.46 at that time. Realm B (Exercise of Journalism) stands out, with an index at 6 points, qualifying as having a strong influence, while in the other realms there is moderate influence: Realm A (Informed Citizens Free to Express Themselves) with 4.79; Realm C (Violence and Impunity), at 4.76; and Realm D (Control over the Media), at 3.36.

It should be noted that the leadership of Brazil’s Federal Legislature underwent major changes in early 2021. On February 1, Senator Rodrigo Pacheco, from the Democratic Party (DEM-MG [Minas Gerais]), was elected president of the Federal Senate and Congressman Arthur Lira, from the Progressive Party (PP-AL [Alagoas]), was elected Speaker of the House. His run for the post was supported by President Jair Bolsonaro, so his victory was read by the media as a victory of the Federal Executive (Schreiber, 2021a; Shalders, 2021; Weterman, Sabino & Moura, 2021). This alignment between the Legislative and the Executive may have impacted the increase in the extent of unfavorable influence on freedom of expression from Legislative environment.

Early in his term, Lira decided to change the location of the press room for journalists covering the activities of the House of Representatives, so that reporters would no longer access the House floor directly. This measure was widely reported and viewed as retaliation for media coverage critical of the government (Calgaro & Clavery, 2021). This measure was questioned by opposition congresspersons as an example of an attack on the exercise of journalistic activity and, consequently, on the freedom of the press (“Parlamentares questionam Lira...”, 2021). The reaction led the Speaker of the House to reverse his decision (“Arthur Lira recua...”, 2021).

At the same time, it is possible to identify a defense of the work of the press on the part of the Head of the Senate. Pacheco even publicly criticized President Jair Bolsonaro when he attacked the journalistic coverage regarding the COVID-19 pandemic. The senator even stat-



ed that “the press should be respected and free to fulfill its duty to inform, even in dissent” (“Senadores lamentam ataques...”, 2021).

The relationship between the President of the Republic and the Federal Senate does not seem as harmonious as that between the President and the Federal House. Media coverage in the federal capital has reported clashes between Pacheco and Bolsonaro (Bonin, 2021), which ultimately provides some balance to the relationship between the Executive and Legislative branches. It should be noted that the standoff between President Bolsonaro and the Senate has intensified since the installation of the Parliamentary Investigation Commission (Comissão Parlamentar de Inquérito, CPI) on April 27, 2021, aimed at investigating corruption in the handling of the COVID-19 pandemic in Brazil (Vasconcelos, 2021).

As for the Judicial environment, the lowest rate compared to the other branches of government is noticed: 4.46, also much higher against that in the 2019-2020 report, which achieved 2.86 at that time. Again, Realm B (Exercise of Journalism) stands out as the most unfavorable index, at 5.86 points, a strong influence; followed by Realm C (Violence and Impunity), at 4.48, a moderate influence; Realm D (Control over the Media), at 3.93, a moderate influence; and, finally, Realm A (Informed Citizens Free to Express Themselves), at 3.57, a moderate influence.

In the context of Brazil’s conflict among the branches of government, there is an intense confrontation between President Bolsonaro and members of the STF. This is evident in divergent positions on various issues, including those related to the work of the press. For example, the Brazilian Press Association (Associação Brasileira de Imprensa, ABI) filed a lawsuit with the STF against Bolsonaro accusing him of threatening the freedom of the press, journalists and encouraging censorship. The STF requested clarifications from the president (“STF dá prazo...”, 2021).

Another central issue in the defense of freedom of expression and the press found by the STF is that understood as the “right to be forgotten”. The Brazilian Supreme Court considered that banning the disclosure of old-time facts would put the right to information at risk, existing the possibility of censorship (“STF vê risco...”, 2021). Finally, it is worth mentioning Inquiry No. 4781, better known as the Inquiry on Fake News, started with the objective of investigating the existence of deceitful news (fake news), slanderous allegations, and threats against the Court, its justices and their family members (“Plenário conclui julgamento...”, 2021).

This investigation and its aftermath led to the arrest of Bolsonaro’s allies, which further fueled the animosity between the Executive and the Judiciary (“Entenda o que são...”, 2021). The president’s supporters, on the other hand, argue the opposite: With these actions, the STF would pose a threat to freedom of expression (Schreiber, 2021b).

## REALM A: Commitment to Information Flow and Free Speech

The index for Realm A (Informed Citizens Free to Express Themselves) addresses government actions or omissions of the State regarding the citizens' right to be informed and to express themselves freely and is formed by two sub-realms: Information Flow and Free Speech. On a scale ranging from 0 to 23 points, Brazil achieved 5.0, an even worse figure compared to that obtained in the 2019-2020 report, namely 6.2.

This drop reflects, primarily, the degradation of one of the sub-realms that make up Realm A: Information Flow. In this regard, Brazil scored 1.86 points out of a possible 11. In the previous report, this figure was 3.6. Here we may underscore actions of the Executive regarding the control of information unflattering to the government (Freire, 2021) and direct interference of Brazil's public TV system, as it was accused of censorship by Empresa Brasil de Comunicação (EBC) staff ("Funcionários da EBC relatam...", 2020).

On the other hand, in the Sub Realm of Free Speech, there is an increase from 2.6 points last year to 3.14 in 2020-2021. It is also worth noting the initiative of the Executive to restrict the removal of posts and profiles from social media, based on the defense of freedom of expression. However, this proposal is rather viewed as aimed to protect the possibility of spreading disinformation and hate speech (Vargas, 2021).

Uruguay, holding the top position the Index, scored 21 points out of a possible 23 in this realm. At the bottom of the list in this regard, holding the 22<sup>nd</sup> position, is Cuba, at 0, out-ranked by Venezuela, at 1.57, and Nicaragua, at 2.71. Ahead of these countries is Brazil, with 5.0, immediately behind El Salvador, with 6.57, and Guatemala, with 11. This comparative outlook shows to what extent Brazil is far from a more favorable reality, being at the same time close to countries with starkly authoritarian realities.

## REALM B: source confidentiality guaranteed

Realm B (Exercise of Journalism) refers to regulation or other actions affecting the independence, plurality, and protection of information sources. On a scale of 0 to 10 points, Brazil obtained 5.14, a lower number compared to that in the 2019-2020 report, which was 6.6. The top-ranking country in this realm is Uruguay, at 9.43, while the last, in the 22<sup>nd</sup> position, is Cuba, at 0.57. Brazil, at 5.14, is in the 19<sup>th</sup> position, ahead of Cuba, but not so far from Venezuela, with 3.43, in the 21<sup>st</sup> place, and very close to Nicaragua, in ranked 20<sup>th</sup>, at 4.86.

This realm includes the requirement of a degree to practice journalism. In this regard, an episode occurred in Santa Catarina State stands out, where the High Labor Court (Tribunal Superior do Trabalho, TST) reaffirmed the exemption of a university degree to work as a journalist. Case No. 1787-41.2016.5.12.0003 highlighted that "there is established jurisprudence in the TST, agreeing with the understanding of the Federal Supreme Court (STF), that the

obligation to be trained in Journalism for the exercise of such profession is unconstitutional” (“Enquadramento profissional como...”, 2021).

Also noteworthy is the debate on source confidentiality. Regarding this issue, in February 2021, the STF dropped a lawsuit filed in 2011 whereby the Federal Attorney General’s Office demanded that a reporter disclose the source behind information leaked from a Federal Police investigation into corruption in São José do Rio Preto Municipality, deep in São Paulo State (“Supremo encerra processo...”, 2021). The reporter refused to reveal. By closing this case, the STF guaranteed the journalistic source confidentiality provided for in the Brazilian Constitution.

## **REALM C: Journalism under attack**

Realm C (Violence and Impunity) addresses actions or omissions from the Government regarding the protection of journalists, the prevention of attacks and aggressions against journalists and the media, as well as initiatives to fight impunity of crimes against journalists and media companies. On a scale of 0 to 42 points, Brazil obtained 9.46, a higher figure than in the 2019-2020 report, when it achieved 6.0. It is therefore ahead of Nicaragua, with 8.69, Cuba, at 7.68, and Venezuela, with 0.71.

There are recurrent episodes of offenses against the press committed by the president of the Republic as well as by his sons and cabinet ministers, with women journalists being the targets of choice (Xavier, 2021). During the COVID-19 pandemic, these crimes intensified, as the press adhered to a scientifically informed stance in the vaccination campaign (“Con-sórcio de veículos...”, 2021), while the president consolidated his image as a vaccine denialist, the objective of a CPI investigation (Amado & Barretto, 2021).

As for the sub-realms that make up this realm, Impunity stands out negatively, with 0.4 on a scale ranging from 0 to 8.5 points. In this sense, there are some noteworthy legislative initiatives, such as the proposal (Draft Bill 2874/2020) by Senator Weverton (PDT [Partido Democrático Trabalhista]-MA [Maranhão]), increasing the penalty for crimes committed against journalists, and Senator Paulo Paim (PT-RS [Rio Grande do Sul]) (Draft Bill 205/2015), advocating that media companies obtain life insurance for news professionals (“No dia do Jornalista...”, 2021). There is also a draft bill by Senator Fabiano Contarato (Rede [Rede Sustentabilidade]-ES [Espírito Santo]), which proposes to make a crime of hostile acts against media professionals in the exercise of their duties (“Projeto torna crime...”, 2021).

## **REALM D: Censorship and selective advertising**

Realm D (Control over the Media) encompasses issues relating to actions or omissions involving government control over the media, based on two sub-realms: Direct and Indirect Control.



Overall, Brazil obtained an index of 12 points on a scale of 0 to 25, a figure lower than that on record in the 2019-2020 report, when it reached 18.4. The current report's index is 8.57 for Direct Control, on a scale of 0 to 19; and 3.43 for Indirect Control, on a scale of 0 to 6. Holding the 19<sup>th</sup> position in this realm, Brazil is again ahead of Venezuela, with 0, Cuba, at 2.86, and Nicaragua, with 2.

Two facts help illustrate this outlook, both regarding the Executive environment. We can notice direct government control over the management of EBC, as its proposal for a public communication system is being gradually transformed into a project of coverage of the Government, with a positive bias towards it (Mendes & Melo, 2021). There are also complaints of censorship and harassment made by EBC staff ("Repórteres Sem Fronteira denúncia...", 2020). Indirect control, in turn, can be noticed in the form of selective allocation of government advertising funds on a political basis, in disregard of technical criteria (Lucas, 2021).

## CONCLUSIONS

The information regarding Brazil collected in this report depicts a frail outlook regarding free speech. The comparison between the 2019-2020 report and the current one shows that the scenario has worsened. This environment discouraging an informed citizenry, the exercise of journalism, media independence, the fight against violence and impunity against news professionals and media companies is not, however, precisely new. It is connected to a process of frail institutions and basic democratic principles.

This process, albeit historical, intensified as of 2018 with the election of President Jair Bolsonaro and, consequently, with the worsening of institutional conflicts directly or indirectly linked to the exercise of freedom of expression and the press. Journalists and the media, with rare exceptions, were named by the head executive officer and his supporters as the adversaries to be confronted. Episodes of attacks on journalists and media companies have become recurrent, as well as the implementation of a selective policy of allocation of advertising funds and brazen control of public media outlets as if they were the administration's property.

Groups linked to the federal government claim the right to freedom of expression and seek to position themselves as its defenders. However, they have become the object of investigation on charges of encouraging the disruption of the democratic order by promoting anti-democratic actions and disseminating hate speech. Under this scenario, the COVID-19 pandemic became one more trench: on the one hand, health authorities, the media, the STF, a significant section of the National Congress and state governors; on the other hand, the federal government.

In a pandemic context, the press has fulfilled its role of fighting disinformation and providing services of public interest, despite the hostile stance of the president and his allies. It is not by chance that this report highlights figures of unfavorable influence of the Executive

environment on free speech, prominently regarding Realm A (Informed Citizens Free to Express Themselves) and Realm C (Violence and Impunity). It is no coincidence that Brazil is among the countries with the lowest scores – in 19<sup>th</sup> place – only ahead, in the overall index, of Nicaragua, Cuba, and Venezuela, and far behind the first place, Uruguay.

The outlook highlighted by this document was already anticipated in the 2019-2020 report, to the extent that Brazil maintained its position among the countries reviewed. What is proven, however, is what we would expect: In a context of crisis, intensified by the COVID-19 pandemic, the process of degradation of guarantees to freedom of expression has deepened.

## REFERENCES

- Albuquerque, R., & Valença, L. (2021, June 25). Bolsonaro grita com repórter durante evento em Sorocaba. *UOL*. Retrieved September 21, 2021, from <https://noticias.uol.com.br/politica/ultimas-noticias/2021/06/25/bolsonaro-discute-com-reporter-durante-evento-em-sorocaba.htm>
- Amado, G., & Barretto, E. (2021, May 24). Presidente da CPI diz já ter prova de dolo de Bolsonaro contra vacina. *Metrópoles*. <https://www.metropoles.com/colunas/guilherme-amado/presidente-da-cpi-considera-que-investigacoes-ja-indicam>
- Baptista, E. A. (2018). Corrupção política e avaliação de governo: O caso da Lava Jato. *Aurora. Revista de Arte, Mídia e Política*, 11(32), 128–148.
- Bedinelli, M., & Rossi, T. (2014, February 10). Morre cinegrafista atingido por um rojão em manifestação no Rio. *El País*. [https://brasil.elpais.com/brasil/2014/02/10/politica/1392046355\\_124283.html](https://brasil.elpais.com/brasil/2014/02/10/politica/1392046355_124283.html)
- Bolsonaro ataca repórter da CNN e grita: “Para de fazer pergunta idiota”. (2021, June 25). *Catraca Livre*. <https://catracalivre.com.br/cidadania/bolsonaro-grita-com-reporter-da-cnn-apos-atacar-jornalista-da-globo/>
- Bonin, R. (2021, April 8). O primeiro grande choque entre Pacheco e Bolsonaro no Senado – Radar. *Veja*. Retrieved September 22, 2021, from <https://veja.abril.com.br/blog/radar/o-primeiro-grande-choque-entra-pacheco-e-bolsonaro-no-senado/>
- Bucci, E. (2016). *A forma bruta dos protestos* (1<sup>st</sup> Ed.). Companhia das Letras.
- Calgaro, F., & Clavery, E. (2021, February 11). Lira determina retirada nesta sexta-feira de jornalistas do comitê de imprensa da Câmara. *G1*. Retrieved September 22, 2021, from <https://g1.globo.com/politica/noticia/2021/02/11/lira-determina-retirada-nesta-sexta-de-jornalistas-do-comite-de-imprensa-da-camara.ghtml>
- Cioccarelli, D. (2015). Operação Lava Jato: Escândalo, agendamento e enquadramento. *Revista Alterjor*, 12(2), 58–78.

- Consórcio de veículos de imprensa lança 3ª fase da campanha da vacina contra a Covid-19. (2021, April 18). *Folha de S. Paulo*. <https://www1.folha.uol.com.br/equilibrioesaude/2021/04/consorcio-de-veiculos-de-imprensa-lanca-3a-fase-da-campanha-da-vacina-contr-a-covid-19.shtml>
- Conteúdo, E. (2021, February 12). Arthur Lira recua de alocar imprensa no subsolo do Congresso. *CartaCapital*. <https://www.cartacapital.com.br/politica/arthur-lira-recua-de-alocar-imprensa-no-subsolo-do-congresso/>
- Dijk, T. A. van (2017). How Globo media manipulated the impeachment of Brazilian President Dilma Rousseff. *Discourse & Communication*, 11(2), 199–229. <https://doi.org/10.1177/1750481317691838>
- Enquadramento profissional como jornalista em rádio catarinense não depende de diploma. (2021, April 6). *Tribunal Superior do Trabalho*. Retrieved September 22, 2021, from <https://www.tst.jus.br/web/guest/-/enquadramento-profissional-como-jornalista-em-r%C3%A1dio-catarinense-n%C3%A3o-depender-de-diploma>
- Entenda o que são e como estão os inquéritos no STF que envolvem Bolsonaro e aliados como Daniel Silveira. (2021, February 17). *Folha de S. Paulo*. <https://www1.folha.uol.com.br/poder/2021/02/entenda-o-que-sao-e-como-estao-os-inqueritos-no-stf-que-envolvem-bolsonaro-e-aliados-como-daniel-silveira.shtml>
- Feres Júnior, J., & Sassara, L. D. O. (2016). Corrupção, escândalos e a cobertura midiática da política. *Novos estudos CEBRAP*, 35(2), 205–225. <https://doi.org/10.25091/s0101-3300201600020011>
- Freire, D. (2021, May 31). Trade jornalístico ignora as críticas sobre a cobertura das manifestações anti-Bolsonaro. *Portal Imprensa - Notícias, Jornalismo, Comunicação*. Retrieved September 22, 2021, from [https://portalimprensa.com.br:443/noticias/ultimas\\_noticias/84408/trade+jornalistico+ignora+as+criticas+sobre+a+cobertura+das+manifestacoes+anti+bolsonaro](https://portalimprensa.com.br:443/noticias/ultimas_noticias/84408/trade+jornalistico+ignora+as+criticas+sobre+a+cobertura+das+manifestacoes+anti+bolsonaro)
- Funcionários da EBC relatam que Bolsonaro usa mídia para fins políticos. (2020, September 21). *Poder360*. <https://www.poder360.com.br/midia/funcionarios-da-ebc-relatam-que-bolsonaro-usa-midia-para-fins-politicos/>
- Harvey, D., Maricato, E., Davis, M., Braga, R., Žižek, S., Iasi, M. L., Brito, F., ... & Viana, S. (2015). *Cidades rebeldes: Passe livre e as manifestações que tomaram as ruas do Brasil*. Boitempo Editorial.
- Jornalista é demitido depois de questionar Bolsonaro sobre decisão do STJ no inquérito das “rachadinhas”. (2021, February 27). *Globo.com*. Retrieved September 21, 2021, from <https://g1.globo.com/jornal-nacional/noticia/2021/02/27/jornalista-e-demitido-apos-pergunta-sobre-caso-das-rachadinhas-ao-presidente-jair-bolsonaro.ghtml>



- Lucas, N. (2021, February 2). Secom de Bolsonaro ignora Ibope e prioriza SBT e Record em verbas. *NaTelinha*. Retrieved September 22, 2021, from <https://natelinha.uol.com.br/televisao/2021/02/02/secom-de-bolsonaro-ignora-ibope-e-prioriza-sbt-e-record-em-verbas-157977.php>
- Mendes, L., & Melo, G. (2021, June 18). EBC confirma telejornal de notícias positivas e nega ter sofrido pressão do governo. *Poder360*. <https://www.poder360.com.br/midia/ebc-confirma-telejornal-de-noticias-positivas-e-nega-pressao-do-governo/>
- Mesquita, P. (2017, May 26). Repórter chamada de “idiota” por Bolsonaro em 2014 desistiu de processo: “não tive respaldo”. *UOL*. Retrieved September 21, 2021, from <https://noticias.uol.com.br/politica/ultimas-noticias/2017/05/26/reporter-que-discutiu-com-bolsonaro-em-2014-desistiu-de-processo-nao-tive-respaldo.htm>
- No Dia do Jornalista, senadores denunciam agressões e riscos com pandemia. (2021, April 7). *Senado Federal*. Retrieved September 22, 2021, from <https://www12.senado.leg.br/noticias/materias/2021/04/07/no-dia-do-jornalista-senadores-denunciam-agressoes-e-riscos-com-pandemia>
- Parlamentares questionam Lira sobre mudança de Comitê de Imprensa na Câmara. (2021, February 9). *Correio Braziliense*. <https://www.correiobraziliense.com.br/politica/2021/02/4905653-parlamentares-questionam-lira-sobre-mudanca-de-comite-de-imprensa-na-camara.html>
- Plenário conclui julgamento sobre validade do inquérito sobre fake news e ataques ao STF. (2020, June 18). *Supremo Tribunal Federal*. Retrieved September 22, 2021, from <http://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=445860&ori=>
- Pompeu, L. (2021, February 1). Com apoio de Bolsonaro, Lira é eleito presidente da Câmara. *Congresso em Foco*. <https://congressoemfoco.uol.com.br/legislativo/com-apoio-de-bolsonaro-lira-e-eleito-presidente-da-camara/>
- Projeto torna crime agressão a profissional de imprensa. (2020, September 16). *Senado Federal*. Retrieved September 22, 2021, from <https://www12.senado.leg.br/noticias/materias/2020/09/16/projeto-torna-crime-agressao-a-profissional-de-imprensa>
- Repórteres sem Fronteiras denuncia censura indireta no Brasil. (2020, October 20). *DW*. Retrieved September 22, 2021, from <https://www.dw.com/pt-br/rep%C3%B3rteres-sem-fronteiras-denuncia-censura-indireta-no-brasil/a-55334488>
- Resende, R. (2021, April 6). Projetos aumentam proteção aos jornalistas no exercício da profissão. *Senado Federal*. Retrieved September 22, 2021, from <https://www12.senado.leg.br/radio/1/noticia/2021/04/06/projetos-aumentam-protecao-aos-jornalistas-no-exercicio-da-profissao>

Schreiber, M. (2021, February 1). Arthur Lira eleito presidente da Câmara: Como líder do Centro se tornou aliado fundamental de Bolsonaro. *BBC News Brasil*. Retrieved September 22, 2021, from <https://www.bbc.com/portuguese/brasil-55897146>

\_\_\_\_\_ (2021, February 18). Prisão de Daniel Silveira decretada por STF é abusiva? *BBC News Brasil*. Retrieved September 22, 2021, from <https://www.bbc.com/portuguese/brasil-56105141>

Senadores lamentam ataques de Bolsonaro a trabalho da imprensa. (2021, June 21). *Senado Federal*. Retrieved September 22, 2021, from <https://www12.senado.leg.br/noticias/materias/2021/06/21/senadores-lamentam-ataques-de-bolsonaro-a-trabalho-da-imprensa>

Shalders, A. (2021, February 1). Como a interferência de Bolsonaro mudou o rumo da eleição para presidente da Câmara. *BBC News Brasil*. Retrieved September 22, 2021, from <https://www.bbc.com/portuguese/brasil-55885475>

STF autoriza investigação contra Bolsonaro no inquérito das fake news—O que acontece agora. (2021, August 4). *BBC News Brasil*. Retrieved September 22, 2021, from <https://www.bbc.com/portuguese/brasil-58095228>

STF dá prazo para Bolsonaro explicar ameaças à imprensa. (2021, April 19). *R7.com*. <http://noticias.r7.com/brasil/stf-da-prazo-para-bolsonaro-explicar-ameacas-a-imprensa-19042021>

STF vê risco de censura no “direito ao esquecimento” e julgamento avança. (2021, February 11). *Exame*. <https://exame.com/brasil/stf-ve-risco-de-censura-no-direito-ao-esquecimento-e-julgamento-avanca/>

Supremo encerra processo contra repórter e reafirma proteção constitucional a sigilo da fonte jornalística. (2021, February 13). *Folha de S. Paulo*. <https://www1.folha.uol.com.br/poder/2021/02/supremo-encerra-processo-contrareporter-e-reafirma-protecao-constitucional-a-sigilo-da-fonte-jornalistica.shtml>

Vargas, M. (2021, May 20). Bolsonaro prepara decreto, considerado ilegal, para limitar retirada de posts e perfis das redes sociais. *Folha de S. Paulo*. <https://www1.folha.uol.com.br/poder/2021/05/governo-prepara-decreto-para-limitar-retirada-de-posts-e-perfis-das-redes-sociais.shtml>

Vasconcellos, J. (2021, April 14). CPI da Covid é instalada; veja quais são os integrantes. *Correio Braziliense*. <https://www.correiobraziliense.com.br/politica/2021/04/4918118-cpi-da-covid-e-instalada-veja-quais-sao-os-integrantes.html>

Venceslau, P. (2015, July 19). Antipetismo se aproxima do ‘cinturão vermelho’. *Estadão*. Retrieved August 12, 2020, from <https://politica.estadao.com.br/noticias/geral,antipetismo-se-aproxima-do-cinturao-vermelho,1727885>



Weterman, D., Sabino, M., & Moraes, R. (2021, February 1). Com apoio de Bolsonaro e do PT, Rodrigo Pacheco é eleito presidente do Senado. *Estadão*. Retrieved September 22, 2021, from <https://politica.estadao.com.br/blogs/fausto-macedo/com-apoio-de-bolsonaro-e-do-pt-rodrigo-pacheco-e-eleito-presidente-do-senado/>

Xavier, G. (2021, July 28). Ataques de Bolsonaro à imprensa aumentam 74% em 2021. *CartaCapital*. <https://www.cartacapital.com.br/politica/ataques-de-bolsonaro-a-imprensa-aumentam-74-em-2021/>

## BRAZIL

PERIOD SURVEYED.  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	The practice of critical journalism continues despite the context of constant threats to democratic principles: A consortium formed by large media companies strengthened this position in defense of freedom of expression and the press. Amid the pandemic, countering science denial movements, the media has stood up for life.
<b>WEAKNESSES</b>	Brazil's history of democratic frailty, which is reflected in the president's authoritarian discourse and behavior: The press is one of his favorite targets for attacks and slurs, in a context of conflict between the branches of government. The confrontational stance of the Executive against news media, journalists, the Judiciary, and the Legislative has intensified amid COVID-19.
<b>OPPORTUNITIES</b>	Recurrent episodes of threats to freedom of expression and freedom of the press encouraged cohesiveness among a major section of the media in defense of democratic principles and science-based knowledge. The pandemic environment reinforced media identity, its social role in service of public interest, and its relevance in a democracy. This represents an opportunity for the media to reinforce their image of credibility in the eyes of society.
<b>THREATS</b>	The systematic action of organized groups to disseminate disinformation, control information flows, and fuel the subversion of the democratic order; the suspicion, under investigation, of the relationship between groups of this type and the Executive: It is under this scenario that threats by the Executive and episodes of aggression against journalists by Bolsonaro and his allies should be viewed.

## 2.3.3 OVERVIEW

### Brazil

For the second consecutive year in the Chapultepec Index, **Brazil** remains in the group of countries exerting high restriction to freedom of expression and the press. For its two editions, 2019-2020 and 2020-2021, this nation achieved scores under 40 points, well below the average of the 22 nations reviewed, which showed an upward trend, from 50.84 to 55.61, on a scale from zero to 100. In the first survey, Brazil obtained an overall index of 37.2 points; in the second, 31.60 points. The Executive, headed by President Jair Bolsonaro, is sometimes at odds with court decisions regarding situations related to freedom of expression and the press.

In Realm A, Informed Citizens Free to Express Themselves, the existing low score of 6.3 during the first iteration, dropped to 5 points out of a theoretical maximum of 23. Measures to restrict some issues unflattering to the government on broadcast media and whistleblowing from staff of state-owned TV outlets regarding censorship provide a backdrop of impoverished information flow.

In Realm B, Exercise of journalism, Brazil scored 5.14 out of 10 points in the last iteration, a lower figure compared to the 2019-2020 report, which was 6.6. Jair Bolsonaro has been known for his bellicose attitude towards journalism. As a positive contrast, an incident in the State of Santa Catarina in 2021 rose to prominence. There, the High Labor Court reaffirmed that a university degree is not a prerequisite to exercise journalistic duties. Additionally, a ruling issued in February 2021 guaranteed source secrecy in journalism as provided for in the Brazilian Constitution.

In Realm C, Violence and Impunity, Brazil scored 6 points out of a theoretical maximum of 42 for the first edition, rising slightly to 9.42 for the second survey. The first edition was influenced by two murders, 28 instances of threats and intimidation, and 15 physical assaults occurred. In contrast during the second period, there were initiatives from the legislative sphere to fight impunity for crimes against journalists and media companies.

In Realm D, Control over the Media, during the second edition of the Chapultepec Index, Brazil obtained a score of 12 on a scale of 0 to 25, a lower figure than that on record for the 2019-2020 study, when it reached 18.4. The current report's figure is 8.57 for direct control, on a scale of zero to 19; and 3.43 for indirect control, on a scale of 0 to 6. The context includes such cases as the one involving a public communications system project by Empresa Brasil de Comunicação (EBC) with a positive bias towards the government, as well as discretionarily



in the allocation of government advertising funds on political grounds, irrespective of technical criteria.

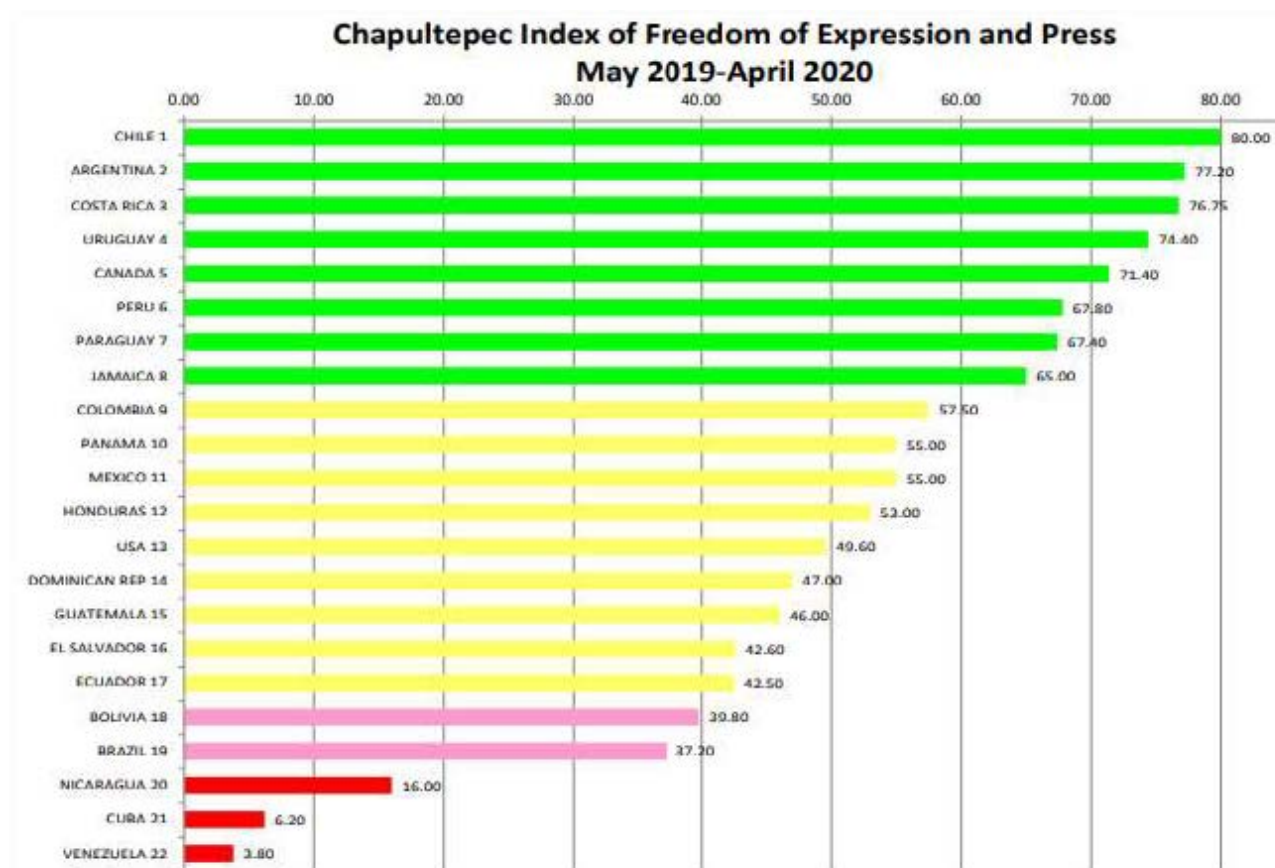
The environment that was considered to have the greatest influence on situations unfavorable to freedom of expression and the press in both editions was the Executive, which continues to have a strong impact in this regard, although to a lesser degree in this last edition. Therefore, it went from a very strong to merely strong influence. The other two environments varied from a slight to a moderate influence.



## 2.4. CANADA

### 2.4.1 CANADA 2019-2020

CANADA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>71.4</b>
REALM A: "Citizens informed and free to express themselves"	23	16.2
Flow of information	11	7.0
Free Expression	12	9.2
REALM B: Exercise of Journalism	10	7.4
REALM C: Violence and Impunity	42	24.2
Protection	10	5.6
Persecution	15	15.0
Impunity	17	3.6
REALM D: Control over the media	25	23.6
Direct control	16	15.2
Indirect control	9	8.4



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very Influential)

(Value "0" for cases where there is no unfavorable influence)

CANADA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	4.04	4.01	4.11
REALM A: "Citizens informed and free to express themselves"	6.06	5.56	5.38
Flow of information	5.88	5.63	6.00
Free Expression	6.25	5.50	4.75
REALM B: Exercise of Journalism	3.28	4.00	4.22
REALM C: Violence and Impunity	3.00	3.00	3.00
Protection	9.00	9.00	9.00
Persecution	0.00	0.00	0.00
Impunity	0.00	0.00	0.00
REALM D: Control over the media	4.50	4.50	5.00
Direct control	7.00	7.00	7.00
Indirect control	2.00	2.00	3.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

## Canada: when the fight for freedom of expression is not enough to defend the freedom of the press

### Executive summary

The distinction between freedom of expression and freedom of the press is becoming increasingly relevant in a context such as that of Canada. While there is a consolidated democracy and functioning checks and balances, new challenges to journalism arise in a world where digital platforms gain greater economic power and influence on the public, mainstream media are declining and have less impact, and historically marginalized groups, such as native peoples, defend their territorial, political, and cultural interests.

## INTRODUCTION

Upon reviewing the status of freedom of expression and the press, we must bear in mind that the political and administrative organization of Canada is different from that of Latin American countries. The first thing to factor in is that the body that has the most impact on the electronic media and telecommunications industry is the Canadian Radio-television and Telecommunications Commission (CRTC), which acts as an administrative court independently from the other branches of government. Although it is part of the government of Canada, since its decisions have a federal scope, its actions are not influenced by any other administrative authority.

The legislative branch (parliament) is the body that approves the federal budget, which mainly affects the funding of the two major public broadcasting conglomerates: Canadian Broadcasting Corporation (CBC) and Radio-Canada. By means of budget allocation, the government (i.e., who controls the parliamentary majority or can achieve a majority vote in what is known as a minority government) has some leverage over the policies of these public media conglomerates; but their respective programming and editorial policies are independent from who holds the Executive.

The Judiciary in Canada also has an impact on the issue of freedom of expression, especially in cases of defamation or instigation to hate and, on certain occasions, regarding access to or protection of sources of information. These matters are heard both in federal and provincial courts, which further complicates discerning their role in issues relating to freedom of expression and the press.

The Canadian constitutional framework and the influence of federal and provincial authorities on these issues should also be taken into consideration. Each province has its own parliament and passes laws that potentially have an impact on issues of freedom of expression and freedom of the press. For example, there has recently been a debate taking place in Quebec about a law that seeks to ban public officials from wearing religious symbols.

From a constitutional point of view, freedom of expression is enshrined in the Canadian Charter of Rights and Freedoms. However, it is a right that is subject to restrictions as provided for by the law within the framework of a free and democratic society, especially as it relates to the prevention of hate propaganda, defamation, discrimination, and other matters. As it can be noted, it is not an absolute right as set forth in the U.S. Constitution.

Finally, there are entities that, albeit not governmental, have an impact on freedom of expression issues. Among them, we may include the Conseil de Presse du Québec ([Quebec Press Council] only in that province) or the Canadian Broadcast Standards Council (which gathers private radio stations), in a capacity of courts of honor (tribunaux d'honneur) as well as in hearing public complaints regarding editorial policies and conduct of journalists.

The period covered in this report is marked by the federal election held on October 21, 2019, which changed the correlation of political forces in Canada. Prime Minister Justin Trudeau (Liberal Party) was able to form a minority government, that is, without an absolute majority in parliament. Therefore, from that moment on, he needed the votes or abstention from other parties to pass laws and advance his policies, especially the New Democratic Party (NDP, center-left) and the pro-sovereignty Bloc Québécois (Quebecer Bloc).

The 2019 election campaign itself showed some important trends regarding freedom of expression and citizen participation, especially in view of the influence of social media, as we will see below.

In recent years, Canada has also witnessed fluctuations in freedom of the press rankings. As we will further review below, these fluctuations are regarding access to official information sources and court actions on issues related to the protection of the anonymity of journalists' sources, which have sometimes resulted in rulings for the protection of that right of newsmen.

In general, it can be stated that Canada is a country where freedoms of expression and the press are upheld. Some recent challenges have to do with the growing influence of social media, the economic decline of the mainstream press, the concentration of media ownership, and the funding of the public broadcasting ecosystem, as we will detail herein.

## Analysis of results

### Overall rating

Canada has an overall Free Speech Index of 71.4 out of 100, thereby placing it as a country with low restrictions on the free exchange of information and ideas. However, this does not mean that Canadian society is not facing problems that are common to other societies with consolidated democracies. As Gazendam *et al* (2020) have pointed out, “The Canadian news media is facing an existential threat that, unlike fake news or the rise of social media – or indeed the shuttering of entire publications – is flying under the radar. The conflation of freedom of expression and freedom of the press, while seemingly innocuous, is imperilling the very existence of our news media”.

The authors of the above piece emphasize that the press plays an important role that cannot be protected by the right to freedom of expression alone, especially in these times of crisis (Gazendam *et al*, 2020). They point to several landmark precedents, in which journalists’ access to the places of events has been restricted, such as during the protests against the construction of the gas pipeline passing through the territory of the Wet’suwet native people, where the Royal Canadian Mounted Police (RCMP) implemented a “media exclusion” zone.

Gazendam *et al* (2020) also cite as examples several cases filed with different (provincial and federal) courts nationwide, one in which reporters claimed the right to enter a courthouse while proceedings were in progress, as well as another matter of a journalist who filed an appeal seeking to avoid the disclosure of documents obtained from a confidential government source.

As recalled in their article, in 2018, a concurring opinion by four justices to the Supreme Court of Canada posited that it was time for freedom of the press to be recognized and protected as a right other than free speech. The justices stated that “the generous protections designed to facilitate the healthy functioning of our democracy,” provided for in the Canadian Charter of Rights and Freedoms, “are incomplete” if merely restricted to an individual realm, and that “strong, independent and responsible press ensures that the public’s opinions about its democratic choices are based on accurate and reliable information. This is not a democratic luxury—there can be no democracy without it” (as quoted by Gazendam *et al*, 2020).

Notwithstanding, the rulings in the last two cases ordered to disclose documents obtained confidentially in service of suppression of crime.

## Environments

### Executive

The executive branch in Canada is formed by the cabinet of ministers headed by the prime minister. The Executive is accountable to the federal parliament, so it requires a majority vote of its members to pass laws, implement its policies, and stay in power. The moment it loses the confidence of the parliament, that is, the defeat of a motion of confidence, leads to the dissolution of the parliament and the call for a new election.

When assessed under the Chapultepec Index, the Canadian Executive exerts a moderate influence (4.11) on freedom of expression and the press. As we mentioned in the introduction, the government that resulted from the October 2019 election is in the minority, and depends on agreements with other opposition parties so that it can implement its policies. In this regard, it is a more diminished executive branch and more subject to parliamentary control.

The previous parliament (2018-2019) increased funding for CBC and Radio-Canada public broadcasting ecosystem by 0.5% (CBC, 2019). This is in line with a recent trend by the Liberal Party government to increase public funding for the national broadcasting system, in a departure from the Conservative Party government, which cut funding for the public media system.

However, some observers of freedom of expression and the press think that “The biggest problem in Canada is a negative attitude towards being open, a lack of political will to really open up government and to embrace the benefits that that brings,” as Centre for Law and Democracy Executive Director Toby Mendel told CTV News (Bogart, 2020).

### Legislative

As mentioned above, the executive and legislative branches in a parliamentary system like that of Canada act in a fairly coordinated manner, since the survival of government depends on maintaining a parliamentary majority as is the case when there is a minority government.

The legislature also exercises checking powers over the policies of the executive through its various parliamentary committees.

The Chapultepec Index shows that the influence of the Legislative is moderate (4.04). However, this does not mean that via legislation – such as approval of funds for the public media system – or other policies – such as tax exemptions for certain media outlets – the parliament does not have some direct or indirect influence on freedom of expression or that of the press.



On the other hand, parliament passed what is called a “shield law” to protect journalists who do not wish to reveal their confidential sources in cases being litigated before the Supreme Court (Bogart, 2020). Nevertheless, as we will see below, this has not been guaranteed at other levels of the judiciary.

## Judicial

Although the influence of the judicial environment on the Chapultepec Index appears to be moderate (4.01), it is probably from this branch that the most controversy has arisen regarding the defense of freedom of expression and the press. This does not mean that the judicial branch – both federal and provincial – plays an obstructive role with respect to freedoms, but rather that it is the branch where matters affecting the work of journalists and the media are brought and settled.

The case of Radio-Canada journalist Marie-Maude Denis, who refused to reveal confidential sources in a probe into political corruption, stands out. The Supreme Court of Canada found for the journalist, and ruled that, without the protection of sources, she could not be judged fairly and equitably (Denoncourt, 2020).

Also noted is the case of the VICE magazine journalist who was ordered by the Ontario Superior Court of Justice to produce to law enforcement his private communications with a source suspected of terrorism (Bogart, 2020).

## The realms

### REALM A

The overall indicator for this realm (informed citizens free to express themselves) has a relatively high score (16.2 out of 23). The most recent survey by Ryerson University’s Social Media Lab shows that the majority of Canadian adults (94%) have an account on at least one social media platform, which has implications for public policy makers and those who want to know how Canadians connect to platforms, according to Anatolly Gruzd, one of the report’s authors (Social Media Lab, 2020).

As the authors of the report indicate (Gruzd & Mai, 2020), social media are becoming increasingly important at a time when people must keep their physical distance because of COVID-19, and the public is using digital media more. Does this mean that people are better informed? Another study showed how social media became sources of misinformation and disinformation during the 2019 election campaign, especially fake stories about Prime Minister Justin Trudeau, which provoked reactions on the mainstream media (Dubois & Owen, 2020). It is also noted that the “quality” of opinion on social media is marked by what it calls “digital toxicity” associated with negative expressions that can have damaging effects on Canadian democracy (Dubois & Owen, 2020).



The Chapultepec Index also reveals that Canada-based survey respondents believe that all three environments exert a moderate to strong influence on the public's ability to express their opinions and stay informed, with a score ranging from 5.88 to 6 with regard to information flow. Additionally, the environments also show a strong influence when it comes to the public's right to free expression: a score ranging from 6.25 in the legislative environment, stemming from its authority to enact laws and check the Executive; 5.5 in the judicial environment (the authority to go to court); and 4.75 in the executive environment – the most moderate of the three, in reason of its rather tempered influence on government once elected.

## REALM B

A relatively low restriction on the exercise of journalism is shown by the Chapultepec Index (7.4 out of 10). Respondents revealed that the influence of all three environments on this realm is moderate (from 3.28 to 4.22), which probably reflects an increasing loss of power of “old order” mainstream media, with a less valued social role of journalists. In this regard, Professor Bernier (2017) notes, with respect to the emergence of social media and citizen journalism, that “to the old media order, which is strongly organized and institutionalized, a new order, or a disorder, is added. Circumstances, as well as the personality, interests, and competence of citizens can make it an effective and democratic accountability mechanism”.

However, in University of Ottawa professor Bertrand Labasse's musings (2020), what quality of information are we talking about, when an inconsequential YouTube video gets millions of clicks, but World Bank reports are barely consulted by a couple hundred people, works by recipients of the Nobel Prize for literature are not the most translated in the world, or people prefer opinions of so-called “influencers” to information fact-checked by professional journalists.

## REALM C

This realm, which refers to violence and impunity, appears to be underrated. Its overall score is 24.2 out of 42, and the influence of the three environments on it is 3 points (moderate). Although we do not have all the elements to be able to draw a conclusion, we believe that recent events associated with prosecution involving access to information sources (see section on the judicial environment) and even restrictions by the RCMP on access to the location where news is unfolding (for example, gas pipelines or land in dispute with native communities), may have contributed to a perception of greater violence and impunity against reporters. In fact, subrealm protective (5.6 out of 10) and subrealm impunity (3.6 out of 17) have very low scores for a context such as that of Canada. It can be stated that these sub-realms may be overrated due to negative perceptions on these events. On the other hand, subrealm persecution achieved a high score (15 out of 15), which shows the mobilization of journalists and society in defense of their rights.



## REALM D

The realm regarding control over the media is well rated in a democratic country like Canada, with functioning checks and balances, and in which the rights of freedom of expression and the press are generally respected, with the exceptions or situations we have mentioned above.

The perception of Canada-based respondents is that there is virtually no direct (15.2 out of 16) or indirect (8.4 out of 9) control over the media in the country. However, when assessing the role of the government environments regarding control over the media, the three branches (Executive, Legislative, and Judiciary) are perceived to exert a strong influence for direct control, and a slight influence for indirect control. How should these indicators be interpreted? One possible view is that the executive, legislative, and judicial environments potentially have the capability to influence the media, but refrain from doing so because of the checks and balances and the rule of law prevailing in the country. It could also be argued that the fact that the Liberal government – both a majority in its first term and in its current minority nature – has increased the budgets of the public media ecosystem may be part of a relatively positive perception, especially since CBC and Radio-Canada keep editorial policies independent of the executive, judicial, or legislative branches. In contrast, indirect influence is much less likely, as the same legal guarantees and human rights limit the action of the branches of government in this regard.

## CONCLUSIONS

Although Canada has a consolidated democracy that guarantees freedom of expression, this does not always translate into the protection of that of the press, namely, the freedom of journalists to access and protect their sources, to access the location where news is unfolding, and to exercise their profession under economic and institutional guarantees, in a context of declining mainstream media and rising social media.

As in other countries, the public is taking an increasingly active role in gathering, processing, and disseminating information. Nevertheless, this is not a guarantee of fair and balanced information. Access to social media also results in the dissemination of emotionally charged opinions that sometimes spread “digital toxicity” possibly causing greater polarization, confrontation, and weakening of democratic behavior.

Recent instances of prosecution affecting the respect for the confidentiality of sources, restrictions on access to locations where news is unfolding, and the overall decline of the news media sector, to the benefit of digital platforms, represent important challenges for the defense of freedom of the press in Canada. Defending this right is fundamental to democracy and to upholding the freedom of expression of all citizens, especially historically marginalized groups such as native peoples.

## REFERENCES

- Bernier, M. (2017, January 30). Quand le 5e pouvoir surveille les médias et leurs journalistes. *Policy Options Politiques*. Retrieved 2020, August 25 from: <https://policyoptions.irpp.org/magazines/january-2017/quand-le-5e-pouvoir-surveille-les-medias-et-leurs-journalistes/>.
- Bogart, N. (2020, May 3) Lack of government openness remains a sticking point for Canadian press freedom. *CTV News*. Retrieved 2020, August 25 from: <https://www.ctvnews.ca/canada/lack-of-government-openness-remains-a-sticking-point-for-canadian-press-freedom-1.4923203>
- CBC Radio-Canada. (2019). 2018-2019 Annual Report. *CBC Radio-Canada*. Retrieved 2020, August 25 from: <https://cbc.radio-canada.ca/en/impact-and-accountability/finances/annual-reports/ar-2018-2019>
- Denoncourt, J (2020, April 21). Liberté de la presse: le Canada 16e, selon Reporters sans frontières. *La Presse*. Retrieved 2020, August 25 from: <https://www.lapresse.ca/actualites/national/2020-04-21/liberte-de-la-presse-le-canada-16e-selon-reporters-sans-frontieres>
- Dubois, E y Owen, T (2020). Understanding the Digital Ecosystem. Findings from the 2019 Federal Election. Canadá: Government of Canada, McGill University, University of Ottawa. Retrieved 2020, August 25 from: [https://b1c9862c-6924-4cfd-9cbe-6c6f0144a777.filesusr.com/ugd/38105f\\_c2beb2fbbe5f46199fbc2f636ace59ee.pdf](https://b1c9862c-6924-4cfd-9cbe-6c6f0144a777.filesusr.com/ugd/38105f_c2beb2fbbe5f46199fbc2f636ace59ee.pdf)
- Gazendam, I., Lowenstein, J., Flynn, J y Patel, S. (2020, May 30). A free press is no luxury: Time for Canada to recognize press freedom as more than free expression. *Ricochet. Public interest journalism*. Retrieved 2020, August 25 from: <https://ricochet.media/en/3154/a-free-press-is-no-luxury-time-for-canada-to-recognize-press-freedom-as-more-than-a-form-of-free-expression>
- Gruzd, A y Mai, P. (2020). The state of social media in Canada 2020. Ryerson University. Social Media Lab. Version 5. DOI: 10.5683/SP2/XIW8EW
- Labasse, B. (2020). La valeur des informations. Ressorts et contraintes du marchés des idées. Canadá: Presses de l'Université d'Ottawa.
- Social Media Lab. (2020, July 13). The State of Social Media in Canada 2020: A New Survey Report From The Ryerson Social Media Lab. *Social Media Lab*. Retrieved 2020, August 25 from: <https://socialmedialab.ca/2020/07/13/the-state-of-social-media-in-canada-2020-a-new-survey-report-from-the-ryerson-social-media-lab/>

## CANADA

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Canada boasts a consolidated democracy with checks and balances. Its society has an efficient protection of human rights in place.
<b>WEAKNESSES</b>	The country has experienced weakening of the mainstream media system, reduction of news staff and closing of newspapers. There is no differentiation between freedom of expression and freedom of the press.
<b>OPPORTUNITIES</b>	Canada could enshrine freedom of the press in legislation protecting human rights, as well as develop a more pluralistic approach to include marginalized groups, such as aboriginal populations, in media coverage. In addition, there is room for rethinking funding destined to investigative journalism.
<b>THREATS</b>	Loss of credibility of the mainstream media across sections of the population, limitations on coverage of protests and conflicts, especially in areas related to aboriginal populations, and the growing influence of social media as “sources” of information pose a threat.

## 2.4.2 CANADA 2020-2021

CANADA	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>75,81</b>
REALM A: "Citizens free to express themselves"	23,00	15,00
Information flow	11,00	5,86
Free speech	12,00	9,14
REALM B: "Exercise of journalism"	10,00	6,86
REALM C: "Violence and impunity"	42,00	31,52
Protection	5,00	2,50
Persecution	7,50	6,71
Impunity	8,50	2,14
Registered violence	21,00	20,16
REALM D: Control over the media	25,00	22,43
Direct control	19,00	16,43
Indirect control	6,00	6,00

Chapultepec Index on Freedom of Expression and the Press 2021





## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

CANADA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	1,36	1,23	1,29
REALM A: "Citizens informed and free to express themselves"	1,71	1,71	1,50
REALM B: Exercise of Journalism	2,29	2,00	2,43
REALM C: Violence and Impunity	0,43	0,33	0,43
REALM D: Control over the media	1,00	0,86	0,79

Type of Influence	Points
SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED.  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## **CANADA: Challenges to Freedom amid the Pandemic**

### **Executive Summary**

Canada maintains a relatively stable position in the Index. It is a country with a low restriction on freedom of expression; but it faced some significant challenges in the period under review, particularly regarding the COVID-19 pandemic, media coverage of protests by Aboriginal communities and activists in British Columbia, and debates regarding freedom of expression on campuses and its effect on society as a whole. It could be argued that Canada, a country diverse and vast in geography and complex in its political organization, is facing the challenges of preserving freedom of expression in a world where disinformation circulates and social tensions rise.

## **INTRODUCTION**

Canada has a complex political, economic, and socio-cultural reality, and this is reflected in the challenges it is facing regarding freedom of expression. Its multicultural model, for instance, while accepted in most of the country's provinces, is not viewed fondly in Quebec, where the provincial government has passed legislation to uphold what is called a "secular state" in public education and the civil service (Montpetit, 2019). This has been perceived by some communities, both inside and outside the province, as an attack on their freedom to express their religious traditions.

The country has also experienced tensions due to protests by anti-vaccine groups and against restrictions on mobility and public gatherings amidst the COVID-19 pandemic. This has also been denounced as a restriction on the freedom of expression of those who do not accept federal and provincial policies to monitor infections and the deterioration of the situation.

Another issue that has emerged in the public arena is that of "political correctness" and the so-called cancel culture, which have become hotly debated topics in the media after college and public school teachers were punished for using certain words in class or recommending reading of certain works to their students. Some commentators view these sanctions in the educational environment as a warning that could also affect freedom of expression on mainstream and social media. In fact, a journalist of the Canadian Broadcast-

ing Corporation (CBC), the public radio-television organization, was suspended in June 2020 (National Post Staff, 2020), and later resigned, for having used the “N” word in a live show.

Canada also experiences tensions arising from the government’s relations with Aboriginal communities. For example, media coverage of protests by indigenous groups against logging activities in British Columbia has been restricted by the Royal Canadian Mounted Police (RCMP), triggering objections from journalists’ professional associations. The recent discovery of unmarked graves of Aboriginal children who died in so-called “Indian residential schools” has caused shock waves in the country, confirming the need for reconciliation with its native inhabitants (Los siniestros internados..., 2021).

Finally, the federal legislature that ended this summer of 2021 (and which gave way to elections confirming a Liberal minority government headed by Prime Minister Justin Trudeau in September), passed Bill C-10 (Bolongaro, 2021) which aims to enact the same regulations on large digital platforms as on traditional media, forcing them to fund the production of Canadian content. Some critics see this as a potential restriction on free speech in social media and other online content distribution platforms. Bill C-10 must now pass the Senate to become law.

## Results Analysis

The results of the period reviewed have been influenced by a context marked by challenges to the media and information stemming from the COVID-19 pandemic, especially the problems associated with disinformation, lack of information or clarity in certain cases, and the need to counter conspiracy theories and propaganda. This may explain why Realms A, B, and C achieved medium scores for a country that has a consolidated democracy and a fairly robust institutional framework of division of powers.

## Environments: Slight influence, but with friction points

The Legislative, Judicial and Executive environments at the federal level slightly impact on freedom of expression in general, although a mildly more predominant influence of the Executive branch on the exercise of journalism is noticed in this period. This can be explained by the role of the RCMP, which is under the control of the federal government, to limit coverage of protests against a logging operation in British Columbia.

However, Canada is a fairly decentralized federal country in which provincial governments exert significant authority on their regions’ political, social, and cultural dynamics. Therefore, it is understandable that actions in certain provinces, such as Quebec, Ontario, and Alberta, may affect perceptions about the impact of environments, particularly the Executive, regarding the exercise of journalism.

Another factor that makes possible the perception of a relatively greater influence of the federal Executive on the exercise of journalism (the highest score with 2.43 points) is a certain lack of transparency from the government headed by Justin Trudeau regarding allegations of corruption or irregular practices with donors to his party and his electoral campaigns.

In relation to the Legislative environment, the Federal Parliament has not passed any specific laws that could impair the exercise of journalism. Notwithstanding, the approval of Bill C-10 by the House of Commons in June 2021 may indicate a slight to moderate influence (2.29 points) regarding the control of content on digital platforms.

In the case of the Judicial environment, its influence is mild. However, court decisions may have a direct and indirect impact on the exercise of journalism, as in the Fairy Creek case in British Columbia (CAJ, 2021, July 14).

## **REALM A: Political correctness gains ground**

In general, the citizens' ability to express themselves freely and their levels of information are perceived as lowly restricted. Although the rights to freedom of expression and of access to information are protected by the country's laws, courts, and other agencies, such as the Federal Telecommunications Commission (Canadian Radio-television and Telecommunications Commission, CRTC), the crisis environment arising from the COVID-19 pandemic has affected the perception of citizens' levels of information. Of particular note here are the attacks targeting journalists for reporting on the pandemic, as illustrated by the cases of Radio-Canada journalists harassed in Sherbrooke and science journalist Marine Corniou (FPJQ, 2021 a, b).

The sub realm of Free Speech appears relatively higher (9.14 points) against that of Information Flow, which shows a lower index (5.86). This perception is underpinned by the impression mentioned above that Prime Minister Justin Trudeau's cabinet is not fully transparent regarding the Liberal leader's ties with his party donors (Bonokoski, 2021).

## **REALM B: Calls for greater transparency**

The exercise of journalism has faced some challenges in the period under study. We have referred above to the blockade by the RCMP preventing media coverage of protests against a logging operation in British Columbia (CAJ, 2021, July 14). Some provincial governments have also attacked journalists for their coverage of climate change issues, as was the case with the Alberta provincial government, a situation that was denounced by the Canadian Association of Journalists (CAJ, 2021, January 26). The perceived lack of transparency on the part of Prime Minister Trudeau's cabinet has also contributed to a decrease in the index (6.86 points) regarding the exercise of journalism (CAJ, 2021, September 20).

## REALM C: Verbal violence and restrictions on coverage

Violence and impunity show a relatively high index for a country with a consolidated democracy like Canada, particularly when looking at the results of sub realms such as Protection and Impunity. Although violence against Canadian journalists has not registered extreme attacks in the period reviewed, harassment against some journalists covering the protests in British Columbia, or the physical and verbal attacks against journalists covering the COVID-19 pandemic, have influenced the perception of greater violence.

The events associated with sanctions against professors at universities, at a school in Toronto, and against a journalist at the CBC itself due to pressure from groups defending “political correctness” have also affected the perception that freedom of expression is not always guaranteed in some professional fields.

## REALM D: Concern about content-controlling tendencies

The level of control over the media in Canada is perceived as one falling within the category of full freedom of expression. However, the sub realm of Indirect Control shows a score of 6 points. This indicates concerns that can be explained by the confluence of a series of events creating the impression that freedom of expression among the media (National Post Staff, 2020) and other entities, such as educational institutions (Miro, 2021; Paquette, 2020; Brenner, 2021; Pfeffer, 2020), could be compromised. On the other hand, the idea that the Liberal government may secure Senate passage of its Bill C-10 to regulate content on digital platforms is perceived as a double-edged sword. It may benefit the media by payments from digital economy giants such as Facebook and Google for use of their content; but it may also mean government intervention in the content circulating on those platforms.

## CONCLUSIONS

Canada maintains an institutional framework that protects freedom of expression. Its parliamentary democracy, both at the federal and provincial levels, guarantees the rights of the free exercise of journalism, exchange of information, and citizens’ freedom of opinion. However, the country is facing challenges stemming from trends that, despite such circumstances as the COVID-19 pandemic, seem to consolidate.

In this sense, political correctness and cancel culture seem to be on the rise in the educational system. This could have direct repercussions on freedom of expression not only for teachers, but also citizens and even news professionals, as illustrated in the case of the CBC journalist who was suspended by the management of this public corporation. Recent news regarding the burning of Asterix and Tintin books by decision of a school board in Ontario in 2019 (“Canadá: polémica por la quema de libros...”, 2021), because according to some teachers and parents the books contained racist depictions of indigenous nations in North America,

indicates that this trend may have deeper repercussions on freedom of expression in the country.

Journalists are calling for greater government transparency, especially in terms of access to information regarding federal and provincial policies and decisions (FPJQ, 2021a).

The tensions that have arisen with indigenous communities also pose challenges to freedom of expression and the free exercise of journalism, especially when members and activists of Aboriginal nations protest against the occupation and economic exploitation of lands they consider their own. This is a situation worth monitoring, as these tensions tend to increase in some regions of the country. The federal government is promoting reconciliation with indigenous peoples through talks and initiatives to end discrimination and impoverishment of Aboriginal nations in Canada.

## REFERENCES

Los siniestros internados donde murieron 6.000 niños indígenas en Canadá (2021, June 6). *BBC News*: <https://www.bbc.com/mundo/noticias-internacional-57369709>

Bolongaro, K. (2021, June 22). Trudeau's Party Passes Bill to Regulate Social Media, Streaming. *Bloomberg*: <https://www.bloomberg.com/news/articles/2021-06-22/trudeau-s-party-passes-bill-to-regulate-social-media-streaming>

Bonokiski, M. (2021, September 1). Broken promises are Justin Trudeau's only plan. *Toronto Sun*: <https://torontosun.com/opinion/columnists/bonokoski-broken-promises-are-justin-trudeaus-only-plan>

Bremner, Ch. (2021, June 18). Revered Jacques Prévert love poem banned in Toronto for line about slave market. *The Times*: <https://www.thetimes.co.uk/article/revered-jacques-prevert-love-poem-banned-toronto-slave-market-fvn5fv53r>

Canadá: polémica por la quema de libros de Astérix y Tintín en favor de la reconciliación indígena. (2021, September 14). *DW*: <https://www.dw.com/es/canad%C3%A1-pol%C3%A9mica-por-la-quema-de-libros-de-ast%C3%A9rix-y-tint%C3%ADn-en-favor-de-la-reconciliaci%C3%B3n-ind%C3%ADgena/a-59184350>

Canadian Association of Journalists [CAJ] (2021, January 26). CAJ condemns Alberta's efforts to discredit climate journalist. *The Canadian Journalist Association / L'Association Canadienne des Journalistes*: [https://caj.ca/blog/CAJ\\_condemns\\_Alberta\\_s\\_efforts\\_to\\_discredit\\_climate\\_journalists](https://caj.ca/blog/CAJ_condemns_Alberta_s_efforts_to_discredit_climate_journalists)

\_\_\_\_\_ (2021, July 14). Summary of RCMP Restrictions on Press Freedom at Fairy Creek. *The Canadian Journalist Association / L'Association Canadienne des Journalistes*: [https://caj.ca/blog/Summary\\_of\\_RCMP\\_restrictions\\_on\\_press\\_freedom\\_at\\_Fairy\\_Creek](https://caj.ca/blog/Summary_of_RCMP_restrictions_on_press_freedom_at_Fairy_Creek)





- \_\_\_\_\_ (2021, September 20). Where do Canada's political parties stand on reform to Canada's archaic federal access to information regime? *The Canadian Journalist Association / L'Association Canadienne des Journalistes*: [https://caj.ca/blog/Where\\_do\\_Canada\\_s\\_political\\_parties\\_stand\\_on\\_reform\\_to\\_Canada\\_s\\_archaic\\_federal\\_access\\_to\\_information\\_regime\\_\\_](https://caj.ca/blog/Where_do_Canada_s_political_parties_stand_on_reform_to_Canada_s_archaic_federal_access_to_information_regime__)
- Fédération professionnelle des journalistes du Québec, FPJQ (2021a). Nouveau cas d'intimidation envers un membre des médias. La FPJQ section Estrie déplore le geste posé. *Inforlettre de la FPJQ*: <https://newsletters.yapla.com/static/n/nXMO1HW5CqswOYy4uDyH85i>
- \_\_\_\_\_ (2021b). À la suite d'une plainte qu'elle a déposée à l'ombudsman de Radio-Canada. La journaliste Marine Corniou victime de cyberharcèlement. *Le Trente Hebdo. L'infolettre de la FPJQ*: <https://newsletters.yapla.com/static/n/nGsFgJIO8NSnT-fQKBfICCySH/c/memjYvGabitOxgNIYjocvhU>
- Miró, R. (2021, January 26). L'enseignement d'œuvres jugées offensantes crée la controverse au département de littérature francophone de McGill. *Le délit*: <https://www.delitfrancais.com/2021/01/26/lenseignement-doeuvres-au-contenu-sensible-cree-la-controverse-au-departement-de-litterature-francophone-de-mcgill/>
- Montpetit, J. (2019, December 12). How lawyers are trying to overturn Quebec's religious symbols ban. *CBC news*: <https://www.cbc.ca/news/canada/montreal/bill-21-quebec-court-challenges-1.5393074>
- National Post Staff. (2020, June 26). 'I am deeply sorry and ashamed': CBC News host Wendy Mesley disciplined for using racial slur in two separate meetings. *National Post*: <https://nationalpost.com/news/canada/i-am-deeply-sorry-and-ashamed-cbc-news-host-wendy-mesley-disciplined-for-using-racial-slur-in-two-separate-meetings>
- Paquette, J. (2020, October 30). Le recteur de l'Université d'Ottawa mis en cause par un professeur. *Le Droit*: <https://www.ledroit.com/actualites/education/le-recteur-de-luniversite-dot-tawa-mis-en-cause-par-un-professeur-572fdf5b02cfc930b100399787898e4f>
- Pfeffer, A. (2020, October 21). Ottawa professor apologizes for using N-word, regrets growing controversy. *CBC News*: <https://www.cbc.ca/news/canada/ottawa/professor-apologizes-university-of-ottawa-1.5770946>

## CANADA

PERIOD SURVEYED.

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	There is a robust institutional framework of division of powers with an independent judiciary. Citizens, most of whom do not lean towards authoritarian populist options, engage in a democratic culture. Associations for the defense of freedom of expression and freedom to practice journalism are mobilized in defense of these causes.
<b>WEAKNESSES</b>	Media conglomerates are concentrated and independent media are weakened. Digital platforms such as Facebook, Twitter, Instagram, Google, and others hold a dominant position among young people, who mostly get news from social media. Due to social consensus by effect of a “spiral of silence”, which tends to validate initiatives of political correctness and cancel culture, censorship of books, words, and even ideas has been promoted. There is a lack of transparency in government communications with the public and the media
<b>OPPORTUNITIES</b>	Taxation of large digital platforms (Facebook, Netflix, Google) is being considered in order to promote Canadian content and support independent media. There are debates on the importance of freedom of expression in a democratic society, amidst restrictions fueled by political correctness and cancel culture. Laws regarding access to information are being updated to achieve greater transparency in the communications of government and federal entities
<b>THREATS</b>	There has been an increase in instances of direct and indirect censorship associated with political correctness and cancel culture in universities, schools, and the media, which may have consequences for freedom of expression in general. There are increased tensions with Canada’s indigenous nations, which may lead to limited media coverage of demonstrations and protests by these communities.

## 2.4.3 OVERVIEW

### Canada

**Canada** kept a relatively stable score within the Chapultepec Index of Freedom of Expression and the Press, in the Low Restriction bracket of the overall average, remaining 5<sup>th</sup> in the ratings with a slight increase of its score: from 71.4 points out of a theoretical maximum of 100 in the first edition to 75.81 in the second study. It shows to be a country with a relatively favorable climate for freedom of expression, but faced some important challenges, particularly in regard with the COVID-19 pandemic and transparency over some issues.

In Realm A, Informed Citizens Free to Express Themselves, the variation was slightly downward, from 16.2 out of a theoretical maximum of 23 in the first edition of the Index to 15 points in the second edition. The sub-realm of Free Speech appears relatively higher (9.14) than that of Information Flow, showing a lower indicator (5.86). In the second period, allegations about Prime Minister Justin Trudeau's cabinet not being fully transparent about his party's donors have left an impression on the respondents' perception.

In Realm B, Exercise of Journalism, Canada also declined slightly from 7.4 out of 10 in the first edition to 6.86 in the second. Restrictions on press coverage of protests against logging in British Columbia and the response of some provincial governments to the dissemination of climate change issues are among the reasons for this assessment in the second study period.

In Realm C, Violence and Impunity, Canada raised its score in the most recent review. In the first edition, the indicator stood at 24.2 out of a theoretical maximum of 42; in the second edition, it reached 31.52. The variation is upward, demonstrating a favorable climate for journalism in this regard. Nevertheless, some issues continued to put pressure on the perceptions of the experts inquired, among these, tensions between authorities and journalists who covered the COVID-19 pandemic.

In Realm D, Control over the Media, Canada held its high rating in both periods. In the first study, it obtained 23.6 points out of 25, while in the second, this category stood at 22.43. These levels fall within the range of full freedom for this realm. The possibility of passing a bill to regulate content on digital platforms arouses negative expectations; but the institutional behavior in this regard has been favorable to freedom of the press.

Both study periods showed a variation in the extents of influence exerted by the three branches of government as viewed by the experts. In the first iteration, these three institutional environments were perceived as having a moderate influence on situations unfavorable to freedom of expression and the press, while in the second, the perception for all three was of a slight influence on these incidents.

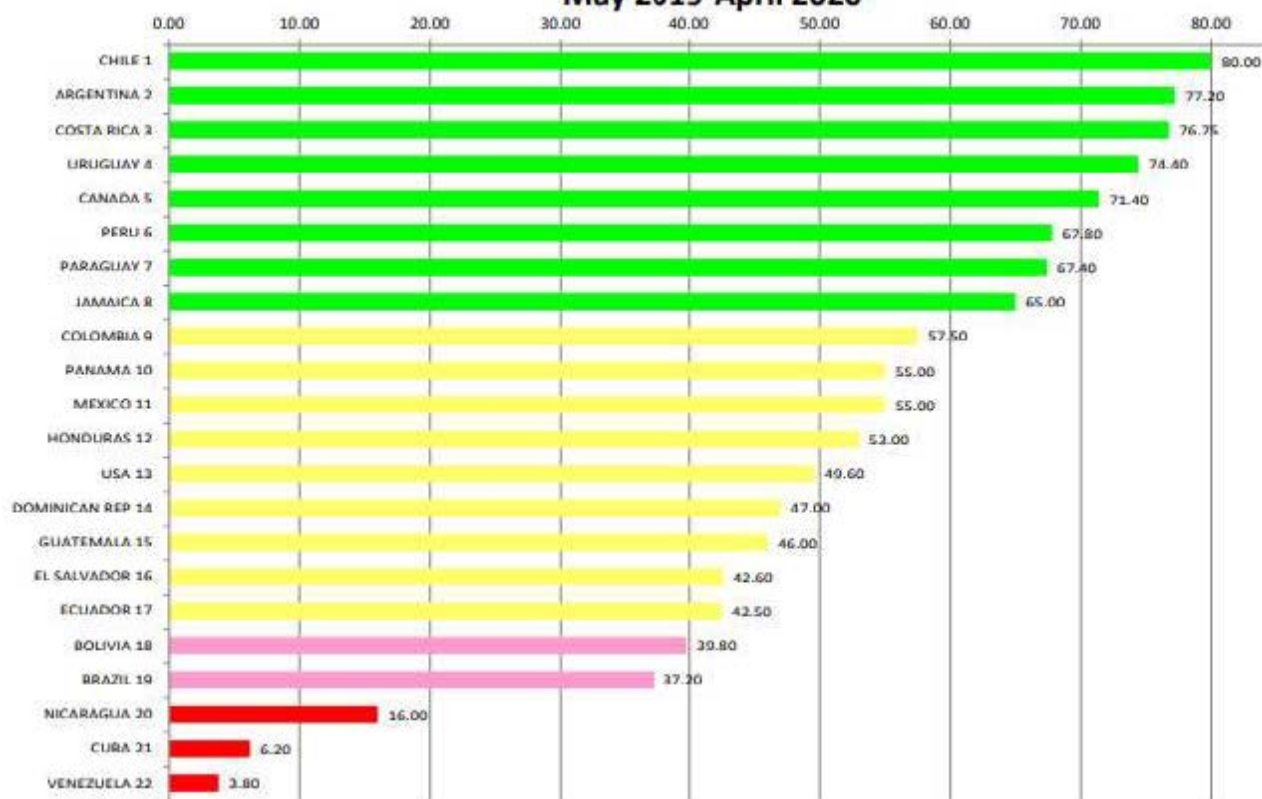


## 2.5.- CHILE

### 2.5.1 CHILE 2019-2020

CHILE	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>80.0</b>
REALM A: "Citizens informed and free to express themselves"	23	22.0
Flow of information	11	10.6
Free Expression	12	11.4
REALM B: Exercise of Journalism	10	9.6
REALM C: Violence and Impunity	42	23.4
Protection	10	4.8
Persecution	15	13.6
Impunity	17	5.0
REALM D: Control over the media	25	25.0
Direct control	16	16.0
Indirect control	9	9.0

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

CHILE	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	1.03	1.33	1.00
REALM A: "Citizens informed and free to express themselves"	1.25	1.50	1.00
Flow of Information	1.75	1.50	1.00
Free Expression	1.75	1.50	1.00
REALM B: Exercise of Journalism	1.80	1.00	1.80
REALM C: Violence and Impunity	1.50	2.00	1.50
Protection	1.00	2.50	1.00
Persecution	2.50	2.50	2.50
Impunity	1.00	1.00	1.00
REALM D: Control over the media	0.00	0.00	0.00
Direct control	0.00	0.00	0.00
Indirect control	0.00	0.00	0.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## CHILE: LEADERSHIP IN FREEDOM OF EXPRESSION

### Executive summary

With an average of **80 points** out of a maximum of 100, Chile leads the **Chapultepec Index** from South America's Southern Cone, in a positive and respectful climate, with mild extent of influence from the Legislative, Judicial and Executive environments, the last being the lowest of all (1.00). The same is evident in realms **A** ([citizens] informed and free to express themselves), **B** (exercise of journalism), and **D** (control over media). Only realm **C** (violence and impunity) shows a difference regarding the detention of reporters covering the protests of the so-called "social outburst" starting in October.

## INTRODUCTION

The period under study (May 1, 2019 through April 30, 2020) is unique regarding the situation in Chile, since the whole country – starting with the Sebastián Piñera administration – was taken by surprise with the violent protests of groups weary of socio-economic inequality and institutionalized abuse. It was called a "social outburst" (which took place between October 2019 and February 2020) and its first rally resulted from an increase of 30 Chilean Pesos in public transportation fares, discontent breeding unprecedented radical actions, such as the burning of subway stations (Paul, 2019).

There was also a turning point in news, since the unexpected social mobilization leading to the need for an executive order declaring the state of emergency and curfews (Presidential Press, 2019), made evident a reality that the media had not been showing, paradoxically being in full freedom to exercise their role of timely and accurate reporting. They also had to take seriously, in their agenda setting, the issue of a new Constitution, a process that started last November and that will be put to referendum next October 25.

There has been significant criticism among citizens, yet mild self-criticism, regarding the role of the press and the media, which did not reflect the reality in the country. Detrimentially so, social media were prominent, with consequential disinformation and fake news largely. Later, with the advent of the COVID-19 pandemic (on March 3, 2020, the first positive case was announced), the press once again took precedence with non-stop news reporting, supported by public health sources to calm the public's anxiety by assisting in awareness and protection measures from the pandemic.



## Report

Generally, in Chile there are no obstacles to starting or operating media outlets. There is persistent criticism over the existing **El Mercurio SA-Copesa SA** duopoly, as two major conglomerates because of their concentration of media ownership nationwide; but, in practical terms, any self-funding media can operate. There is full respect for the rule of law, its statutes and regulations in force, and this freedom is what the five experts surveyed have expressed in their responses.

The problem consists of the fact that they have all suffered from the crisis of a change in a business model based on direct advertising, which has migrated to digital platforms and left mainstream press with serious economic problems. It has been especially critical in magazines (practically non-existent today) and in local media, as small newspapers have had to reinvent themselves or shut down, and in the case of large ones, to reduce their staff. All this has been worsened by the pandemic and related lockdown, which have seriously damaged the overall economic activity.

Therefore, the period under study (May 1, 2019 through April 30, 2020), is unique in Chile in light of three converging situations: the media's financial crisis, social crisis, and COVID-19-related health crisis. Fortunately, all this has been taking place within a functioning legal framework that prevents shutdowns, censorship, or arbitrary intervention from any agent on the media. The **Professional Association of Journalists** (Colegio de Periodistas AG) and the **National Media Federation** (Federación de Medios de Comunicación Social) – which gathers the National Television Association (Asociación Nacional de Televisión), the National Press Association (Asociación Nacional de la Prensa) and the National Radio Broadcasters' Association of Chile (Asociación Nacional de Radiodifusores de Chile) – constantly stand by in order to report abuse.

## Environments

### Legislative environment

Among the citizens of Chile, there is a consensus on high respect for and commitment to existing laws, regulations, and international agreements executed. However, for some time now, some groups have been calling for changes to the Magna Carta and for a new Congress. They call for a new, more up-to-date, constitutional framework, especially regarding provisions for regulating private property, expanding social protection of such fundamental rights as education and health, and including native peoples, among other issues.

After the social outburst of October 18, this demand intensified and, on December 27, President Piñera called for a national referendum so that citizens can make a decision, as he stated that “civilized societies settle their differences within the framework of the Con-



stitution, and therefore it is important to establish the relevance of the process” (Carvajal, 2019). This is how he once again stressed the Chilean trait of respect for the law. Due to the COVID-19-related lockdown, the referendum was postponed from April to upcoming October 25. In this contest, voting to APPROVE or REJECT a new constitution will be required as well as the means to draft it: a constituent convention or a mixed constitutional convention.

On the other hand, the amendment of the Freedom of Opinion and Information Law (Ley sobre la Libertad de Opinión e Información) No. 19,733 (2019) is undergoing legislative proceedings in the concerned House of Representatives committee regarding Article 1 thereof enshrining the right of individuals to be informed on general interest matters. Sufficient protection is requested to ban establishing unlawful prohibitions or restrictions, such as requests for authorization and payment of fees, municipal ordinances on advertising and publicity.

## Judicial Environment

Shortly before the social outburst, in the aftermath of a rally in September to raise awareness of the climate crisis, hooded men attacked five newsmen who were reporting the event, including journalists and TV channel camera operators. The **National Media Federation** issued a statement condemning the events as damaging to freedom of expression and free exercise of journalism, and met with the **Office of the Secretary-General of Government**, which filed a criminal complaint on this matter, in order to devise collaboration protocols (Gallardo, 2019; Ministerio Secretaría General de Gobierno, 2019).

Then, stemming from the massive protests that took place in Santiago and other provinces (regions), violent and confusing situations arose that, in some cases, reached journalistic teams covering these demonstrations. Their recordings and audiovisual files were material evidence of injuries on demonstrators caused by excessive use of force with rubber bullets on the part of the Carabineros (Chilean police body). A landmark case was that of student **Gustavo Gatica**, who lost his sight after sustaining non-lethal shots. In the investigation regarding him, images captured by camera operator José Luis Martínez were decisive, since the Attorney General’s prosecutors charged the Carabineros with not submitting evidence (The Clinic, 2020).

Also noteworthy are the statements by Judge **Dobra Lusic**, Justice to the Supreme Court nominee, who, when speaking before the Senate’s Legislation, Constitution, and Justice Committee, declared: “The press, the media must be regulated”. This declaration triggered concern and a press release from the **National Media Federation**: “We believe that the unfortunate statements of the justice [nominee] have been the consequence of a reaction to criticism from the public regarding her nomination and that she has not weighed the implications of such statements” (2019). Additionally, **La Tercera** daily made similar remarks in its May 10 editorial: “In a context of concerning setbacks in freedom of expression through-



out the region – as noted by the IAPA [Inter-American Press Association] – the continued recognition from all across the Chilean society that it is essential to protect the work of media, even with its flaws and risk of making mistakes, is a positive fact “ (2019).

## Executive environment

The Executive’s relationship with the media has been intense, especially stemming from inquiries for timely information regarding, in the first place, citizen restriction measures (state of emergency and curfew) resulting from the situation of social outburst, and secondly, from the pandemic-related lockdown. There have been no reports on record for censorship, content control, or restriction on access to information or freedom of publication and broadcast by mainstream media. However, in January, during its National Congress in Antofagasta, the **Professional Association of Journalists** has announced its decision to “suspend all relations with government authorities and to participate in the Media Fund administered by the Office of the Secretary-General of Government, as provided for in the current Press Law (Ley de Prensa), resulting from serious human rights violations” (Edición Cero, 2020).

The most tense situation was experienced in April following a statement by the then Minister of Health, **Jaime Mañalich**, who, true to his style, referred disparagingly to the work of the press during an interview on TV Channel 13. When inquired on a controversial declaration by of the Chinese ambassador to La Tercera daily regarding the donation of mechanical ventilators to Chile, the minister said: “the job of the press is to sell things based on making up lies” (El Desconcierto, 2020).

The **National Press Association** immediately replied: “We hope that Minister Mañalich will not confuse the exceptional health and legal situation that our country is experiencing, with a personal authority to revile and insult those who subject his words and deeds to scrutiny as a public official of a democratic government” (Asociación Nacional de la Prensa, 2020). There are no other frictions with the Executive on record.

## REALM A: Free, unrestricted information flow

In both sub-realms, information flow from the media and citizens free to express themselves, the scores achieved are very close to the maximum values, 10.60 and 11.40 respectively, with very low influence from the environments. In addition, the social outburst has encouraged freedom of citizen expression to an extent not covered by the mainstream media. Social media, radio, and television have made room previously occupied by entertainment in order to welcome opinions.

The news output from those print media surviving the financial crisis, stemming from a shift in the business model of revenue exclusively from advertising, has undergone changes: Some have stopped circulating in print on weekdays, leaving it only for weekends; others

have moved to digital publishing; others only circulate digitally on weekends; and others have shut down.

By no means does the government restrict citizens' access to public information or their rights of freedom of expression and the press. The only state-run media outlet is **Televisión Nacional de Chile**, amidst a deep economic crisis (Cooperativa.cl, 2020) and with representatives from different political groups in its board of directors to guarantee balanced information, also under scrutiny from viewers who file complaints with the **National Television Council**<sup>1</sup> (Consejo Nacional de Televisión). Internet service providers are in the hands of private companies and service is available to anyone who can afford it.

## **REALM B: Free exercise of journalism on all types of platforms and media sizes**

There are no known cases of government measures regarding intellectual property or protection of news content from plagiarism and misuse. If there are problems, relevant laws are consulted. Nor have there been any known restrictions on access to sources against any accredited media, and as never before – due to the social and health crisis – both President Piñera and his ministers respond to inquiries from the press every day. The daily report of the public health team is delivered collectively and [the conference is] open to free, unscripted questions, leaving room for differences of opinion with the authority without censorship.

Exercise of journalism has been disrupted by some attacks on the media, such as the fire that swept through the offices of **El Líder** daily in San Antonio last November and attacks against **El Mercurio** Antofagasta, **El Mercurio** Valparaíso and **El Pingüino** at Punta Arenas.

Jobs for news professionals have also been on the decline in reason of media closures and mass layoffs in the face of the financial crisis. Alternative digital media, YouTube channels, and podcasts have emerged, which report and stream freely. Furthermore, polls show that people have turned to getting news on social media stemming from lower confidence in the mainstream media. Especially regrettable has been the closure of magazines starting in February 2019 with the bankruptcy of **Televisa**, and continued with the end of **ED** and **CAPITAL** magazines in May this year. Even after the period for this study, their closure processes have marked this series of events.

Membership in the Professional Association of Journalists is not mandatory and even a diploma in journalism is not required for practice. Outstanding news show hosts are not journalists, such as Juan Manuel Astorga (MEGA Holding) and Nicolás Vergara (DUNA radio).

<sup>1</sup> TN: Chile's media regulatory agency.



## REALM C: Social outburst and alternative media

In this item, Chile scores the lowest as a direct influence of the social outburst. The presence of alternative, citizen-run media, and foreign correspondents has been greater in these protests as they are the ones reporting complaints. In responses from the experts inquired for feeding data into this Index, it is stated that: “Complaints have only been filed regarding the actions of law enforcement in the coverage of public disorder in which reporters and photographers have been temporarily detained, even after they have been released and no court actions have been brought against them”.

In sub-realm 1 (Protection – 4.8), protection of journalists is conducted in compliance with the legislation in force and, following the attacks, the government has filed lawsuits against those responsible, and the Carabineros involved have been removed, as commented on in the section on the Judicial environment. In sub-realm 2 (Persecution – 13.6), neither persecution by the government on journalists or media outlets, nor any instances of intimidation or hate speech has been reported.

In sub-realm 3 (Impunity – 5.0), relevant laws are observed. Additionally, as international support, the **Inter-American Commission on Human Rights (IACHR)** made an *in loco* visit to Chile (January 25-31), to monitor the situation regarding human rights stemming from social protests. In its report, the IACHR thanked the State for the logistical support and assistance provided, and recognized that “[...] Chile has a democratic system in place, where the rule of law prevails through solid democratic and human rights institutions” (OAS, 2020).

However, during a meeting with members of the press, journalists reported being subjected to pressure or fired because of their opinions. Meanwhile, the president of the **Professional Association of Journalists**, Margarita Pastene, declared that, “three months after the beginning of the social outburst, attacks against journalists and newsmen, mainly those from independent media, continue, in addition to the criminalization of social protest on mainstream media and the concealment of information to citizens” (Colegio de Periodistas, 2020). For his part, during a meeting held with members of the press on occasion of the *in loco* IACHR visit to Chile (OAS, 2020), Alvaro Caviedes, vice president of the **National Press Association**, expressed his concern for the upcoming constitutional process. “We think – he said – that the regulation of freedom of expression is going to be tremendously sensitive, with different opinions; but the best regulation is the least regulation” (A. Caviedes, personal communication, January 26, 2020).

## REALM D: Maximum scores achieved

Although the answers of the five experts inquired agreed on placing maximum reference values (25.0), since no media shutdown, expropriation, or seizure by the government, arbitrary tax or economic pressures against them, or any privileges for some have been on record. Additionally, licenses are respected according to the specifications of sub-realm 1 (Direct control - 16.0). However, in the case of sub-realm 2 (Indirect control - 9.0), there are mild concerns: There is no direct control, restriction, or blocking, but pressure is exerted.

In October 2019, the **Journalists' Association** questioned the government about the pressure exerted on television channels, regarding their news coverage on street protests throughout the country. "We request, by legal means of public transparency, to report on the meeting held at **La Moneda**<sup>2</sup> by President Piñera and the CEOs of the television channels" (Colegio de Periodistas, 2020), the press release stated. They also denounced abusive attempts of economic pressure by some major businessmen, who called for cancelling advertising from the media that had begun to report on the social outburst and the people's demands.

A landmark case was that involving the president of Empresas Sutil, **Juan Sutil**, who cancelled his advertising in November due to "the appalling attitude of **CNN**<sup>3</sup> and **CHV**<sup>4</sup> at a time when Chile needed serious, objective journalism free from political bias" (Prensa Radio AGRICULTURA, 2019). In March, Sutil became the new president of the Production and Commerce Confederation (Confederación de la Producción y del Comercio, CPC), the Chilean business association. Additionally, **Agrosuper** holding company suspended its advertising campaigns across all media.

## CONCLUSIONS

In overall balance, Chile's institutions show an excellent support of full freedom of expression and the press, with slight interferences of the Executive, Legislative and Judicial environments, hence its 80-point score. The four realms surveyed did not yield concerning results either, although some instances of aggression and impunity that may affect news professionals during protests and rallies in support of social demands need to be watched closely.

In the period under analysis, the country has faced two important crises: First, a violent social outburst as of October, and later the Coronavirus pandemic along with related lockdown and standstill on production. Added to this, the media are undergoing serious economic problems resulting in mass layoffs and reinvention of their platforms. The financial

<sup>2</sup> TN: Seat of the national Executive.

<sup>3</sup> TN: CNN operates a local news channel in Chile.

<sup>4</sup> TN: Spanish acronym for Chilevisión.



emergency constrains them to a weak deployment of journalists and production resources to report at 100% of their capabilities.

The renewed rise of audience confidence in mainstream media resulting from the pandemic compared to that in social media, shown in recent polls (T13.cl, 2020), is a good indicator for their reinvigoration. The constitutional process that the country will undergo in upcoming months towards the October 25 referendum demands a solid informative coverage with quality content appealing to increasingly demanding audiences.

In terms of public opinion, the scenario has been complex, since groups on both sides –approve and reject – have appeared and changed all across the population in the face of events of protest and violence. The percentages of one and the other have been oscillating in the polls and in ongoing debate, in news and opinion shows as well as on social media. The media will have to remain vigilant in case that, once the pandemic lockdown is over, the climate of tension returns in the form of social protests and attacks on newsmen.

In view of functioning institutions and laws, as shown by the 80 points achieved in this Index, it is to be expected that, if a new Constitution is approved, freedom of expression, press and media creation will be further upheld.

As the Inter-American Commission on Human Rights concluded in its report: “However, the country’s democratic institutions are facing a profound challenge, in the context of a social crisis that has had a major impact in Chilean society and can only be overcome with determined measures” (OAS, 2020).

## REFERENCES

- 24Horas.cl TVN. (2019). Federación de Medios de Comunicación por declaraciones de Dobra Lusic: “No ha medido las consecuencias”. In: *24 horas.cl Televisión Nacional de Chile*. Retrieved from: <https://www.24horas.cl/nacional/federacion-de-medios-de-comunicacion-por-declaraciones-de-dobra-lusic-no-ha-medido-las-consecuencias-3295716>
- Asociación Nacional de la Prensa. (2020, April 20). In: Declaración pública. Retrieved from: <http://anp.cl/noticias/declaracion-publica/>
- Cámara de Diputados de Chile. (2019). Proyecto de ley que modifica la ley N° 19.733, sobre libertades de opinión e información y ejercicio del periodismo para garantizar el derecho a la libre información de interés público o general (Boletín N° 12.500-24). Retrieved from: [http://200.14.66.74/verDoc.aspx?prmID=174204&prmTipo=DOCUMENTO\\_COMISION](http://200.14.66.74/verDoc.aspx?prmID=174204&prmTipo=DOCUMENTO_COMISION)
- Carvajal, C. (2019, December 27). Sebastián Piñera convoca a plebiscito por nueva Constitución. In: *diarioUchile*. Retrieved from: <https://radio.uchile.cl/2019/12/27/sebastian-pinera-convoca-a-plebiscito-por-nueva-constitucion/>

- Colegio de Periodistas de Chile. (2020, January 29). Presidenta del Colegio de Periodistas, ante la Comisión Interamericana de DDHH: “Agradecemos la oportunidad de exponer lo que ocurre en nuestro país en materia de libertad de prensa y de expresión”. In: *Colegio de Periodistas de Chile*. Retrieved from: <https://www.colegiodeperiodistas.cl/2020/01/presidenta-del-colegio-de-periodistas.html>
- Cooperativa.cl. (2020, April 23). Continúa la crisis en TVN: Desvinculan a 30 trabajadores. In: *Cooperativa.cl*. Retrieved from: <https://www.cooperativa.cl/noticias/entretenimiento/television/television-nacional/continua-la-tesis-en-tvn-desvinculan-a-30-trabajadores/2020-04-23/115740.html>
- Edición Cero. (2020, January 27). Congreso de Periodista rechaza atropello a los DD.HH en Chile. Además decide no participar en Fondo de Medios. In: *Edición Cero*. Retrieved from <https://edicioncero.cl/2020/01/congreso-de-periodista-rechaza-atropello-a-los-dd-hh-en-chile-ademas-decide-no-participar-en-fondo-de-medios/>
- El Desconcierto. (2020, April 19). «El trabajo de la prensa es vender cosas inventando mentiras»: La risa nerviosa de Iván Valenzuela cuando Mañalich se burló de su profesión. In: *El Desconcierto*. Retrieved from <https://www.eldesconcierto.cl/2020/04/19/el-trabajo-de-la-prensa-es-vender-cosas-inventando-mentiras-la-risa-nerviosa-de-ivan-valenzuela-cuando-manalich-se-burlo-de-su-profesion/>
- Federación de Medios de Comunicación. (2019, May 9). Declaración Pública Federación de Medios. In: *Asociación Nacional de la prensa*. Retrieved from <http://anp.cl/noticias/9513/>
- Gallardo, R. (2019, September 28) Federación de Medios condena ataque contra equipos de prensa: “Esperamos que una pronta investigación pueda sancionar a los autores”. In: *LaTercera*. Retrieved from <https://www.latercera.com/nacional/noticia/federacion-medios-condena-ataque-equipos-prensa-esperamos-una-pronta-investigacion-pueda-sancionar-los-autores/839235/>
- La Tercera. (2019, May 10). Temeraria regulación a la prensa. In: *LaTercera*. Retrieved from <https://www.latercera.com/opinion/noticia/temeraria-regulacion-la-prensa/649490/>
- Ministerio Secretaría General de Gobierno. (2019, September 30). Gobierno presenta querrela por agresión a periodistas y camarógrafos durante marcha por el cambio climático y anuncia mesa de trabajo con el gremio. *MSGG*. Retrieved from <https://msgg.gob.cl/wp/2019/09/30/gobierno-presenta-querrela-por-agresion-a-periodistas-y-camarografos-durante-marcha-por-el-cambio-climatico-y-anuncia-mesa-de-trabajo-con-el-gremio/>
- Organization of American States. (2020, January 31). IACHR Issues Preliminary Observations and Recommendations Following *In loco* Visit to Chile. *OEA*. Retrieved from <https://www.oas.org/es/cidh/prensa/comunicados/2020/018.asp>

Paúl, F. (2019, October 23). Protestas en Chile: 4 claves para entender la furia y el estallido social en el país sudamericano. In: *BBC News Mundo*. Retrieved from <https://www.bbc.com/mundo/noticias-america-latina-50115798>

Prensa Presidencia. (2019, October 19). Presidente Piñera decreta Estado de Emergencia en las Provincias de Santiago y Chacabuco y en las comunas de San Bernardo y Puente Alto para normalizar el orden público. In: *Prensa Presidencia*. Retrieved from <https://prensa.presidencia.cl/comunicado.aspx?id=103631>

Prensa Radio Agricultura. (2019, November 8). Empresario Juan Sutil retiró publicidad de CNN Chile por ser “absolutamente parcial”: “No han actuado a la altura del periodismo correcto”. In: *Radio Agricultura*. Retrieved from <https://www.radioagricultura.cl/economia/2019/11/08/empresario-juan-sutil-retiro-publicidad-de-cnn-chile-por-ser-absolutamente-parcial-no-han-actuado-a-la-altura-del-periodismo-correcto.html>

T13.cl. (2020, April 29). TV, diario y portales web: Los medios por los que más se informan los chilenos durante la pandemia. In: *T13.cl*. Retrieved from <https://www.t13.cl/noticia/nacional/tv-diario-y-portales-web-medios-mas-se-informan-chilenos-pandemia>

The Clinic. (2020, April 8), Revelan video del día en que Gustavo Gatica fue herido en sus ojos. In: *The Clinic*. Retrieved from <https://www.theclinic.cl/2020/04/08/revelan-video-del-dia-en-que-gustavo-gatica-fue-herido-en-sus-ojos/>

## CHILE

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	With an overall index of 80 points, Chile leads the Chapultepec Index from the Southern Cone, in a positive and respectful climate, with a low degree of influence from the legislative, judicial and executive environments in situations unfavorable to free speech. There are no reports of media closures, persecution of journalists or control over content. The State does not limit citizens' access to public information or the rights relating to freedom of expression and the press.
<b>WEAKNESSES</b>	The financial crisis of the media, stemming from a change in the business model, along with the COVID-19 pandemic in recent months, has been significant, resulting in media closures and massive layoffs of journalists. Magazines are practically non-existent and local media have had to reinvent themselves or close down. Information production capacity has been greatly reduced.
<b>OPPORTUNITIES</b>	The current process to decide whether or not to draft a new Constitution, at the referendum next October 25, poses many challenges, regardless of the outcome, as an opportunity to strengthen the freedoms of opinion, information, and expression. It also represents an opportunity for news companies to provide outstanding coverage that positively influences citizens, seizing the credibility that, in the midst of the pandemic, mainstream media have regained over social media among the audience.
<b>THREATS</b>	The fact that the pandemic is protracted, thus delaying the economic and productive recovery of the country and its media, poses a threat. Furthermore, depending on the result of the October 25 referendum, there is a latent fear of a new social outburst like the one in October 2019, and that the climate of tension will return in the form of social protests and attacks on newsmen.

## 2.5.2 CHILE 2020-2021

CHILE	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>82,06</b>
REALM A: "Citizens free to express themselves"	23,00	21,43
Information flow	11,00	10,00
Free speech	12,00	11,43
REALM B: "Exercise of journalism"	10,00	8,29
REALM C: "Violence and impunity"	42,00	28,78
Protection	5,00	0,79
Persecution	7,50	7,50
Impunity	8,50	1,43
Registered violence	21,00	19,06
REALM D: Control over the media	25,00	23,57
Direct control	19,00	17,57
Indirect control	6,00	6,00

Chapultepec Index on Freedom of Expression and the Press 2021



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

CHILE	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	0,05	0,05	0,16
REALM A: "Citizens informed and free to express themselves"	0,07	0,07	0,21
REALM B: Exercise of Journalism	0,14	0,14	0,43
REALM C: Violence and Impunity	0,00	0,00	0,00
REALM D: Control over the media	0,00	0,00	0,00

Type of Influence      Points

SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00



PERÍODO DE MEDICIÓN  
31 JULIO 2020 – 1<sup>RO</sup> AGOSTO 2021

## Chile: challenging social and institutional changes

### Executive Summary

The country has kept a high position in the Chapultepec Index. With a score of 82.06 points out of 100, Chile is only surpassed by Uruguay on for this release. Currently, Chile displays a general favorable climate for freedom of the press with low degrees of influence from the Legislative, Judicial and Executive environments. The result is also positive in the realms reviewed. It achieved the lowest score in realm C (violence and impunity). One issue to take into account is that the country is entering a constitutional debate that could have an impact in the future within the framework of the exercise of journalism.

## INTRODUCTION

The period under study (August 2020 - July 2021) was signposted by three fundamental processes in Chile. The first one being the coronavirus pandemic: In August 2020 the country was coming out of its first peak of cases; the second one occurred during the summer (January-February); and the third one in April 2021. Alongside, from January 2021, the country started a strong vaccination campaign that allowed better control over COVID-19 by mid-2021. However, the constitutional state of emergency, mobility restrictions, and curfews were in place throughout the whole period.

The second key aspect was the political and social process resulting from the social outburst in October 2019. The sociopolitical atmosphere remained permanently polarized while, in addition, the health crisis forced the postponement of the program agreed in November 2019 intended to manage the crisis through the discussion of a new Political Constitution. The elections to choose the members of the Constitutional Convention that would draft the Constitution were postponed by May 2021 (originally scheduled by 2020); thus, this Convention only began to hold in July. As a result of this change on deadlines, the constituent debate will end up overlapping with the presidential and parliamentary campaign for the November 2021 elections.

The third key factor was the recession resulting from the coronavirus pandemic that aggravated an economic situation that had already become fragile due to the October 2019 crisis. The economic downturn and its impact on advertising investment, as well as the impairment of distribution channels, essential for the print media (public transportation and



newsstands), meant a hard blow to the media's finances, and translated into new layoffs and the reduction of resources for news output.

## Results Analysis

It is particularly relevant that Chile, according to the data collected by the Chapultepec Index 2021, has kept the leading position in the region in terms of freedom of the press, despite of the context of economic crisis, ongoing electoral processes, and uncertainty around the social and institutional changes that the country is undergoing. Although there still is criticism to the ownership model of mainstream media, there are no obstacles to the generation of new media in the country as proved by a series of digital initiatives that emerged during the pandemic, e.g., the emergence of two new television projects.

As in the 2020 release of this report, the crisis over press funding models continues to be a threat. Many newspaper projects have been affected by the overlapping of the economic crisis resulting from the pandemic and the severe decline in profits from advertising which have not been offset to the same extent by revenues from other sources. This has led to the disappearance of many of the country's magazines, affected regional media, and damaged the major daily newspapers which have reduced their number of pages, changed their publication formats, and cut back a large number of jobs.

Notwithstanding, the major concern for the exercise of journalism continues to be the violence in the context of demonstrations and in areas in the country where public security is constantly challenged by organized gangs. Concern also arises with regards to the attacks -orchestrated through social media- against press officials when they report or give opinions contrary to specific factions with extreme ideas.

## Environments: Reporting in an atmosphere of short-and-long-term changes

### Legislative Environment

The legislative environment was the one showing the greatest dynamism in Chile during the period surveyed by this Index. By the end of 2019, the country experienced social outbursts. The political solution found called for two major agreements, one in favor of peace, and the other of a new Constitution. The latter resulted in an institutional process whose program was postponed due to the effects of the COVID-19 pandemic.

The so-called "initial referendum", whereby citizens were to vote for or against changing the constitution, was originally scheduled by April 2020, but ended up taking place in October the same year. The result widely favored the "I approve" option that obtained 78.28% of

the votes (Servel, 2020). During the same election, the mechanism of a Constitutional Convention was also chosen to draft the new highest law in the land.

The members of the Convention were elected in May 2021 under a gender parity system and with 17 seats reserved for indigenous peoples among a total of 155 members. The Convention was inaugurated on July 4, 2021 and will have nine months (extendable to 12) to present a draft of the new Political Constitution for the country. Within the study period of this report, the analysis of the fundamental issues had not yet begun, but some issues related to freedom of the press have appeared in the public debate.

One of these was the open debate on the possible mandatory affiliation in professional associations, which would grant such associations “ethical oversight” over their members (El Líbero, 2021). There are also proposals by the Association of Journalists (Colegio de Periodistas) with the purpose of creating:

[...] a media system that guarantees the three communication sectors (private, public and community), and the access and equal distribution of airwaves, the right to internet as human right, the development of law and gender-compliant content, among other points (Radio Universidad de Chile, 2021).

For its part, the Chilean Media Federation (Federación de Medios de Chile) has also established some priorities. Its president, Juan Jaime Díaz, advocates for a Constitution “that respects the role of the media as a means to promote public debate, and as entities of social oversight over power, which involves the defense of editorial freedom against any interference”. Díaz also calls for “the recognition of socially responsible media, but always based on self-regulation”. Additionally, he demands for “stronger right for the access to public information, [...] the prohibition of any prior censorship, and a [...] thorough study on the presence of officials who penalize some media expressions” (Anda, 2020).

Another aspect related to the legislative environment has to do with the presence of public officials in the media, especially in morning TV shows. This has been a source of debate and even regulations. In March 2020, the Office of the Comptroller General of the Republic issued a ruling questioning the frequent appearances of mayors in these shows, considering that such programs would trivialize their status. The event served as context for the Ethics Commission of the House of Representatives, in December 2020, established penalties for congresspersons who fail to comply with their duties due to their participation in radio or television programs.

Finally, there was a specific event in connection with the presence of candidates in the media for elections in May 2020. Shifting the election date also resulted in changes over the electoral campaign terms, and also, over a provision that would restrict the participation of candidates in interviews. In this regard, the Media Federation (Federación de Medios de Comunicación) pointed out that “any provision that intends to restrict who attends the differ-

ent shows or interviews, or the topics discussed therein, openly affects the media's editorial freedom" (La Tercera, 2021).

## Judicial Environment

With regards to the judicial environment - after a period of continuous demonstrations and protests where several media outlets were attacked and dozens of assaults cases against journalist were reported - within the period reviewed, this heated atmosphere subsided and, consequently, so did reports on aggressions and arbitrary detentions.

During the period under study, the most serious aggression suffered by press staff was the ambushing of two TVN channel journalists in the country's southern region where a critical situation of public order took place. The event resulted from the territorial demands by the indigenous communities, and also by the growing operation of gangs linked to drug trafficking. The incident concluded with a cameraman losing one eye as result of the shooting by unknown assailants.

Another issue of concern has been the tense relationship between some journalists and certain interest groups that use social media to express themselves. According to Juan Jaime Díaz, president of the Media Federation, "today, freedom of expression is being compromised by interest groups, sometimes circumstantial, who believe themselves as the owners of the truth and political correctness, (and) who, through bullying, threats, and retaliation, seek to silence ideas". The association has released statements condemning attacks against journalists (Anatel, 2021).

## Executive Environment

Finally, with respect to the executive environment, there have been no complaints concerning censorship or content control; restrictions on access to information, or freedom of publication by mainstream media during the period analyzed. Journalists have had special permission to work freely despite the restrictions imposed to counteract the pandemic as the job of informing was considered an essential service.

Nevertheless, some cases have brought controversy and even judicial inquiries. The most relevant being the report of alleged espionage by the Army against journalists investigating wrongdoings and corruption in the military. The report is in the hands of the Attorney General's Office and has even motivated special sessions at the Congress. Another event that occurred during the period under analysis was the conflict between the private channel La Red and the government, after the station revealed having received a phone call from an advisor to the presidency who complained on the way certain political content was being addressed during one of its shows.

Despite budget restrictions, in a year of presidential, parliamentary, municipal, regional, and constitutional elections, the media has played an active role in keeping people informed by organizing large numbers of debates and providing extensive coverage of the different electoral processes, including those organized without the supervision of the Electoral Service (Servicio Electoral)

## **REALM A: New channels contribute to free information flow**

In this aspect, Chile still leads the region with a score of 21.43 points, which is not only the highest among the countries reviewed, but also very close to the top set by the Index (23). Likewise, in both, the sub-realm “information flow” and “Citizens Free to Express Themselves”, the scores achieved are very close to the top values with a very low influence by the environments.

Within the period under study, some trends previously observed at the former report have started to consolidate like the increase of spaces for citizen expression at mainstream media, and the emergence of new channels empowered by digital platforms, which are not subject to government regulations of any kind. In addition, social media are further becoming more relevant as sources of information. The downside of this phenomenon has been the occurrence of *funas* (a local form of public repudiation), the intimidation of journalists by extreme groups through social media, and the fast dissemination of fake news.

The press has tried to survive its own economic crisis resulting from both the pandemic contingency and the social crisis, and from moving from a revenue model largely based on advertising to one more focused in subscriptions. Something similar happens with television, being particularly prominent the improvement of the economic situation of the state-own channel TVN. During the pandemic, television stations teamed up to create an educational signal (*TV Educa Chile*). It was so successful that it will continue under TVN's bearing the name NTV. Additionally, during the period under study, Chile University (Universidad de Chile) began to transmit its own digital broadcast TV signal.

## **REALM B: Broad freedom to exercise journalism**

Chile is among the top three best rated countries for this realm (8.29 out of a top of 10 points). This can be regarded as a scenario of “full freedom of expression”, according to the Index. Similar to last year's analysis, there are no cases of government measures over intellectual property or to protect news content from plagiarism and misuse (cases are regulated by relevant laws).

There have also not been any known restrictions on access to sources applied on any accredited media. However, it is worth mentioning the controversy occurred in March following a call from an advisor to the presidency of the republic who complained to the executive



board of the channel La Red about the way it was addressing political topics. The situation resulted in the channel's decision to report the situation to the Inter-American Commission on Human Rights (Cooperativa, 2021).

Regarding the exercise of journalism, the area has continued to shrink due to the loss of jobs stemming from the media's financial crisis, which in some ways, contrasts with the emergence of new digital alternative channels. A diploma in journalism is not required to practice the profession, nor is a membership in the Association of Journalists mandatory; although there is an emerging debate within the constitutional convention proceedings concerning the possibility of mandatory membership in Associations like other professions.

## **REALM C: The main challenge during this year's index**

Similar to last year, Chile shows its lowest rates in this area by scoring only 28.78 out of a total 42 points. This encapsulates contrasting realities. On the one hand, the country shows a favorable score in the "Persecution" sub-realm (7.5 points out of a maximum of 7.5), an indication of lack of government intimidation against journalists and media outlets over speech deemed offensive against authorities or associated groups. Nevertheless, during the period inquired, an investigation into a case of alleged espionage by the Army against five press professionals and journalist Mauricio Weibel surfaced; the latter has been investigating corruption within the institution. (Ciper Chile, 2021). This issue has even been addressed in the Congress (Cooperativa, 2021).

Less positive are the scores in the "Violence" sub-realm (19.06 out of 21 points). This data can be associated to the protests that followed the social outburst of October 2019 which continued to occur - to a lesser extent - within the period surveyed. In this context, although there are no official records, institutions such as the Observatory of Communication Rights (Observatorio del Derecho a la Comunicación) reported attacks and the arbitrary detention of journalists, and alerted, at the beginning of 2021, that the country was undergoing a "freedom of expression crisis" (Observatorio del Derecho a la Comunicación, 2021). This could explain the country's low score in the "Protection" sub-realm (0.79 out of 5).

There have also been particular violence outbursts in south of the country, in the context of a series of incidents of rural violence. According to authorities, these are linked both to territorial claims by the Mapuche communities, and to drug trafficking (La Tercera, 2021). In March, a team of journalists from the public television channel (TVN) suffered violent attacks while trying to interview Mapuche leader, Héctor Llaitul. Their vehicle was ambushed and cameraman Esteban Sánchez lost one of his eyes due to shots fired by unknown individuals (La Tercera, 2021). Although these attacks are not a daily occurrence, the investigations have not been able to determine accountability for these actions. This may explain the low score given by the experts in the sub-realm "Impunity" (1.43 out of 8.5 points).



## REALM D: No major direct or indirect controls

In this realm, Chile shares with Uruguay the highest score in the 2021 release of the Chapultepec Index, which stands for a scenario that could be considered as enjoying “full freedom of expression”. According to the information gathered, this denotes the non-existence of direct or indirect controls over the exercise of journalism by the government and its different institutions and agencies.

During the period under review, there have been no shutdowns, expropriations, or confiscations of media outlets by government agencies. No licenses have been revoked on political grounds. Nor have there been records that could account to arbitrary and discriminatory criteria to privilege or undermine specific media outlets. In the same way, there are no open complaints about the application of indirect control over the media.

In spite of this context, in the public debate during the presidential campaign, there have been signs that raise concern in the Chilean media associations. For his government program, one of the pre-candidates suggested the idea of considering the expansion of government control over the media and even reviewing the licenses allocated to those outlets whose evaluation resulted poorly rated.

## CONCLUSIONS

With an index of 82.06 points out of 100, Chile not only reasserts itself as a country with full freedom of expression and the press, but also shows a slight improvement over the 80 points it scored in the previous edition. The results are mostly positive in three of the four realms reviewed by the experts.

The only realm raising red flags is C (Violence and impunity), where there is concern about the aggressions suffered by press professionals performing their duties in the context of the protests and demonstrations that occurred in the country since October 18, 2019; although, it is an established fact that these happened less frequently and to a lesser extent during the period surveyed.

On the same note, special concern does arise regarding the challenging reporting conditions in urban and rural areas where public security conditions are weaker, such as in the so-called “southern macro zone” and in areas of the country where organized gangs operate. Concern is also expressed for the attacks - using social media - against journalists for voicing personal opinions or publishing controversial information.

Last year was marked by the restrictions officially issued to face the coronavirus pandemic. Although the economic impact has hit the media harshly, from the perspective of the need for having accurate information and the labeling of the exercise of journalism as essential, it served as a proof of the importance of having responsible media in the country.

Henceforth, mainstream media's economic crisis will continue being a relevant challenge as it will be keeping the quality of their news output in a context of fewer availability of resources. There are also challenges for editorial independence considering the need to create new business models that make the existence of professional media viable.

At the institutional level, a period of uncertainty is unfolding as how to deal with the social changes that the country is undergoing as they have diluted public confidence in mainstream media; and also as how the debates on freedom of expression and the press will be settled by means of the drafting of a new Constitution. These are two key elements to define whether the traits that place Chile in a privileged position in the region today will continue, improve, or, on the contrary, deteriorate.

## REFERENCES

- Universidad de Los Andes (2020, 20 de mayo). Cómo ha afectado el coronavirus a los medios de comunicación. Recuperado de <https://www.uandes.cl/noticias/como-ha-afectado-el-coronavirus-a-los-medios-de-comunicacion/>
- El Mostrador (2020, 26 de agosto). Crisis de los medios de comunicación: ahora cerró diario El Centro. Recuperado de <https://www.elmostrador.cl/noticias/sin-editar/2020/08/26/crisis-de-los-medios-de-comunicacion-ahora-cerro-el-diario-el-centro/>
- Puroperiodismo (2020, 11 de agosto). Despidos y precariedad laboral: los datos tras la profunda crisis de los medios de comunicación en Chile. Recuperado de <http://www.puroperiodismo.cl/despidos-y-precariedad-laboral-los-datos-tras-la-profunda-crisis-de-los-medios-de-comunicacion-en-chile/>
- Servicio Electoral (2020). Resultados Plebiscito Nacional 2020. <https://www.servel.cl/resultados-provisorios-plebiscito-nacional-2020/>
- Biblioteca Congreso Nacional (2020). Resultados Plebiscito Nacional 2020. Recuperado de <https://www.bcn.cl/portal/api-servicios/servicio/ObtenerNoticiaPorIdNoticiaHTML?id=resultados-plebiscito-2020>
- Legal News (2021, 12 de mayo). Posturas divididas y renuncias genera propuesta del Colegio de abogados de exigir afiliación obligatoria para ejercer la profesión. Recuperado de <https://www.legalnews.cl/2021/05/12/posturas-divididas-y-renuncias-genera-propuesta-del-colegio-de-abogados-de-exigir-afiliacion-obligatoria-para-ejercer-la-profesion/>
- La Tercera (2021, 11 de mayo). El debate que se abre entre abogados tras la decisión del gremio de exigir afiliación obligatoria para ejercer la profesión. Recuperado de <https://www.la-tercera.com/la-tercera-pm/noticia/el-debate-que-se-abre-entre-abogados-tras-la-decision-del-gremio-de-exigir-afiliacion-obligatoria-para-ejercer-la-profesion/74XWBK-BHPFF4XJUIWFEIR4SFGU/>

El Líbero (2021, 26 de mayo). [Columna Constituyente] Ana María García Barzelatto: Libertad de asociación y colegiatura obligatoria. Recuperado de <https://ellibero.cl/actualidad/columna-constituyente-ana-maria-garcia-barzelatto-libertad-de-asociacion-y-colegiatura-obligatoria/>

Radio Universidad de Chile (2021, 11 de mayo) Candidatos convencionales adhieren incluir el Derecho a la Comunicación en la Nueva Constitución. Recupera de <https://radio.uchile.cl/2021/05/11/candidatos-convencionales-adhieren-incluir-el-derecho-a-la-comunicacion-en-la-nueva-constitucion/>

Asociación Nacional de Prensa (2020, 25 de noviembre). Entrevista a Juan Jaime Díaz. Recuperado de <https://www.anp.cl/2020/11/25/entrevista-a-juan-jaime-diaz/>

Asociación Nacional de Avisadores de Chile (2021, abril). Libertad de expresión, de prensa y de emprendimiento: los imprescindibles para los gremios en la Constitución. Recuperado de <https://www.anda.cl/revista/libertad-de-expresion-de-prensa-y-de-emprendimiento-los-imprescindibles-para-los-gremios-en-la-constitucion/>

Emol (2020, 29 de diciembre). Comisión de Ética fija multas del 7% de la dieta a diputados que incumplan labor parlamentaria por participar en programas de TV. Recuperado de <https://www.emol.com/noticias/Nacional/2020/12/29/1007910/Comision-Etica-multas-diputados-matinales.html>

La Tercera (2021, 3 de abril). Federación de Medios de Comunicación rechaza indicación del Senado que limitaría participación de candidatos en entrevistas y dice que afecta “de forma manifiesta” la libertad editorial. Recuperado de <https://www.latercera.com/politica/noticia/federacion-de-medios-de-comunicacion-rechaza-indicacion-del-senado-que-limitaria-participacion-de-candidatos-en-entrevistas-y-dice-que-afecta-de-forma-manifiesta-la-libertad-editorial/5QJFCRVOX-JGTFDZQES5CGCLHSQ/>

Asociación Nacional de Televisión (2021, 26 de julio). Declaración Pública Federación de Medios de Comunicación. Recuperado de <https://www.anatel.cl/declaracion-publica-federacion-de-medios-de-comunicacion-3/>

T13.cl (2021, 29 de marzo). Federación de Medios y ataque a equipo de TVN: “Son hechos graves para la convivencia nacional”. Recuperado de <https://www.t13.cl/noticia/nacional/federacion-medios-y-ataque-equipo-tvn-son-hechos-graves-convivencia-nacional>

Cooperativa (2021, 14 de abril) La Red acude a la CIDH por reclamos de La Moneda a su dirección ejecutiva. Recuperado de <https://cooperativa.cl/noticias/pais/presidente-pinera/la-red-acude-a-la-cidh-por-reclamos-de-la-moneda-a-su-direccion-ejecutiva/2021-04-14/103608.html>

Ciper Chile (2021, 9 de abril) Espionaje del Ejército a Mauricio Weibel: Fiscalía indaga monitoreo militar a otros cinco periodistas <https://www.ciperchile.cl/2021/04/09/espionaje-del-ejercito-a-mauricio-weibel-fiscalia-indaga-monitoreo-militar-a-otros-cinco-periodistas/>

Cooperativa.cl (2021, 3 de mayo). Del espionaje del Ejército a “telefonazos”: Senado analizó estado de la libertad de prensa en Chile Recuperado de <https://cooperativa.cl/noticias/pais/dd-hh/del-espionaje-del-ejercito-a-telefonazos-senado-analizo-estado-de-la/2021-05-03/175157.html>

Biobío (2021, 5 de agosto). Espionaje a periodistas: jefe del Ejército dice que se enteró “por la prensa”. Recuperado de <https://www.biobiochile.cl/especial/reportajes/2021/08/05/espionaje-a-periodistas-jefe-del-ejercito-dice-que-se-entero-por-la-prensa.shtml>

Observatorio del Derecho a la Comunicación (2021, 25 de junio). Libertad de expresión en Chile 2020: la punta del iceberg. Recuperado de <http://observatorioderechocomunicacion.cl/libertad-de-expresion-en-chile-2020-la-punta-del-iceberg/>

La Tercera (2021, 20 de agosto). Rodrigo Delgado: “En la Macrozona Sur los narcos actúan bajo la adhesión ciudadana de la causa mapuche”. Recuperado de <https://www.latercera.com/la-tercera-sabado/noticia/rodrigo-delgado-en-la-macrozona-sur-los-narcos-actuan-bajo-la-adhesion-ciudadana-de-la-causa-mapuche/M5C5APLXYZEQJJBGZWYSKQDI3E/>

CNN Chile (2021, 21 de Agosto). Ministro Delgado y situación en la macrozona sur: “Hay narcotraficantes dentro de comunidades”. Recuperado de [https://www.cnnchile.com/lodijeronencnn/entrevista-ministro-delgado-narcotraficantes-comunidades\\_20210821/](https://www.cnnchile.com/lodijeronencnn/entrevista-ministro-delgado-narcotraficantes-comunidades_20210821/)

La Tercera (2021, 18 de junio) “Quédate conmigo Esteban, no te vayá”: revelan detalles inéditos de ataque a equipo de TVN en Tirúa. Recuperado de <https://www.latercera.com/nacional/noticia/revelan-detalles-ineditos-de-ataque-a-equipo-de-tvn-en-tirua-redes-de-inteligencia-y-de-carabineros-sabian-del-viaje-del-equipo-a-la-zona/G7IQ3XTYCNGV7BBIVE3LEXD3OY/>

## CHILE

PERIOD SURVEYED.

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	With one of highest scores in the region, Chile stands out as a system with full freedom of the press, according to data from the current release of the Chapultepec Index. This reflects in practice by the nonexistent control over the media by the government, positive assessment by the society on the importance of the role of professional media against the proliferation of fake news in social media, freedom of expression among citizens, few requirements for the establishment of new media, and the absence of actions that could be regarded as persecutory against the press.
<b>WEAKNESSES</b>	As in the previous report, the current study shows the complications that mainstream media have experienced when facing the economic crisis affecting the sector due to the drop in advertising revenues with no other income from other sources compensating for them. This crisis has overlapped with that of the coronavirus pandemic resulting in the layoffs of more news professionals and a reduction of the resources allocated for journalistic coverage.
<b>OPPORTUNITIES</b>	In a context as unique as Chile with the presence of election debates, constitutional discussions, and the coronavirus pandemic, the assessment of the media's work in an atmosphere where fake news circulate has strengthened the public's need for quality news and content. This is reflected by the emergence of new digital media and even two new broadcast television channels. In addition, the same constitutional convention process is seen by many stakeholders as an opportunity to create a well-regulated media system with rules that preserve its editorial and economic independence.
<b>THREATS</b>	The economic crisis that the industry is undergoing and the uncertainty that the country is experiencing resulting from the constitutional debate and from the October 2019 social outburst continue to affect the income of an industry which is also subject to greater demands from citizens to whom it must serve despite more limited resources available. Also, for some stakeholders, there is concern that the constitutional convention process underway in Chile may result in regulations that affect media independence. Such fears have been encouraged by statements from relevant politicians during the 2021 election campaigns.

## 2.5.3 OVERVIEW

### Chile

Although **Chile** dropped to position No. 2 in the 2020-2021 survey (in 2019-2020, it led the Index), it improved in specific results. This placed it in the category of countries with Full Freedom of Expression, providing a very friendly environment for the exercise of free speech with very low levels of influence from the different government entities.

Regarding Realm A, Informed Citizens Freedom to Express Themselves, it continues to show the leading rating, in contrast to the overall result, even after declining by tenths of a point from one period to the other. Citizens have access to information and are free to express themselves; the population is not limited or restricted in this regard. Likewise, access to reliable and quality Internet is guaranteed.

Realm B, Exercise of Journalism, showed -1.31 points of difference between one iteration and another, in regard with the emergence of new media widening the options for the population to be both receivers and broadcasters of information. Additionally, although the journalistic work was affected by some attacks on media outlets (*El Líder*, *El Mercurio*, and *El Pingüino*) in 2019-2020, there were no reports in this regard in 2020-2021. However, a greater loss of jobs in this area was witnessed, in the wake of the financial crisis affecting the media.

In Realm C, Violence and Impunity, we observed the greatest improvement of 5.87 points of difference between what was obtained in 2019-2020 and 2020-2021. However, it is in this realm where Chile showed its lowest performance in both periods due to the specific instances of violence generated by the protests that have continued since 2019.

Realm D, Control over the Media, also showed declining results (25 points in 2019-2020 vs. 23.57 in 2020-2021). This drop is evident only in the [sub-realm of] Direct Control over the media. In other words, as of 2020-2021, there are mechanisms that directly affect the media; but in general, there are no direct or indirect control strategies targeting them, except for those proposed by certain presidential candidates who offer to revisit these issues, as well as the review of broadcast media licenses.

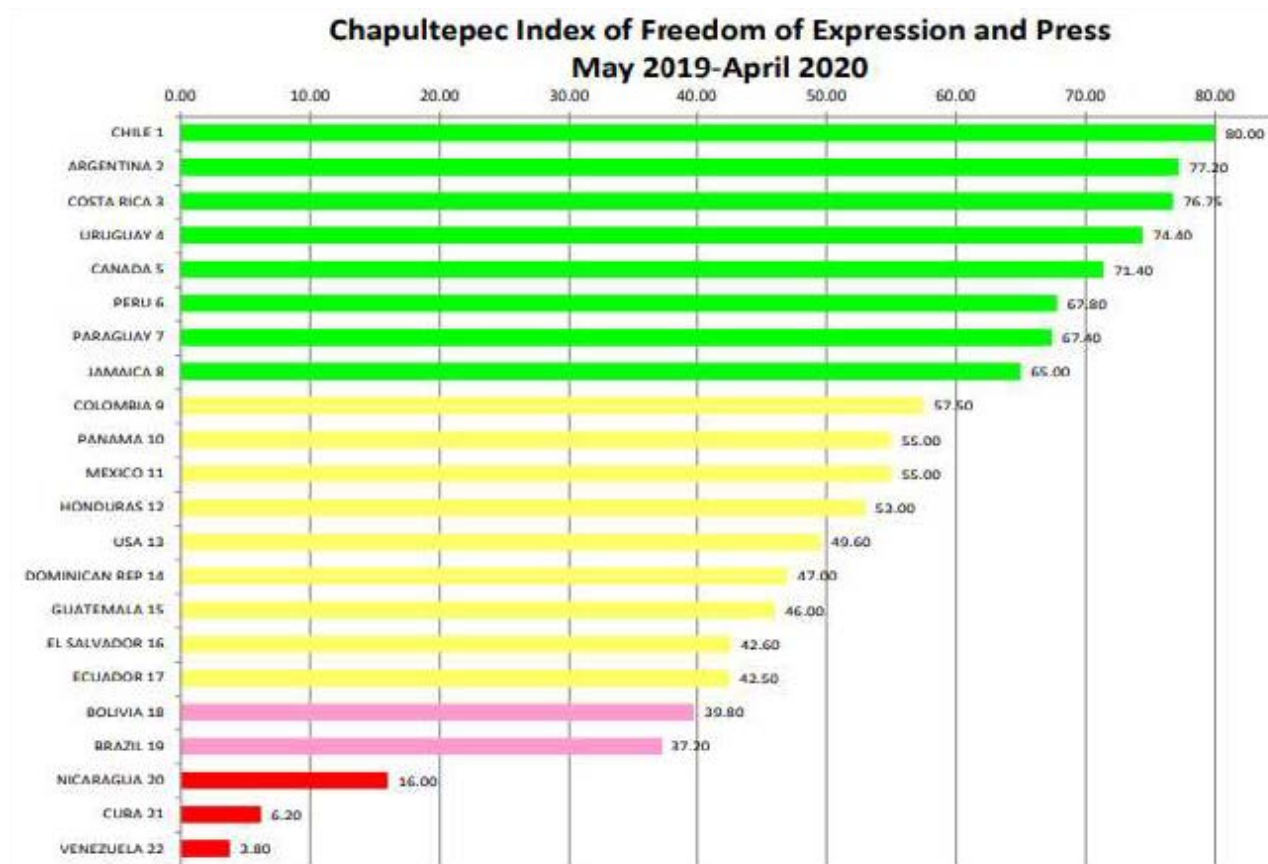
In 2020-2021, the unfavorable influence of the different environments was more evident, although always preserving a slight influence. The results that varied the most from one period to the other were those related to Realm C, even reflecting the highest result for the judicial environment. The impact on this realm took the form of rulings issued and legal doctrine established by the Judiciary. In general, the executive environment showed greater activity in the second study period, opening the floodgates to public debate on the mandatory affiliation of journalists, the presence of regulatory authorities in the media, and the protection of the latter under the highest law on the land itself.



## 2.6. COLOMBIA

### 2.6.1 COLOMBIA 2019-2020

COLOMBIA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>57.5</b>
REALM A: "Citizens informed and free to express themselves"	23	12.8
Flow of information	11	6.5
Free Expression	12	6.3
REALM B: Exercise of Journalism	10	8.3
REALM C: Violence and Impunity	42	15.5
Protection	10	2.5
Persecution	15	9.3
Impunity	17	3.8
REALM D: Control over the media	25	21.0
Direct control	16	12.0
Indirect control	9	9.0



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

COLOMBIA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	3.34	3.15	3.90
REALM A: "Citizens informed and free to express themselves"	4.62	4.45	4.56
Flow of information	4.70	4.70	5.70
Free Expression	4.54	4.21	3.42
REALM B: Exercise of Journalism	4.80	5.00	5.60
REALM C: Violence and Impunity	3.00	2.92	3.67
Protection	2.50	2.75	3.00
Persecution	5.50	5.00	7.00
Impunity	1.00	1.00	1.00
REALM D: Control over the media	2.00	1.38	2.85
Direct control	2.00	1.75	3.38
Indirect control	2.00	1.00	2.33

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## Colombia: the risk to media and freedoms

### Executive summary

In Colombia, the risks to exercise the Freedom of Expression and the Freedom of the Press have increased because, in addition to violence and impunity factors, the government policy has not been able to break the regulatory asymmetry that deepens the crisis of the business model threatening not only the business prospects of the media, but also jobs for workers in this field and spaces to guarantee citizens their rights to expression and information as essential goods for the functioning of a democratic and pluralistic society.

## INTRODUCTION

The study period spans over May 1, 2019 through April 30, 2020, a period in which journalistic activity was affected by a strong influence of judicial decisions and attacks against journalists by armed groups.

Another growing trend is the use of the court system to try to silence whistleblowing by journalists, forcing the media to engage in costly legal battles.

The trend by citizens and entities in resorting to court proceedings, criminal complaints, injunctions, and civil liability actions against the media continues on the rise. The right to be forgotten is also invoked when taking advantage of legal loopholes to remove news from the media's digital archives.

## Results analysis

The review conducted by means of the Chapultepec Index showed that Colombia was rated as a country in which there is **PARTIAL RESTRICTION** for the exercise of freedom of expression and freedom of the press, in reason of a moderate influence (40/60) that, in the face of situations discouraging free speech, the following branches of government exercise: Legislative (3.94), Executive (4.44) and Judicial (3.79).

The above constitutes a warning sign for all those involved to consider this report from the perspective of the imperative need to protect the guarantees for the full exercise and permanence over time of the exercise of the fundamental right to impart and receive information.

Finally, and although Colombia has a protection scheme for journalists that has served as an example to several countries in the region, there is still much to do so that its operation and results guarantee the life and safety of communicators in the country.

## **Executive environment**

The overall result of the executive environment is that it exerts a moderate degree of influence in situations discouraging free speech.

Regardless of the above, some issues such as those concerning informed and citizens free to express themselves, information flow, exercise of journalism, and persecution, revealed a strong influence of the Executive on situations discouraging free speech. This influence is especially evident in the difficulties for access to information (public contracts, information on public tender processes, among others) posed by the various Executive branch agencies at national and local levels. This prevents access to data essential for journalists and newspersons to serve one of the main purposes for their role, which is to exert social control over the actions of the officials. Additionally, it is noteworthy that the Superintendence of Industry and Commerce (Superintendencia de Industria y Comercio) issued an order in 2018, with controversial implications during the period under study, whereby it called on the media, via their trade organizations, to “refrain from broadcasting and disseminating advertising campaigns that violate fundamental rights, such as human dignity, equality, and non-discrimination towards women”, as this constitutes an act of censorship.

Concerning violence, impunity, direct control and indirect control, the Executive has moderate influence in situations unfavorable to freedom of expression.

Finally, protective actions in the exercise of journalism in Colombia showed a slight influence by the environment of the Executive branch.

## **Legislative environment**

As for the legislative environment, the overall result shows that it has a moderate degree of influence on situations discouraging free speech.

The influence of this environment on situations discouraging free speech was strong, in terms of the persecution of journalism. This is reflected in the existence of draft bills leaning towards imposing restrictions on the exercise of the journalistic profession, such as the bill that sought to revive card-carrying affiliation for journalists, which has been proposed since 2018 but triggered public statements during the period of analysis. Likewise, in 2019, a draft bill seeking to set “rules for the good use and operation of social media and websites in Colombia” was submitted, to name a few.

The Legislative environment has a moderate influence in situations discouraging free speech, regarding violence and impunity, the direct and indirect control over the media. This is because, although the Legislative does not have direct influence on decisions related to these issues, many of the laws regulating them are insufficient to guarantee the protection of newsmen and a serious regulatory asymmetry continues to exist among the different media and news stakeholders. The economic crisis is worsened by the lack of a government policy in this matter. This causes the responsibility for protecting the exercise of journalism, watching over the enforcement of existing laws by exercising the controls bestowed on them by the Constitution, and guaranteeing the stability of companies enabling the exercise of news-related activities throughout the nation to rest with the legislators.

Finally, the Legislative had a strong influence on situations discouraging free speech, related to persecution.

## **Judicial environment**

The overall result for the judicial environment is that it has a moderate degree of influence on situations discouraging free speech.

The judiciary had a moderate influence on some situations discouraging free speech in the assessment of citizens informed and free to express themselves, information flow, free speech, the exercise of journalism, the protection and persecution of journalists. The above results stem from court rulings by judges in Colombia, mostly in the framework of constitutional protective injunctions. As a case in point, we have that of a judge who ordered, last February 2020, ten days' arrest and a fine of ten minimum wages against journalist Lucio Torres for refusing to retract from whistleblowing publications involving Miguel Arrázola, a pastor leading a Christian church. Similarly, it is of concern the fact that the cases of murdered journalists are on the verge of reaching their statute of limitations under the Colombian legal system: Sentences for those who perpetrated and masterminded the killings of Carlos José Restrepo Rocha, murdered on September 7, 2000 in San Luis, Tolima; Juan Camilo Restrepo Guerra, murdered on October 31, 2000 in Ebéjico, Antioquia; Gustavo Ruiz Cantillo, murdered on November 15, 2000 in Pivijay, Magdalena; Guillermo León Agudelo, murdered on November 30, 2000 in Florencia, Caquetá; and Alfredo Abad López, murdered on December 13, 2000 in Florencia, Caquetá, have not been issued.

The judicial environment was found to have a slight influence on discouraging situations regarding issues related to violence and impunity, direct control and indirect control, such as protection and impunity. The reason for this is that its actions are aimed at delivering justice on crimes committed against the life and personal safety of journalists, and that they have the duty to hear slander and defamation cases brought against newsmen. At this point, it is worth reminding that Colombia is one of the few countries that still makes it a crime to

engage in the above behaviors, and those who work as journalists may be prosecuted for such offenses.

Finally, the Colombian judiciary has had a slight influence on protective actions and actions against impunity.

## **The four realms assessed**

Valoradas las dimensiones de ciudadanía informada y libre de expresarse, ejercicio del periodismo, violencia e impunidad y control de medios, Colombia obtuvo 57,5 sobre 100 puntos en el Índice Chapultepec, quedando clasificada como un país en el cual existe restricción parcial para el ejercicio de las libertades de Libertad de Expresión y Prensa.

Following the assessment for the realms informed citizens and free to express themselves, the exercise of journalism, violence and impunity and control of the media, Colombia obtained 57.5 out of 100 points in the Chapultepec Index, being rated as a country in which there is partial restriction for the exercise of the freedoms of Freedom of Expression and Press.

### **REALM A: Informed citizens free to express themselves**

The assessment for the realm of informed citizens free to express themselves includes, on the one hand, analysis on government action encouraging the flow of plural and timely information to citizens. In this regard, Colombia scored 5.8 out of 11 points.

In this sub-realm, the experts assessed the limitations on access to public information and to rights in connection with freedom of expression and the press, the appropriate enforcement by the government of the rights of reply and to be forgotten, as well as the use of public and private media to further the government's views, in addition to constraints on citizens from obtaining reliable, quality, and accessible Internet service.

In the sub-realm of citizens free to express themselves, which explores whether the government provides resources for citizens to express themselves in the public arena, Colombia scored 4 out of 12 points.

In this regard, the assessment focuses on encouraging censoring information deemed negative for the political groups in power, burdensome regulations and penalties in place restricting statements regarding public interest matters online, as well as the existence of criminal provisions for slander, defamation, and contempt.

### **REALM B: Exercise of journalism**

The second realm of the Chapultepec Index explores whether the government guarantees the exercise of journalism. To this end, it assesses the protection from plagiarism or





improper use of intellectual property of journalistic content; the mandatory affiliation to journalists' unions and associations; the requirement of an academic degree to practice such activity; and the restriction or denial of access to official sources, as well as the impact on the disclosure of journalistic sources, and the imposition of punitive measures. In this item, the experts rated Colombia at 7.8 out of 10 points.

In this regard, it is noteworthy that Colombia has entered into international agreements and has domestic laws intended to protect intellectual and related rights on journalistic content. It also has a specialized agency (National Copyright Bureau [Dirección Nacional de Derechos de Autor]) for protecting such rights, initiate administrative and court actions required to recognize and verify matters related to intellectual property. Journalism is considered a profession that does not require an academic degree or mandatory affiliation. However, as mentioned above, there are draft bills in Congress aimed at setting regulations to require card-carrying affiliation from newsmen. Access to public information and official sources is severely restricted, despite the existence of a law on access to public information. In many cases, it is necessary to resort to petition rights and injunctive action to gain access to documents that are in the public domain by nature.

In an important ruling last May, Colombia's Constitutional Court (Corte Constitucional) protected the fundamental right to freedom of information and expression by granting the injunctive action filed by journalists who were denied access to a courthouse in order to cover a public hearing on a general interest case. The Court found that the judge's decision to deny the journalists access on grounds of "averting risk to the victims and guaranteeing the proper course and success of the investigation" violated freedoms of expression, information, and of the press.

An illegal wiretapping plan against journalists, human rights advocates, judges, politicians, and other public officials was unveiled. This unlawful surveillance was allegedly performed by military units and targeted several journalists at the media outlet that uncovered the existence of this plan.

During the social demonstrations that took place between November 2019 and January 2020, there was an increase in complaints regarding the excessive use of force (aggressions and arbitrary detentions) against journalists by law enforcement bodies.

## **REALM C: Violence and impunity**

In this third realm, the experts rated Colombia at 15.5 out of 42 points, comprehending the assessment of three sub-realms:

One: Persecution. In this regard, the Index seeks to ascertain whether the government encourages the persecution of journalists and media outlets publishing statements that may be deemed potentially offensive to officials, or whether government officials uttering

harassing, stigmatizing, or hate speech against journalists and media outlets. In these items, Colombia achieved 9,3 out of 15 points.

Two: Protection. In this sub-realm, the index assesses whether the government provides efficient mechanisms for protecting journalists or actions aimed at preventing threats, attacks, and aggressions against journalists and the media; in addition, whether it provides judges with training to address the investigation and punishment of assaults, killings, and crimes against journalists and the media. In these items, Colombia was rated at 2.5 out of 10 points.

Three: Impunity. In this sub-realm, the experts surveyed assessed whether there are pieces of legislation or court rulings stipulating harsher punishment for murders or waiving the statute of limitations on killings, assaults and threats against journalists and the media; likewise, they reviewed whether the government complies with sentences or rulings by international bodies whereby it is held responsible for crimes against journalists and the media and whether it makes reparations to the victims. The score obtained by Colombia was 3,8 out of 17 points.

The increasing siege by armed groups against community leaders and people known for their work on behalf of their communities tragically reached the media, as the lives of several newsmen were taken. In addition to these deaths, there have been assaults and threats against journalists by government agents and private individuals, particularly in territories where there exist disputes between rogue groups.

Another growing trend is the use of the court system to try to silence whistleblowing by journalists, forcing the media to engage in costly legal battles. The trend by citizens and entities in resorting to court proceedings, criminal complaints, injunctions, and civil liability actions against the media continues on the rise. The right to be forgotten is also invoked when taking advantage of legal loopholes to remove news from the media's digital archives, which distorts society's historical memory.

## **REALM D: Control over the media**

Regarding control over media, Colombia was rated at 21 out of 25 points. This assesses the effect of control over the media, exercised by means of discretionary resources and penalties.

In this sense, the sub-realm of direct control over the media investigates the closing, revocation of licenses, expropriation, or seizure of media on political grounds; the discriminatory use of tax provisions or fiscal privileges for media outlets aligned the government, or whether the government allows for the granting of media licenses, as well as the allocation of public funds and government advertising, to be conducted in an arbitrary and discrimi-

natory manner, rewarding those media favorable and undermining those others contrary to its position.

In the sub-realm above, the experts rated Colombia at 9.5 out of 16 points.

The sub-realm regarding indirect control of the media assesses whether the government allows or direct restrictions or blockages of various digital information platforms considered contrary to the interests of the powers-that-be.

Therefore, on the one hand, it is reviewed whether the government applies pressure on technological intermediaries – such as pay TV systems, ISPs, and suppliers – in order to prevent the media from disseminating certain contents.

On the other hand, it examines whether the government encourages applying restrictions on intermediate goods suppliers (newsprint, materials, IT components, electrical power, etc.) affecting the production and dissemination of information by the media.

With regard to indirect control of the media, the experts who applied the Chapultepec Index on Colombia rated it at 9 out of 9 points.

As documented by recent studies cited in the references, neither the National Development Plan (Law 1955/19, Plan Nacional de Desarrollo [Ley 1955/19]) nor the Law to Update the Information and Communication Technologies (ICT) Sector (Law 1978/19, Ley que moderniza el sector de Tecnologías de la Información y las Comunicaciones [Ley 1978/19]), which set forth official incentives for the ICT sector, preserved the same standard of government treatment in ensuring the strengthening and sustainability of the national communications and media industry organizations that, by 2018, had reported losses of over US\$100 million.

With this type of biased and discriminatory measures, the government policy continues to deepen regulatory asymmetries between mainstream or flagship media outlets, since the Law has provided for incentives, discounts on economic obligations with the government, as well as the choice of paying financial obligations with services or pledges of activities, and national and foreign internet service providers (ISPs) as well as digital content providers.

## CONCLUSIONS

Considering that the study period runs from May 1, 2019, to April 30, 2020, the assessment conducted by the experts who applied the Chapultepec Index to the Colombian reality regarding freedom of expression and the press allow the following conclusions to be drawn:

During this period, journalistic activity was affected by a strong influence of judicial decisions: Attacks on journalists by armed groups, a financial crisis compromising the business prospects of the media and the sources of employment for journalists, as well as the possibility for citizens to have spaces for pluralistic expression and information in the different regions of the country.

The ratings assigned by the experts surveyed to Colombia lead us to infer that, in their opinion, to varying extents, the branches of government (legislative, executive, and judicial) have, by action or omission, been ineffective in guaranteeing Colombian citizens the full exercise of the rights to expression and information, since, on the one hand, the concerned government agencies have not been able to fully quell the violence against journalists or punish those responsible.

While asymmetrical and discriminatory measures have been taken (National Development Plan and ICT Law), all of Colombia's print, audiovisual, radio, digital, and outdoor communication media are subject to heavy and unequal tax and parafiscal levies jeopardizing the media's business prospects as a special and fundamental estate for democracy.

The discriminatory legal measures provided for in the National Development Plan (Law 1555/19) and in the ICT Law (1978/19) dangerously deepen the regulatory asymmetries that have been crippling the communications and media industry in Colombia; constituting a serious and imminent risk for the media's business prospects.

Inasmuch as these direct control actions are banned in international communications law, they must be urgently repealed by the executive and legislative branches of Colombia in order to guarantee the full exercise of freedom of expression, information and the press.

The financial crisis and the eventual expense cuts of are not only a serious risk for owners and investors in the sector, but they also put at risk the existence of the communications and media industry, generating employment in the country's regions and inland, energizing the economy but, above all things, ensuring national and local citizens spaces for pluralism and the exercise of their rights to expression and information.

## REFERENCES

- Barrios, A. (2019, March 25). El periodismo en la era de las redes sociales. In: *razonpublica.com*. Retrieved from: <https://razonpublica.com/el-periodismo-en-la-era-de-las-redes-sociales/>
- Círculo de periodistas de Bogotá. (2020, February 10). El desempleo, las amenazas y la estigmatización, atentan contra el periodismo de investigación en Colombia: Gloria Vallejo, Presidenta CPB. *Círculo de periodistas de Bogotá*. Retrieved from: <https://www.circulo-periodistasdebogota.org/intervencion-gloria-vallejo-premios-cpb-2020/>
- El Encierro. (2020, May 4). La situación de los medios es difícil: Tulio Ángel Arbeláez. W Radio llega con El Encierro para hacer más agradable el aislamiento. El abogado especialista en derecho de telecomunicaciones y tributario conversó con Alberto Casas. W In: *Radio*. Retrieved from: <https://www.wradio.com.co/noticias/actualidad/la-situacion-de-los-medios-es-dificil-tulio-angel-arbelaez/20200504/nota/4035686.aspx>

- El tiempo. (2020, April 11). La necesidad de priorizar la situación de los medios es urgente. In: *El tiempo*. Retrieved from <https://www.eltiempo.com/economia/empresas/la-necesidad-de-priorizar-la-situacion-de-los-medios-es-urgente-483440>
- Fundación para la Libertad de Prensa (FLIP). (2020). Informe anual 2019: Callar y fingir, la censura de siempre. Retrieved from <https://flip.org.co/index.php/en/publicaciones/informes-anuales/item/2463-informe-anual-2019-callar-y-fingir-la-censura-de-siempre>
- Garzón, J. (2019, August 3) Crisis de la industria de la comunicación en Colombia, ¿oportunidad para reinventarse? In: *Universidad Nacional de Colombia*. Retrieved from <https://unperiodico.unal.edu.co/pages/blog/detail/crisis-de-la-industria-de-la-comunicacion-en-colombia-oportunidad-para-reinventarse/>
- Garzón, J. (2019, June 10). La ley TIC no modernizará las telecomunicaciones ni la información. In: *razonpublica.com*. Retrieved from <https://razonpublica.com/index.php/politica-y-gobierno-temas-27/12045-la-ley-tic-no-modernizara-las-telecomunicaciones-ni-la-informacion.html>
- Federación Colombiana de Periodistas – FECOLPER. (2020). Periodismo: Trabajo Indecente. Colombia. Retrieved from <http://fecolper.com.co/wp-content/uploads/2020/08/Periodismo-trabajo-indecente.pdf>
- REY, G. (2020, July 13). El duro destino de los medios de comunicación. In: *razonpublica.com*. Retrieved from <https://razonpublica.com/duro-destino-los-medios-comunicacion/>
- Rincón, O. (2020, June 15). La comunicación de los pobres / El otro lado. In: *El Tiempo*. Retrieved from <https://www.eltiempo.com/cultura/cine-y-tv/la-comunicacion-de-los-pobres-columna-de-omar-rincon-506988>
- Rueda, M. (2020, April 13). ¿Cómo ayudarles a actrices, actores y guionistas nacionales? In: *El Tiempo*. Retrieved from <https://www.eltiempo.com/cultura/cine-y-tv/como-ayudarles-a-actrices-actores-y-guionistas-nacionales-en-este-paro-de-produccion-483600>
- Reporteros sin fronteras. (2019). Informe anual 2019 de RFS. Retrieved from <http://m.informeannualrsf.es/>

## COLOMBIA

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Colombia has a highly structured system of protection for journalists that has been an example for other Latin American countries. It has a statutory framework for copyright protection and a robust law of access to public information. In addition, access to the Internet is free and without government restrictions, which facilitates the exercise of the right to express oneself freely. The nation also has strong independent organizations that work in the defense of unfettered exercise of freedom of expression and the press.
<b>WEAKNESSES</b>	The weaknesses are mainly evident in the generalized economic crisis affecting the communications sector, which threatens the existence of different media companies. Additionally, a regulatory asymmetry favors ISPs and neglects mainstream media. Other problems are the Criminal Code provisions regarding crimes of slander and libel for reporters, impunity for crimes against journalists, as well as legal actions against media outlets and newspersons, compelling them to engage in costly legal battles. Finally, there is the influence of permanent attacks by rogue groups.
<b>OPPORTUNITIES</b>	Opportunities are reflected in the possibility of accessing IT tools and knowledge more easily in a globalized world. Similarly, opportunities are represented by international cooperation in plans and programs supporting freedom of expression and the press in Colombia and by the existence of international organizations and entities supporting the country in its fight for such rights and for the protection of human rights.
<b>THREATS</b>	Threats are centered on the strong influence of political and social conflicts in neighboring countries, which have been coupled with strong migration and the actions of rogue armed groups. On the other hand, the presence of social media giants (Google, Facebook, Instagram) has affected the quality of information and the communications industry.



## 2.6.2 COLOMBIA 2020-2021

COLOMBIA	Theoretical Max	Index
<b>Chapultepec Index</b>	100,00	<b>57,23</b>
REALM A: "Citizens free to express themselves"	23,00	12,43
Information flow	11,00	5,29
Free speech	12,00	7,14
REALM B: "Exercise of journalism"	10,00	7,43
REALM C: "Violence and impunity"	42,00	17,52
Protection	5,00	2,79
Persecution	7,50	3,21
Impunity	8,50	1,50
Registered violence	21,00	10,02
REALM D: Control over the media	25,00	19,86
Direct control	19,00	14,43
Indirect control	6,00	5,43

Chapultepec Index on Freedom of Expression and the Press 2021



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

COLOMBIA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	1,89	1,74	2,05
REALM A: "Citizens informed and free to express themselves"	2,57	1,88	1,74
REALM B: Exercise of Journalism	1,71	1,86	2,43
REALM C: Violence and Impunity	2,05	2,10	2,76
REALM D: Control over the media	1,21	1,14	1,29

Type of Influence      Points

SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD MEASURED.  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Sustainable means for the post-pandemic and democracy

### Executive Summary

The pandemic and the public order situation in Colombia accentuated the deep crisis of the business model of the media, which threatens not only their entrepreneurial existence, but also the exercise of freedom of expression and the press, employment for workers in the sector and, consequently, spaces to guarantee the rights to expression and information of citizens. In addition, the factors of violence and impunity against media and journalists have increased.

## INTRODUCTION

The period of study is between July 31, 2020 and August 1, 2021. The journalistic activity and the media business faced the effects of the global pandemic due to COVID-19 and the effects of public order of the “National Strike”. They also highlight the attacks against journalists and communicators by different sectors and the judicial decisions related to the exercise of press freedom and the right to information.

The citizen and institutional practice of resorting to judicial channels with criminal actions, constitutional actions of “tutelage” and actions of non-contractual civil liability against the media and journalists to mitigate their activities is maintained. The so-called “right to be forgotten” continues to be used to remove news from digital media archives.

## Analysis of results

On this occasion, the comparison carried out by the Chapultepec Index classifies Colombia as a country with partial *restriction* for the exercise of freedom of expression and of the press, by virtue of the moderate influence (57.23) that, in the face of situations unfavorable to freedom of expression, exercise the powers: Legislative (1.89), Executive (2.05) and Judicial (1.74).

The results of the Index constitute a warning for all interested parties to analyze this relationship from the perspective of the urgent need to review the regulatory asymmetry and the possibility of creating laws that contribute to the survival of journalistic companies,

in order to claim the guarantees of full enjoyment and permanence of the exercise of the fundamental right to give and receive information.

On the other hand, although the protection of Colombian journalists is a model to follow for many countries in the region, much remains to be done. The country cannot yet be trusted with its promises of survival and security for communicators.

## **Executive Environment**

In the executive environment, Colombia has a slight degree of influence in situations unfavorable to freedom of expression.

Thus, other factors such as informed citizenship and freedom of expression, the experiences that sustain the flow of news, events and conflicts frequently associated with their headlines and the presence of journalists and broadcasters show a strong influence of the Executive branch to the detriment of freedom of expression.

This effect is reflected in the difficulty of obtaining information (government contracts, licensing information, etc.) at the national and local levels from the various departments of the executive branch. This does not allow them to obtain the necessary information from journalists and professionals in relation to public relations to protect one of the main reasons for their function: to serve as a public regulatory body in the public service.

Regulatory asymmetries between the media (print, digital, television, radio) continue, as the State has not intervened to address the crisis in the media business, and there are still no tax exemptions, official incentives, or media support policies. Although the Government initiated the regulation for the Single Fund for Information and Communications Technologies to finance projects of digital transformation of the media, to support the economic recovery of journalistic companies affected by the pandemic, the results of it are not yet seen. The Ministry of Communications opened a call to deliver resources to the media for the “Digital Transformation” and it was terminated early because – strangely – “none of the 354 proposals submitted met all the enabling requirements previously defined in the Call”. Thus, the financial situation of media companies continues to deteriorate seriously with the full knowledge of the Colombian State. The Government remains unperturbed by this reality despite the threat it poses to the fundamental right to information and to democracy.

With regards to free and informed citizens, the exercise of journalism, and the control of the media, the Executive Branch has a slight influence on environments related to scenarios unfavorable to the free exercise of the constitutional right to give and receive information.

Finally, in relation to violence and impunity, there was a moderate influence on the exercise of journalism by the Executive environment. This due to some actions or omissions of the public force against journalists and communicators in the framework of the National Strike and the protests that have occurred in the country in recent months.

## Legislative Environment

The Legislative environment showed that there is a slight degree in terms of harmful scenarios for freedom of expression.

There was moderate influence in this environment, especially in relation to actions for informed and free to express citizens, the flow of information and free expression. This can be seen in the processing of bills that seek to impose measures to protect the fundamental right to honor, honor, good name, personal, family and image privacy, creating new rules when these rights collide with freedom of opinion. There is also a bill that declares access to Internet as a fundamental right, modifying article 20 of the Political Constitution; The concern is that it establishes the protection of rights that already have an autonomous article that regulates them. On the other hand, there is a project that aims to regulate advertising on social networks by prohibiting certain messages that could affect freedom of expression and a niche of income. Of these initiatives, in addition, it is worrying that they continue to impose disproportionate burdens on media companies.

Finally, it was found that in terms of the exercise of journalism, violence and impunity and media control, the actions of the Legislative related to avoiding direct and indirect control of the media, had a slight influence in situations unfavorable to freedom of expression. Although the Legislative Branch does not have direct influence on decisions related to these aspects, many of the laws that regulate these issues are not sufficient to guarantee the protection of communicators and there is still a serious regulatory asymmetry between the different actors of communication. The economic crisis is exacerbated by the lack of a State policy for this sector, being the responsibility of legislators to protect the journalistic exercise, ensure the application of existing laws through the exercise of the controls that the Constitution grants them and guarantee the permanence of companies that allow throughout the country the exercise of the activity of informing.

## Judicial Environment

The judicial environment emits a slight degree of influence in situations adverse to freedom of expression.

The Judiciary gives slight influence in certain circumstances to freedom of expression in the evaluation of relations with informed citizens and freedom of expression, accusations in favor of the fluidity of information. The relationship of action to duration and process and oppression against communicators. These results are mainly due to convictions in Colombia, mainly in constitutional actions of tutela, such as that of the Sixth Criminal Court of the Specialized Circuit of Bogotá that ordered the channel “Las Igualadas”, Fidel Cano and “El Espectador”, the rectification of an opinion issued on the channel, after complaints made by gender violence against José Francisco Jamocó Ángel, senior pastor of the religious congre-

gation El Shaddai. On the other hand, Gustavo Rugeles, director of “El Expediente”, was notified of an arrest warrant and was sentenced to pay a fine for the breach of a guardianship that required him to delete and rectify a publication disseminated on social networks and on his portal. In another order of ideas, the First Criminal Court of the Specialized Circuit of Tumaco sentenced Jesús Vargas Cuajiboy, to 28 years and 8 months in prison, for the murder in March 2018 of journalists Javier Ortega, Paúl Rivas and Efraín Segarra, of the newspaper El Comercio, of Ecuador, on the Colombian-Ecuadorian border.

Of concern is the decision of the second instance of the Sala Laboral of the Supreme Court of Justice that denied the tutelage of protection requested by the journalist Vicky Dávila and Radio Cadena Nacional SAS (La FM), leaving in firm the sentence imposed by the Superior Court of Bogotá in October 2020. It is a civil lawsuit filed by the former commander of the Police Jorge Hilario Estupiñán and his family, for the allegations of corruption published in relation to the irregular purchase for several police detachments when he was commander in Casanare. For this fact it was ordered to pay a large economic compensation. It also caused concern that on March 16, 2021, the Superior Court of the Judicial District of Florencia, Caquetá, overturned the historic conviction against the hitman who murdered journalist Luis Antonio Peralta and his wife Sofía Quintero and reduced 13 years of the sentence, alleging unjustified ignorance of the relationship of Peralta’s journalistic profession with his murder.

According to the experts’ assessment, the judicial environment showed a slight influence on unfavorable situations in terms of issues related to violence and impunity, actions that avoid direct and indirect control, as well as those related to protection and against impunity. The purpose of the courts is to bring to justice crimes committed against the life and integrity of journalists and to hold them accountable for crimes and persecutions committed against journalists. At this point, it is good to know that Colombia is one of the few countries that maintains the practice of the past that contemplates the criminal punishment of journalists.

## The four dimensions evaluated

After evaluating the dimensions of *“Informed and free to express citizenship”*, *“Exercise of journalism”*, *“Violence and impunity”* and *“Media control”*, Colombia obtained 57.23 out of 100 points in the Chapultepec Index, being classified as a country in which there is a *partial restriction* on the exercise of freedom of expression and the press.

## REALM A. “Informed and free to express themselves”

Colombia was rated with 12.43 out of 23 points in the dimension *“Informed and free to express citizenship”* collects, on the one hand, considerations related to the *“flow of plural and timely information to citizens”*.





To censor negative content, local authorities applauded the option to tighten and impose restrictions on digital spaces, in addition to applying the provisions of the criminal law.

It was assessed whether there are limitations on access to public information and the rights linked to freedom of expression and the press, the use of public and private media to favor the government's vision, the state abuse of the right to "reply and oblivion" and easy access to internet service.

## **REALM B. "Exercise of journalism"**

This dimension aims to establish whether the Colombian state guarantees that the journalists and communicators exercise the periodical activity. On the positive side that this aspect the interviewees gave Colombia 7.43 out of 10 points that translates into a low restriction. In this dimension of decided to analyze variables such as the protection of intellectual property rights of journalistic content (plagiarism, copying, use without license or authorization), it was asked if journalists should join schools or associations to be able to practice; It was also analyzed without in Colombia there may be journalists without an academic degree, among other topics.

The Constitutional Court of Colombia issued an important ruling that protected the fundamental right to freedom of information and expression by determining that a traffic accident can be, in itself, a news event of interest to society. This decision was made after reviewing a protective action of a citizen who wanted the newspaper El País de Cali to remove from its digital edition the video of his car accident. The ruling affirms that jurisprudence does not consider that the good name is affected when an image is exposed to disseminate this type of news facts, and that the media can use the images without the need to ask for authorization from those involved.

Again, illegal interceptions against communicators were known, so in August 2020 the four United Nations Special Rapporteurs and the Office of the Rapporteur on Freedom of Expression of the IACHR expressed to the Colombian Government their concern about the surveillance and profiling activities by the Army, considering that these activities subject journalists to a high risk and interfere with the development of their work. On the other hand, journalists Vicky Dávila and Claudia Gurisatti received threats from Jesús Santrich, a member of the dissidents of the Revolutionary Armed Forces of Colombia (FARC), through Telegram dissemination groups. On March 9, General Jorge Luis Vargas, director of the National Police, confirmed the threats to the journalists through messages and videos.

During the so-called National Strike that took place between April and June 2021, a large number of complaints were again registered for excessive use of force (aggressions and arbitrary detentions) by the Public Force against media and journalists, in addition to the headquarters of several national and regional media were attacked and vandalized by hooded demonstrators without being identified and prosecuted to date.



## REALM C. “Violence and impunity”

Here Colombia obtained 17.52 out of 42 points, with the evaluation of three subdimensions:

One:

Actions against the ambush. In which the index established that the State does not protect from persecution media and communicators who are not affected by it or public officials of different levels make trials, pronouncements or do not give publicity to journalists and opposition media. In this item Colombia obtained 3.21 out of 7.5.

Of.

Protective actions:

Here it was measured whether Colombia has tools to protect communicators or effective actions to protect them or prevent threats, attacks and aggressions; on the other hand, it seeks to establish whether the officials of the judicial branch have the necessary knowledge to properly know the processes that involve journalistic activity. Colombia obtained 2.79 out of 5.0 points.

Three.

Actions against Impunity:

Here the interviewees commented on the existence of laws or judicial rulings that avoid the prescription of crimes against communicators; It was also analyzed whether the Colombian State complies with national judicial rulings and international sentences related to crimes against journalists, the media and whether it has carried out actions to repair the damages caused to the victims. The rating given to Colombia was 1.5 out of 8.0 points.

Four.

Actions of Violence registered.

The acts of violence by third parties in the framework of the National Strike were serious and constant against the media and communicators, the attacks range from physical aggressions, destruction of work equipment and attacks on means of transport, to the detention of journalists, insults, blockades and attacks organized in social networks against the media networks for the positions in front of these facts. There were also blockades that prevented the circulation of print media and, consequently, readers' access to written information. The guerrillas, paramilitaries and common criminals continue to impede the work of the press and communicators and claimed the lives of people who practiced the trade.

The practice of suing or denouncing by public officials, politicians and citizens the media and communicators to prevent them from exercising the activity of informing is maintained, this in an environment of a financially unviable business makes it very difficult to undertake costly legal battles; the abuse of the so-called “right to be forgotten” continues as a very useful practice to delete information in the digital files of the media, this alters the historical memory of society. The rating assigned to Colombia here is 10.02 out of 21.

## **REALM D. “Control of the Media “**

Colombia was rated 19.86 out of 25 media checkpoints. Here it was valued “the incidence of actions that avoid the direct control of the media, exercised through the use of resources and sanctions in a discretionary manner”.

In this sub-dimension, the experts rated Colombia with 14.43 out of 19 points when asked about actions aimed at avoiding direct control of communication methods by the Colombian State.

It was inquired about:

“[...] the closure, revocation of concessions, expropriation or confiscation of politically motivated media; the discriminatory use of tax provisions or tax privileges for media related to the government or if the State allows the granting of permits, the allocation of public funds and official advertising, to be done with arbitrary and discriminatory criteria, rewarding favorable media and harming those media contrary to the official position.”

This sub-dimension on actions that avoid indirect control of the media, measures “whether the State allows restrictions or direct blockades to digital information platforms, considered contrary to the interests of agents of political power” and whether “if the State applies pressures to technological intermediaries – such as subscription television systems, internet providers, and inputs– in order to avoid the dissemination of certain content by the media.” Among other topics.

Colombia obtains here a rating of 5.43 out of 6 points on the related actions of indirect control of the media.

In light of the above, government policies and unemployment continue to deepen the boundaries between traditional media, as they create a network of digital media and services that access incentives and reduce the economic value of the former. Subject to the conditions and possibility of payment services.

## **CONCLUSIONS**

The perception surveys carried out by each of the experts for the period between July 31, 2020 and August 1, 2021, yielded the following conclusions:



To the already hard-hit crisis of the media industry caused by the structural changes of the business and aggravated by the global pandemic of COVID-19, in Colombia were added the social and economic consequences of the National Strike that seriously affected the economy, the sources of employment for journalists and the legitimate exercise of some rights such as protest and the right to inform.

The consequence is that communicators have been losing their formal jobs and citizens in the various regions of the country are affected to have access to various spaces of pluralistic expression and information. There is also concern about the economic burden of judgments adverse to the media, as well as those that impose obligations of rectification or retraction even if they are not appropriate.

It is clear that Colombia continues to have the task of guaranteeing from all branches of the public power of the State, free, peaceful, pluralistic, safe and effective exercise of the rights to expression and information through all media printed, radio, television, digital media, etc.

Impunity for crimes against journalists and communicators continues to be serious, as does the inefficiency of their prevention and early warning systems.

In this period it was evident the increase in attacks on the media and communicators, the physical and verbal violence of third parties, illegal detentions, the destruction of work equipment and means of transport were the constant during the National Strike, as well as the blockades that prevented the circulation and distribution of printed media and, therefore, readers' access to written information. There were also illegal detentions of journalists by members of the Estado forces and third parties, in a clear breach of the constitutional mandate to guarantee the free exercise of journalistic activity.

The State must analyze the constitutional possibilities that allow it to overcome the financial crisis of the media industry to avoid the disappearance of the same because what is at risk here is democracy that will be the big loser when the media disappear in the different cities, towns and regions.

## REFERENCES

- Angarita, J. (2021). 299 periodistas han sido atacados en el marco del Paro Nacional, advierte la Flip. *RCN Radio*. Recuperado de: <https://www.rcnradio.com/judicial/299-periodistas-han-sido-atacados-en-el-marco-del-paro-nacional-advierte-la-flip>
- Arbeláez, M. (2021). Mintic evalúa opción de cancelar convocatoria de apoyo a medios. Recuperado de: <https://www.eltiempo.com/tecnosfera/novedades-tecnologia/mintic-evalua-cancelar-convocatoria-de-apoyo-a-medios-de-comunicacion-616281>

- Fundación para la libertad de prensa. (2021). Silencio de autoridades en ataques contra el periodismo promueve la censura. *FLIP*. Recuperado de: <https://flip.org.co/index.php/es/informacion/pronunciamientos/item/2721-silencio-de-autoridades-en-ataques-contra-el-periodismo-promueve-la-censura>
- Garzón, J. (2021). Salvar a los medios no es 'mermelada mediática'. *Razón Pública*. Recuperado de: <https://razonpublica.com/salvar-los-medios-no-mermelada-mediatica/>
- Garzón, J. (2021). El trío de las TIC y la protección de la industria de medios en Colombia. *Economía política de los medios, la comunicación y la información en Colombia*. García, D. (Ed.) Ramos, J. (Ed.). Valencia D, (Ed.), et al. (1.a ed.). Editorial Universidad del Rosario: Bogotá D.C.
- Hänel, L. (2021). Crisis en los medios: el periodismo, esencial para la libertad de expresión. *DW Akademie*. Recuperado de: <https://www.dw.com/es/crisis-en-los-medios-el-periodismo-esencial-para-la-libertad-de-expresi%C3%B3n/a-58222951>
- López de la Roche, F. (2021). Colombia 2002-2020: la televisión, las redes sociales, el periodismo y la cultura política entre la guerra y la paz. *Centro de Pensamiento en Comunicación y Ciudadanía*. IEPRI. Universidad Nacional de Colombia: Bogotá D.C.
- MinTIC. (2020). Con más de \$85.000 millones, MinTIC apoyará la reactivación económica y la transformación digital de los medios de comunicación del país. *MinTIC*. Recuperado de: <https://mintic.gov.co/portal/inicio/Sala-de-prensa/Noticias/159946:Con-mas-de-85-000-millones-MinTIC-apoyara-la-reactivacion-economica-y-la-transformacion-digital-de-los-medios-de-comunicacion-del-pais>
- Pérez, R. (2021). Caso grafitero: Orden de captura contra los cinco policías y el abogado condenados por manipular escena del crimen. *RCN Radio*. Recuperado de: <https://www.elespectador.com/opinion/lectores/antieditorial/delegar-la-aplicacion-de-la-linea-roja-column/>
- Redacción de El País. (2021). Agredieron a periodistas durante plantón en Ciudad Jardín este sábado. *El país*. Recuperado de: <https://www.elpais.com.co/cal/agredieron-a-periodistas-durante-planton-en-ciudad-jardin-este-sabado.html>
- Salazar, C. (2021). Ningún medio logró los requisitos de la convocatoria de transformación del MinTIC. *La República*. Recuperado de: <https://www.larepublica.co/economia/ningun-medio-logro-los-requisitos-de-la-convocatoria-de-transformacion-del-mintic-3214598>
- Semana. (2021). Las advertencias del informe de la CIDH sobre ataques a periodistas en Colombia durante paro nacional. *Semana*. Recuperado de: <https://www.semana.com/nacion/articulo/las-advertencias-del-informe-de-la-cidh-sobre-ataques-a-periodistas-en-colombia-tras-el-paro-nacional/202115/>

Semana. (2021). El difícil momento financiero de los medios de comunicación en Colombia en el 2020. *Semana*. Recuperado de: <https://www.semana.com/nacion/articulo/el-difcil-momento-financiero-de-los-medios-de-comunicacion-en-colombia-en-el-2020/202136/>



## COLOMBIA

PERIOD SURVEYED. J  
ULY 31, 2020 - AUGUST 1<sup>ST</sup>, 2021

### Strengths, weaknesses, opportunities and threats Analysis

<b>STRENGTHS</b>	Colombia is above the global average with partial restriction on issues related to freedom of expression. Though a tense climate, there are slight degrees of influence from the Legislative, Judicial and Executive environments in situations unfavorable to freedom of expression. There is no closure of media by decisions of the government, access to Internet is free, there is a very structured system of protection for journalists that continues to be an example for other countries of Latin America. The country is part of the Organization for Economic Cooperation and Development (OECD), and has rules that protect copyright; In addition, there are express regulations to allow access to public information. Finally, there are several independent organizations that work permanently in the defense of communicators and ensure respect for the exercise of freedom of expression and the press.
<b>WEAKNESSES</b>	The main weakness is the economic crisis facing the sector; this was aggravated by the COVID 19 pandemic and the national strike, circumstances that have several media companies at risk of closure. Regulatory asymmetry on the media issue remains, with rules that favor network providers and ignore traditional media. Judicial convictions of an economic nature against communicators and companies, tutela actions, as well as the consideration of calumny and slander as crimes towards communicators, continue to affect the profession and force to undertake numerous legal battles. The permanent attack by illegal groups continues.
<b>OPPORTUNITIES</b>	The opportunities are reflected in the possibility to access, in a globalized world, technological tools and knowledge more easily; in this sense, the negotiation Google has advanced with the media for the use of its contents stands out. On the other hand, it is very positive that the Colombian Government and the Congress of the Republic are discussing possible laws and public calls to provide media with resources; it is also important the access that exists to economic resources of international cooperation in plans and programs that support freedom of expression and the press.
<b>THREATS</b>	The main threats are the presence of social media giants (Google, Facebook, Instagram), which has impacted the quality of information and the communications industry; uncertainty over next year's presidential elections; political and social conflicts in neighboring countries with consequent migration; as well as the actions of illegal armed groups.

## 2.6.3 OVERVIEW

### COLOMBIA

**Colombia** was one of the countries that dropped in the rating, although it showed a difference of three positions (No. 9 in 2019-2020 v. No. 12 in 2020-2021), it remained in the group of countries with partial restriction [on freedom of expression], still a few points above the overall average in both studies. Although there is a difference regarding positions, it remained practically the same from one year to the other in its quantitative results (57.5 in 2020 v. 57.23 in 2021).

About Realm A, Informed Citizens Free to Express Themselves, the difference between the results from both periods was only 0.27 points less, even improving in the partial results of the sub-realm of Information Flow. These results are supported by the fact that citizens enjoy guarantees to their free speech rights, since there is a legal framework ensuring them. However, there is limited access to reliable and quality internet. Furthermore, public and private media are managed in a way encouraging the dissemination of the official narrative.

In Realm B, Exercise of Journalism, there was also a decrease of 0.87 points in the results obtained during both iterations. It can be inferred that there was no major difference in the perception of this realm and that journalists were able to perform their duties under similar conditions and without major changes. Additionally, there have been at least two landmark rulings favoring the journalistic profession and thereby freedom of expression.

In Realm C, Violence and Impunity, a significant improvement of 2.02 points is observed. This translates into a protection system for journalists that seems to be getting stronger. However, despite these encouraging results, Colombia offers not so optimistic figures for this realm; even in its best perception in 2020-2021 at 17.52 points, it is still far from the 42 that represents the maximum in this regard. In fact, the practice of resorting to lawsuits to silence journalists continues and the right to be forgotten is still in force, which directly undermines the right to truth and the nation's historic memory.

The set of issues analyzed, gathered around Realm D, Control over the Media, is where the steepest decline (1.14 points between 2020 and 2021) can be noticed, being the losses primarily in the sub-realm of Indirect Control over the media. The Colombian government continues to reinforce regulatory asymmetries among outlets.

The influence of the [institutional] environments on the different realms remains similar for those of Violence and Impunity (Realm C) and Control over the Media (Realm D). However, in the first two realms, it decreased from moderate to slight. The Legislative continues to play a major role in influencing freedom of expression and the press unfavorably. The Executive continues to exert a moderate influence on violence and impunity.



## 2.7. COSTA RICA

### 2.7.1 COSTA RICA 2019-2020

COSTA RICA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>76.8</b>
<b>REALM A: "Citizens informed and free to express themselves"</b>	<b>23</b>	<b>16.5</b>
Flow of information	11	6.5
Free Expression	12	10.0
<b>REALM B: Exercise of Journalism</b>	<b>10</b>	<b>9.3</b>
<b>REALM C: Violence and Impunity</b>	<b>42</b>	<b>28.0</b>
Protection	10	8.0
Persecution	15	15.0
Impunity	17	5.0
<b>REALM D: Control over the media</b>	<b>25</b>	<b>23.0</b>
Direct control	16	14.0
Indirect control	9	9.0

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

COSTA RICA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	1.04	1.30	1.75
REALM A: "Citizens informed and free to express themselves"	2.45	2.70	4.38
Flow of information	1.90	2.90	5.00
Free Expression	3.00	2.50	3.75
REALM B: Exercise of Journalism	1.25	1.75	1.75
REALM C: Violence and Impunity	1.00	1.33	1.00
Protection	3.00	4.00	3.00
Persecution	0.00	0.00	0.00
Impunity	0.00	0.00	0.00
REALM D: Control over the media	1.13	1.13	1.63
Direct control	1.25	1.25	1.25
Indirect control	0.00	0.00	0.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## Costa Rica: freedom guaranteed amidst economic challenges

### Executive Summary

Costa Rica holds the 3<sup>th</sup> position in the Chapultepec Index of Freedom of Expression and the Press with 76.8 points. The government has regulations in place to guarantee the right to freedom of expression and the press, acts in an adequate and timely manner to protect journalists and the media, and does not restrict the dissemination of information contrary to or critical of the government. Despite the country's economic problems, the media do not face major challenges to operate in the country.

## INTRODUCTION

The political divisions sparked by the 2019 presidential elections have been overcome. However, in 2019, discussions persisted regarding the implementation of Inter-American Court of Human Rights Advisory Opinion No. OC-24/17 on equal marriage. Concurrently, the economic crisis and the adoption of financial measures set the agenda for the last quarter of 2019, and raised the levels of uncertainty and fear over the economic future of the country (Corrales, 2019). Similarly, coverage of the COVID-19 pandemic became the subject of media discussion during the first quarter of 2020.

The public policies adopted during the period under study were influenced by the economic problems and public health issues arising from the pandemic. These situations forced major mainstream media to change their news topics and coverage of newsworthy events.

Although it is possible to state that, during the period under analysis (May 1, 2019 through April 30, 2020), there were no situations that could be regarded as a serious threat to the freedom of the press, the economic situation of the country before and after the pandemic may negatively impact Costa Rican journalism in the years to come.

## Results analysis

The economic policies adopted by the government in 2019 triggered uncertainty, a sentiment in turn encouraged by the actions taken to control the pandemic. Despite this environment marked by fear, the results of the study show that Costa Rica has a low index of restrictions (76.8 points out of 100) whereby it ranks in position No. 3 regionwide.

In general, it can be claimed that the branches of government are independent from each other, thereby encouraging the exercise of freedom of expression and the press. However, actions of the Executive branch have influenced the performance of the media and the freedom of the press. Costa Rican analysts consider the government's communication policies inadequate, since they make the exercise of journalism difficult. For example, the lack of clarity regarding economic policies influenced journalism in this regard, while access to official sources during the time of the pandemic was highly debated (Ecoanálisis Consultores, 2019; Cabezas, 2020).

## **Institutional action: Influence of the Executive, Legislative and Judicial environments**

In the period under study, the Executive branch has played a primary role in the exercise of freedom of expression and the press (index of 1.75 points).

President Carlos Alvarado has implemented a variety of communication strategies, including changes in the Ministry of Communications (Ministerio de Comunicación) and the use of digital platforms to encourage institutional communication, which have been widely questioned.

The most important action regarding freedom of expression and privacy of information was the establishment of the Presidential Data Analysis Unit (Unidad Presidencial de Análisis de Datos, UPAD) without proper statutory framework. Despite the fact that the UPAD was dissolved, doubts about the government's ability to obtain private information persist (La Teja, 2019). In fact, the activities of this unit sparked discussions regarding the government's capabilities to obtain personal information from citizens (including media personalities) that continue to be an issue addressed by the country's academic circles.

Another matter to consider is the use of government advertising as a form of control. The budget allocated by the Ministry of Communications for the fiscal period 2019-2020 was 240 million (Costa Rican Colon [ISO: CRC] approximately US\$400,000), of which 150 million were destined to retain an advertising agency (Casa Presidencial, 2019). However, on closing date of this report (August 2020), there is no information available regarding the media outlets favored by these advertising space purchases.

Regardless of the above, it should be noted that Costa Rica has a regulatory framework in accordance with international agreements protecting the exercise of freedom of expression and guaranteeing freedom of the press (Aguilar, Boza, Garro, Rodríguez, & Solís, 2018). Legislative stability promotes an environment of legal security favoring the exercise of freedom of expression, and the results obtained reveal that the Legislative exerts a low influence on the exercise of freedom of expression. Actually, the legislative environment was rated best by respondents of the study (scoring 1.04 points)



It is noteworthy that, although the granting of media licenses for the use of radioelectric spectrum is regulated, it breeds inequalities preventing community radio and television stations from joining the airwaves. The transition into digital television has not changed this situation; instead, hurdles to community media are expected to increase (Ulate, 2019).

Additionally, it should be mentioned that the Legislative Assembly [federal level legislative body] approved a “Draft Bill to provide [workforce] strike and procedures relating thereto with legal security” (Proyecto de Ley para brindar seguridad jurídica sobre la huelga y sus procedimientos) in first debate, as an attempt at curbing the right to freedom of expression. However, the Constitutional Chamber of the Judiciary ruled it unconstitutional and its review by the Assembly is pending (Díaz Zeledón, 2019).

This example shows that the Costa Rican Judiciary acts in a timely and impartial manner, which demonstrates its ability to rule on matters related to the exercise and protection of the right to freedom of expression. In fact, according to the results obtained, the Judicial environment is the most highly rated.

The score achieved was 1.30 points, that is to say, it exerts a low influence on the exercise and protection of the right to freedom of expression and the press. This influence should not be viewed negatively; instead, the Judiciary acts as a guarantor of fundamental freedoms.

## **REALM A: Citizens free to express themselves**

In general, the right to access public information is guaranteed, thereby allowing citizens to obtain information on major issues of interest. Both citizens and the media can disseminate information without fear of reprisal, which explains why the overall rating is positive (16.5 points out of 23).

Citizens can access government information, comment and publish their opinions on mainstream and digital media. It should be noted that there are no regulations creating a restrictive environment or encouraging self-censorship to avoid being imposed penalties. In the sub-dimension on information flow, Costa Rica is relatively well rated (6.5 points out of 11).

With regard to free expresión, the rating is 10 points out of 12, it can be stated that the government does not limit the rights related to freedom of expression and the press, either in the digital realm or on mainstream media. Communications are pluralistic, thereby encouraging the dissemination of information favorable or contrary to the government without fear of reprisal.

## **REALM B: Exercise of journalism**

In this realm, Costa Rica obtained a score of 9.3 points out of 10, which reveals its commitment to the protection of freedom of the press. Costa Rica has a tradition of respect and promotion of journalism that is evident in the statutory framework protecting the exercise of



this profession. There are no mandatory professional affiliation requirements, no restrictions on access to official sources, and no requests for disclosure of sources.

In the period under study, respondents noted that the Executive environment exerts a low pressure. As mentioned above, the communication policies of the Executive branch have been controversial because of their lack of clarity. The reports released have not been censored. However, they have sparked fierce criticism of government actions.

In spite of the above, Costa Rica has become the host country of Central American journalists who are persecuted in their home countries. Nicaraguan journalists residing in Costa Rica have been able to practice their profession, which shows that the practice of journalism is guaranteed for both nationals and foreigners (Delgado, 2020; Ocaña, 2020).

## **REALM C: Violence and impunity**

In Costa Rica, the branches of government do not encourage or tolerate the persecution of journalists or the media. Government officials interact with journalists respectfully and avoid using stigmatizing, intimidating, or hate speech. Generally, the government's attitude is one of zero tolerance towards attacks against journalists and the media, which is why Costa Rica scored 28 out of 42 in this realm.

One case illustrating governmental actions to prevent violence and impunity was the attack targeted at TV Channel 7 (Teletica). On the night of July 28, 2019, people identified as members of the "Costa Rican resistance" placed a makeshift explosive device around the premises of the media outlet. The authorities immediately made a statement and launched an investigation (Teletica, 2019).

The investigations initiated by the Judicial Investigation Agency (Organismo de Investigación Judicial, OIJ) resulted in the identification of the main suspects. The corresponding criminal proceedings were initiated and, despite the fact that on closing date of this report no ruling has been issued, the suspects are in custody (Sánchez, 2020).

## **REALM D: Control over the media**

In Costa Rica, the legal framework applicable to the creation and control of media avoids the discretionary use of government powers, thereby preventing direct and indirect state control over the media. Indeed, the transition process towards digital television has been conducted in a progressive and orderly fashion, which speaks of the low influence from the government and explains why Costa Rica achieved 21.80 points out of 25.

During the period under analysis, the government has not expropriated, closed, or seized any media outlet. Nor has it implemented tax policies in benefit of friendly media, or of any particular field of communications. However, as mentioned above, there is no information regarding purchase of advertising space by the Costa Rican government.



With respect to the digital realm, the use of Internet-based platforms is neither prohibited nor subject to special regulations restricting the dissemination of information. Technological intermediaries can operate freely and regulations do not encourage or promote indirect control of communication.

## CONCLUSIONS

In Costa Rica, there is an environment which encourages the exercise of freedom of expression and the press. However, actions of the Executive branch pose significant challenges for the exercise of journalism in the country, especially in terms of access to official sources and clear communications.

In 2019, the Executive took various economic and fiscal measures that were not explained in clear and timely manner, thereby giving rise to issues regarding access to public information. The information was confusing, and the reports made by the media, far from helping solve the problem, exacerbated it since they triggered uncertainty among the population, to the extent of making an impact on the country's macroeconomic performance.

Some mistakes made in the second semester of 2019 were repeated with the management of the pandemic. For instance, the information released by the Ministry of Health (Ministerio de Salud) on the number of people testing COVID-19 positive and the number of tests administered did not match. Then, the questions asked by journalists to clarify the information were mostly met with unclear answers, thereby sparking criticism towards the government.

Regardless of the above, it is noteworthy that both the Judiciary and the Legislative maintain their independence and promote freedom of expression and the press. During the period under analysis, no regulations affecting journalists or the media were enacted, and the Judicial branch acted in a timely manner to investigate the attack on Channel 7.

One of the situations that must be monitored is the transition to digital radio and television. The government must take steps to ensure that local and provincial media have access to the necessary technology and can compete with other national and provincial outlets. The news broadcast by these media are of vital importance to those who live in their communities, and their disappearance can negatively impact the status of freedom of expression in the country.

Similarly, the post-pandemic economic situation can negatively affect the media, even leading to shutdowns in their midst. Costa Rica is a country which relies highly on tourism, and many advertising campaigns on the media are connected with such activity. Consequently, any economic problems in the tourism field will indirectly affect the media. Adapting to this new scenario will be critical for the survival of the media in general, primarily for local and provincial outlets.

Finally, it should be noted that the legal stability and the checks and balances of the branches of government place Costa Rica in the top 10 countries that guarantee freedom of expression and, as long as this situation is preserved, freedom of expression and the press will be protected and ensured in the future.

## REFERENCES

- Aguilar, G., Boza, G., Garro, L., Rodríguez, J., & Solís, L. (Eds.). (2018). Primer Informe del Estado de la Libertad de Expresión en Costa Rica. San Jose: PROLEDI - CICOM.
- Cabezas, Y. (2020, July 23). Colegio de Periodistas pide al Gobierno explicaciones por manejo de la comunicación. In: *CR Hoy*. Retrieved from: <https://www.crhoy.com/nacionales/colegio-de-periodistas-pide-al-gobierno-explicaciones-por-manejo-de-la-comunicacion>
- Casa Presidencial. (2019, October 09). Ministerio de Comunicación continuará velando por proceso licitatorio transparente y eficiente. Retrieved from: <https://www.presidencia.go.cr/comunicados/2019/10/ministerio-de-comunicacion-continuara-velando-por-proceso-licitatorio-transparente-y-eficiente/>
- Corrales, G. (2019, December 26). El fin del 2019 y las pintas del 2020. In: *La República*. Retrieved from: <https://www.larepublica.net/noticia/el-fin-del-2019-y-las-pintas-del-2020>
- Delgado, G. (2020, March 16). Periodistas nicaragüenses sospechan que el gobierno quiere que el pueblo se enferme de coronavirus. In: *El Mundo CR*. Retrieved from: <https://www.elmundo.cr/mundo/periodistas-nicaraguenses-sospechan-que-el-gobierno-quiere-que-el-pueblo-se-enferme-de-coronavirus/>
- Díaz Zeledón, N. (2019, December 13). Proyecto de ley sobre huelgas vuelve al Congreso para modificaciones y nueva votación. In: *Semanario Universidad*. Retrieved from: <https://semanariouniversidad.com/pais/proyecto-de-ley-sobre-huelgas-vuelve-al-congreso-para-modificaciones-y-nueva-votacion/>
- Ecoanálisis Consultores. (2019, June 4). La comunicación de la estrategia del gobierno es fundamental para equilibrar la deuda y el desarrollo de Costa Rica. In: *La República*. Retrieved from: <https://www.larepublica.net/noticia/la-comunicacion-de-la-estrategia-del-gobierno-es-fundamental-para-equilibrar-la-deuda-y-el-desarrollo-de-costa-rica>
- La Teja. (2019, February 28). UPAD: ¿Qué es? Aquí le explicamos. In: *La Teja*. Retrieved from <https://www.lateja.cr/nacional/aqui-le-explicamos-que-es-la-upad/OWHTJGAEQ5FW3FVDDGPRYVKKWU/story/>
- Ocaña, D. (2020, March 1). Periodistas nicaragüenses celebran su día comprometidos con la verdad. In: *Voz de América*. Retrieved from: <https://www.voanoticias.com/centroamerica/periodistas-nicaraguenses-celebran-su-dia-comprometidos-con-la-verdad>

Sánchez, Á. (2020, November 13). *¿Cómo se logró la detención de los miembros de grupo terrorista en el país?* In: Teletica. Retrieved from: [https://www.teletica.com/reportajes/como-se-logro-la-detencion-de-los-miembros-de-grupo-terrorista-en-el-pais\\_242042](https://www.teletica.com/reportajes/como-se-logro-la-detencion-de-los-miembros-de-grupo-terrorista-en-el-pais_242042)

Teletica. (2019, July 28). *Artefacto explosivo daña ventanal de Televisora de Costa Rica.* [Video] In: Teletica. Retrieved from: [https://www.teletica.com/nacional/artefacto-explosivo-da-na-ventanal-de-televisora-de-costa-rica\\_232020](https://www.teletica.com/nacional/artefacto-explosivo-da-na-ventanal-de-televisora-de-costa-rica_232020)

Ulate, K. (2019, August 15). *Televisoras enfrentaron retos frente al apagón analógico.* In: *El Observador*. Retrieved from: <https://observador.cr/noticia/televisoras-enfrentaron-retos-frente-al-apagon-analogico/>

## COSTA RICA

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Division of powers and respect for the rule of law is one of Costa Rica's great strengths. Decisions made by the Executive can be challenged at relevant courts, and judges decide impartially under international standards to protect freedom of expression.
<b>WEAKNESSES</b>	Official communications from the Executive have been widely criticized by different sections of the population. Both journalists and the media have been affected by limitations on access to public information and the failure to adequately distribute that information. This situation has worsened in the midst of the COVID-19 pandemic.
<b>OPPORTUNITIES</b>	The digital transformation of TV and radio offers a unique opportunity to guarantee plurality of media and content in rural populations. Similarly, the improvement of the communications system by the Executive may encourage the exercise of free speech.
<b>THREATS</b>	The country's economic situation and the impossibility for local and community media to adapt to the economic outlook forecast for 2021, constitute the greatest threat to freedom of the press and the exercise of journalism in Costa Rica. Not only do they risk ceasing operations, but they also face various difficulties in adapting to the digital transformation scheduled for next year.



## 2.7.2 COSTA RICA 2020-2021

<b>COSTA RICA</b>	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>73,16</b>
<b>REALM A: "Citizens free to express themselves"</b>	<b>23,00</b>	<b>13,86</b>
Information flow	11,00	5,86
Free speech	12,00	8,00
<b>REALM B: "Exercise of journalism"</b>	<b>10,00</b>	<b>6,29</b>
<b>REALM C: "Violence and impunity"</b>	<b>42,00</b>	<b>29,87</b>
Protection	5,00	1,43
Persecution	7,50	6,64
Impunity	8,50	1,36
Registered violence	21,00	20,44
<b>REALM D: Control over the media</b>	<b>25,00</b>	<b>23,14</b>
Direct control	19,00	17,14
Indirect control	6,00	6,00

**Chapultepec Index on Freedom of Expression and the Press 2021**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>COSTA RICA</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	0,77	0,86	2,07
REALM A: "Citizens informed and free to express themselves"	1,00	1,07	2,21
REALM B: Exercise of Journalism	1,71	2,00	5,00
REALM C: Violence and Impunity	0,14	0,14	0,43
REALM D: Control over the media	0,21	0,21	0,64

Type of Influence      Points

SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Costa Rica: speech subject to executive power

### Executive Summary

Costa Rica ranks sixth in the Chapultepec Index of Freedom of Expression and the Press with 73.16 points. The law of the land maintains the protectionist standard of previous years. Consequently, citizens do not face unlawful restrictions on the exercise of freedom of expression. Despite the strong influence of the Executive, journalists can exercise their profession without restrictions, freedom of the press is protected, and the impunity rate in cases of violence against the media and journalists remains low.

### INTRODUCTION

Costa Rica remains one of the best countries in the region for the exercise of freedom of the press and freedom of expression. With 73.21 points out of a maximum possible 100, Costa Rica holds the sixth position in the ranking, with low restrictions on freedom of expression. Overall, among the categories reviewed, the good assessment of Realm D, regarding control over the media, stands out. The Government refrains from meddling directly or indirectly with the activity of mainstream and social media, thereby guaranteeing access to public information, media plurality, and content.

The coverage of the COVID-19 pandemic remained on the country's media agenda, which increased their importance during the period surveyed in this study (July 2020 - August 2021). In this regard, research conducted in October 2020 by the University of Costa Rica (Universidad de Costa Rica, UCR) revealed that citizens use up to three media outlets to get news about the pandemic, and 70% indicated having "much or some confidence" in them, thereby contributing to the favorable perception regarding the exercise of freedom of expression in the country (Bonilla, M., 2021, February 5).

Nonetheless, the economic issues relating to the management of the pandemic continue to pose myriad of challenges. A study conducted by the National University's Institute of Social Studies in Population (Instituto de Estudios Sociales en Población de la Universidad Nacional, IDESPO-UNA) revealed that citizens perceive the economic situation as the most pressing crisis. Indeed, it is noteworthy that 51% of those surveyed stated that their income decreased because of the pandemic (IDESPO-UNA, 2020, p. 11). This decrease in the

income of the population impacts the income of the media, especially independent and online media relying on their audiences to survive.

## Results Analysis

In Costa Rica, the environment exerting the most influence on freedom of the press is the Executive. Since 2019, we have noticed the relevance of this branch of government, and the results obtained in this index show that its influence has increased in all the areas reviewed. One of the reasons for this situation is related to the role that the Office of the President (Casa Presidencial) has had in the release of information regarding the management of the pandemic, including the number of cases, the procurement of vaccines, the devising of the vaccination rollout, and other actions necessary to prevent the spread of the virus.

For their part, the Judicial and Legislative environments exert little influence on the protection of freedom of expression. However, the performance of the Legislative has been limited by COVID-19. In October 2020, the Legislative Assembly building was closed following the contagion of 50 people (Díaz, 2020, October 22); in April 2021, sessions were cancelled for fear of another massive infection (Arrieta, 2021a, April 21); and in August 2021 a similar measure was taken to avoid contact of representatives with infected people (Delfino, 2021, August 9).

The Judiciary has played a more active role in protecting journalists, granting access to public information, and guaranteeing the exercise of freedom of the press in general. The Constitutional Chamber [Judiciary] is portrayed as the main guardian of the exercise of this right in Costa Rica. Its influence is moderate; however, this should not be perceived negatively. Judicial control is effective thanks to the independence of powers and adherence to the constitutional and international regulations in force in the country.

## Environments: The Executive, the top influencer

The Executive obtained 2.07 points out of 10 in this index, which means that it has a slight influence on the exercise of freedom of expression in the country. It is of concern that, in the period under study, the impact of the Executive on the exercise of journalism was moderate, with a score of 5.00 points. Therefore, the change in this year's index shows a considerable deterioration in the relations between the Executive, journalists, and the media.

The communication strategy followed by the Office of the President has not been successful. In fact, the Report to the Mid-Year Meeting of the Inter-American Press Association (IAPA) noted:

[...] no efforts have been made by the national government in favor of speedy processes of transparency and accountability - which resulted in a series of complaints to the Office of the President by journalists from different media due to the lack of a free-flowing relationship with the press. (IAPA, 2021, April 20-23).



Issues with access to public information are not limited to the management of the pandemic, but also include those relating to data on refugee applications, restrictions on vehicles, health and economic measures (particularly on the *Bono Proteger* [Protection Bonus], financial aid for those affected by COVID-19). Likewise, the Executive has not taken any measures seeking to financially support media outlets that have been affected by the pandemic, nor has it released information regarding those media that have benefited from advertising time buys (IAPA, 2021, April 20-23).

On the other hand, the influence of the Legislative environment is also slight. In this study, Costa Rica obtained 0.77 points out of 10, which shows that its activity has little effect on the exercise of freedom of expression. In fact, of the three environments covered in this Index, it is the one that has the least impact on communication in the country.

However, it should be noted that there are situations demanding attention from the legislative branch. The Radio Act (Wireless Services ([Ley de Radio – Servicios Inalámbricos]) No. 1758 was enacted in 1954 (Republic of Costa Rica). Out of 27 its articles, only 14 are in force, which have also been amended by different regulations in order to adapt them to the current needs of society. This outdated statute gives rise to legal loopholes and issues that must be addressed by the Legislative to avoid violations of the right to free speech.

The transition of broadcast TV to digital will have an impact on freedom of the press. Therefore, the Legislative should take special care of this situation. In this regard, it is noteworthy that the law regulating the granting of concessions for the use of airwaves is the Telecommunications Act ([Ley de Telecomunicaciones] No. 8642). However, this statute does not contain specific provisions on the rights or duties of the media. This situation generally affects the exercise of freedom of expression and may have a negative impact on the exercise of freedom of the press in the near future.

Finally, the Judiciary obtained a score of 0.86 out of 10, meaning that it exerts a slight influence on the exercise of freedom of expression and the press in Costa Rica. The highest court of Costa Rica has been known for being respectful of national and international laws protecting the exercise of freedom of expression, particularly in terms of access to public information.

However, during the pandemic, judicial backlog in the country increased. The situation varies among courts, but Constitutional Chamber Justice Luis Fernando Salazar indicated in May 2021 that there is a three-year backlog approximately (Ugarte Jiménez, 2021). This fact affects citizens in general; but it should be reminded that compliance with procedural terms is essential to guarantee the protection of journalists and the media.

The Constitutional Chamber has been expeditious in ruling on cases involving journalists when filed under the figure of constitutional injunctive relief. This mechanism has been effective in guaranteeing access to public information and in protecting journalists who have been attacked for fulfilling their duties. Likewise, the performance of the Criminal Chamber when it ruled for acquittal in a defamation suit brought by the former head of Institutional



Relations of Banco Nacional against journalists of La Nación (Vizcaíno, 2020) is also worth noting.

## **REALM A: Plurality and access guaranteed**

During the pandemic, the branches of government have encouraged access to public information and the dissemination of information relevant to the population. For their part, the media have had few restrictions, which has favored the exercise of freedom of the press. Hence, in this environment, Costa Rica obtained a score of 13.86 out of 23, implying that there are low restrictions on the right of citizens to be informed and be able to express themselves freely. Nevertheless, the Executive exerts a strong influence on this realm.

In general, the Government has guaranteed access to press conferences and public information, especially in connection with the management of the pandemic and the economic measures taken to mitigate its negative impact. There are those who have faced some restrictions in terms of obtaining accurate and timely information; but these difficulties have been resolved. The Government has made positive use of the existing media ecosystem in the country to allow the flow of information disseminated through them. Furthermore, it has refrained from penalizing or censoring those critical of the actions of, or the measures taken by, public officials.

It is important to underscore that Internet access has been guaranteed; it has even expanded. The organization We Are Social reported a 10.6% growth of Internet users in 2021, which implies that 81.2% of the population has Internet access. Similarly, there was a 5.4% increase in social media users, indicating that approximately 3.9 million Costa Ricans actively use them (Kemp, 2021, February 5). Additionally, there are few restrictions on the use of these platforms to search, receive, and disseminate information. In fact, the UCR study published in 2021 showed that 58.5% of the population, especially those between 18-29 years old, use them to get news.

## **REALM B: Freedom of the press guaranteed**

Restrictions on the exercise of journalism in Costa Rica are few. The country has been renowned for being a guardian of the freedom of the press. However, compared to 2020, the rating decreased from 8 points to 6.29, out of a total 10. In fact, in 2020, the influence of the Executive was moderate; but in 2021 it was very strong.

One of the reasons for this change is government communications on the pandemic. The actions of the Ministry of Health and the Office of the President in this regard have been prominent. Consequently, the media rely on the information provided by spokespersons of these offices to do their work. In this regard, the vice president of the IAPA indicated in April 2021 that



“[t]he response times established for the different ministries are not being met, and the media and journalists do not get the answers within the time established by law”.

It is worth noting that there have been no changes regarding mandatory membership or requirement of a university degree for the exercise of journalism. Therefore, any person can freely practice the profession. In the period under study, there are no reports of denials of access to official sources, or requests to reveal journalistic sources, or measures that condition the exercise of freedom of the press in the country. Consequently, it can be stated that the exercise of the profession has been guaranteed with the independence and plurality typical of the Costa Rican media ecosystem.

## **REALM C: Costa Rica is a safe place for journalists**

The country has been known as one of the safest in the Central American region for the exercise of journalism. Violence against journalists is minimal and impunity rates are low. Out of 42 points, Costa Rica scored 29.87, reflecting a good performance by the Government in protecting journalists.

Although the Index reflects a strong influence of the Executive in this environment, there are no reported cases of persecution of journalists, nor the use of smear or stigmatization campaigns against journalists or media outlets by officers of the Executive. In fact, one of the instances of aggression reported was on the part of society. In August 2020, those protesting “against sanitary measures to contain the spread of covid-19 [*sic*], assaulted the news teams of Columbia, Teletica, and Repretel that were covering the events” (Chinchilla, 2020).

Regarding impunity, it is important to underscore the work of the Judiciary. The Constitutional Chamber has issued several decisions that guarantee access to public information and punish those responsible for aggressions. For example, on November 13, 2020, the Chamber issued Ruling No. 2020-021939 whereby:

[... It] found that journalist Chinchilla was arbitrarily and unwarrantedly apprehended by the Police [...] This obstruction, as detailed in the judgment, occurred not only because of the unjustified apprehension of the person involved, but also when Law Enforcement officers directed a light towards the journalist’s camera, impairing, with such reflection, the capture of images she was trying to make (Sala Constitucional Costa Rica, 2020).

## **REALM D: Media free of unlawful controls**

This was the top-scoring realm at 23.14 out of 25, so it can be said that there is full media freedom in Costa Rica. The Government refrains from taking measures that directly or indirectly affect the activities of mainstream or online media. On record, there are no expropriations, seizures, use of tax procedures to privilege some media over others, or the establishment of discriminatory criteria in the allocation of public funds or government advertising.



Since 2008, when the Government authorized the participation of private and foreign companies in the information technology sector, Costa Rica's digital realm has grown steadily. Service providers face no limitations from the Government, platforms and content are freely accessible to Internet users. Even during the pandemic, e-commerce increased by 48% in 2020, underscoring the importance of digital media not only for the dissemination of information, but also for the supply of goods and services (Martínez, 2021, June 30).

Finally, some progress has been made regarding the transition from analog to digital television. This project was affected by the pandemic. However, the Executive decided to resume it in July 2021. The transition is scheduled by regions. Notwithstanding, there is little information on the effects that this change will have on the public and on the access to technology that will enable community and independent media outlets to join this realm (Castro, 2021, May 14).

## CONCLUSIONS

Freedom of expression and the press in Costa Rica is protected by law and guaranteed by the Judiciary, but affected by the Executive. Although no cases of direct interference of the Executive in the exercise of this right have been reported, the influence that the Office of the President has exerted on communication between 2020 and 2021 is very strong. Spokespersons of the Executive have become the main sources of information, so their actions have a negative impact on the exercise of freedom of the press.

Since 2019, we have noticed an increase in the influence of the Executive in communicational processes, and we can expect this trend to continue next year due to the general elections to be held in February 2022. An outstanding fact is that, beginning the second semester of 2021, there were over 20 candidates for the presidency of the Republic. This situation is unprecedented in the history of Costa Rica and will pose countless challenges for the media and the public authorities in charge of the electoral process (Arrieta, 2021b, August 17).

It should be reminded that, during the 2018 elections, we noticed an increase in the polarization of political discourse and, consequently, in journalism. The 2022 general elections pose a similar challenge. The dissatisfaction of the population with the economic measures taken and the handling of the pandemic will be issues that all candidates will address, and the way the media report on this will have an impact on the exercise of freedom of expression by the citizenry and freedom of the press in general.

Likewise, it is important to follow up on the digital transition of broadcast television and radio. The Executive decided to resume this project in July 2021 and it is expected to be completed by July 2022 (Castro, 2021, May 14). The transition will be conducted progressively, which means that certain areas of the country will face the "digital blackout" in the middle of the electoral process. This situation may have a negative impact on the exercise of freedom

of the press that should be monitored, especially due to the lack of a law regulating this situation.

The influence of the Judiciary and Legislative in 2021 was moderate. However, we can expect that the situation will change in 2022. As sessions are resumed, the Legislative Assembly should take special care of passing laws that adequately regulate digital television and radio in accordance with international agreements. Regarding the Judiciary, hearing cases filed by journalists and the media within the established procedural terms will be essential to guarantee access to public information and respect for fundamental freedoms.

## REFERENCES

- Arrieta, E. (2021[a], April 21). *Congreso se paraliza por contagio de Covid-19 de asesor legislativo clave*. La Republica: <https://www.larepublica.net/noticia/congreso-se-paraliza-por-contagio-de-asesor-legislativo-clave>
- Arrieta, E. (2021[b], August 17). *Histórico, Costa Rica tendría 20 candidatos presidenciales en 2022*. La Republica: <https://www.larepublica.net/noticia/historico-costa-rica-tendria-20-candidatos-presidenciales-en-2022>
- Asamblea Legislativa de la República de Costa Rica. (1954). *Ley de Radio (Servicios Inalámbricos) N° 1758*. Sistema Costarricense de Información Jurídica: [http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm\\_texto\\_completo.aspx?param2=NRTC&nValor1=1&nValor2=36576&strTipM=TC](http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param2=NRTC&nValor1=1&nValor2=36576&strTipM=TC)
- Bonilla, M. (2021, February 5). *Más del 70% de la población confía en los medios de comunicación para informarse sobre el COVID-19*. Universidad de Costa Rica, UCR: <https://www.ucr.ac.cr/noticias/2021/02/05/mas-del-70--de-la-poblacion-confia-en-los-medios-de-comunicacion-para-informarse-sobre-el-covid-19.html>
- Castro, J. (2021, May 14). *¿Por qué Costa Rica no ha podido culminar la transición a la TV digital?* La Republica: <https://www.larepublica.net/noticia/por-que-cost-rica-no-ha-podido-culminar-la-transicion-a-la-tv-digital>
- Chinchilla, S. (2020, August 25). *Manifestantes agreden a periodistas de Columbia, Repretel y Teletica*. La Nación: <https://www.nacion.com/el-pais/politica/turbas-agreden-a-periodistas-de-columbia-repretel/2P554HFM2ZEQRGNZ3ESTS2LTP4/story/>
- Delfino. (2021, August 9). *La COVID-19 irrumpe otra vez en el Congreso: siete diputados aislados, al menos uno positivo*: <https://delfino.cr/2021/08/la-covid-19-irrumpe-otra-vez-en-el-congreso-siete-diputados-aislados-al-menos-uno-positivo>
- Díaz, N. (2020, October 22). *Asamblea Legislativa enfrentará 50 casos de COVID-19 con una segunda desinfección*. Semanario Universidad: <https://semanariouniversidad>.

com/pais/asamblea-legislativa-enfrenta-50-contagios-de-covid-19-con-una-segunda-sanitizacion/

Instituto de Estudios Sociales en Población, IDESPO-UNA. (2020). *Percepciones de la población costarricense e implicaciones de la pandemia COVID-19 en diferentes aspectos socioeconómicos y ambientales*. [https://repositorio.una.ac.cr/bitstream/handle/11056/20539/percepciones\\_de\\_la\\_poblacion\\_costarricense\\_e\\_implicaciones\\_de\\_la\\_pandemia\\_covid\\_19\\_en\\_diferentes\\_aspectos\\_socioeconomicos\\_y\\_ambientales.pdf?sequence=1&isAllowed=y](https://repositorio.una.ac.cr/bitstream/handle/11056/20539/percepciones_de_la_poblacion_costarricense_e_implicaciones_de_la_pandemia_covid_19_en_diferentes_aspectos_socioeconomicos_y_ambientales.pdf?sequence=1&isAllowed=y)

Inter-American Press Association, IAPA. (2021, April 20-23). *Report to the Midyear Meeting*: <https://en.sipiapa.org/notas/1214508-costa-rica>

Kemp, S. (2021, February 5). *Digital 2021: Costa Rica*. Data Reportal: <https://datareportal.com/reports/digital-2021-costa-rica>

Martínez, A. (2021, June 30). *Ventas por Internet crecen en un 48% en Costa Rica*. Delfino: <https://delfino.cr/2021/06/ventas-por-internet-crecen-en-un-48-en-costa-rica>

Sala Constitucional Costa Rica. (2020, November 13). *Sala Constitucional: “Fuerza Pública obstruyó labor periodística y aprehendió arbitrariamente a comunicadora durante manifestación”*. Poder Judicial de Costa Rica: <https://salaconstitucional.poder-judicial.go.cr/index.php/component/content/article/72-comunicados/486-sala-constitucional-fuerza-publica-obstruyo-labor-periodistica-y-aprehendio-arbitrariamente-a-comunicadora-durante-manifestacion?Itemid=437>

Ugarte, O. (2021, May 24). *Magistrados rechazan recibir a relator internacional con informe sobre independencia del Poder Judicial*. Semanario Universidad: <https://semanariouniversidad.com/pais/magistrados-rechazan-recibir-relator-internacional-con-informe-sobre-independencia-de-poder-judicial/>

Vizcaíno, I. (2020, October 19). *Absolutoria de periodistas de ‘La Nación’ queda en firme con decisión de Sala III*. La Nación: <https://www.nacion.com/el-pais/politica/absolutoria-de-periodistas-de-la-nacion-queda-en/l455HPNRZRG57PD4TRCVV4MEHY/sto>

## COSTA RICA

PERIOD SURVEYED

JULY 31, 2020 – AUGUST 1ST, 2021

### Swot Analysis

<b>STRENGTHS</b>	The lack of direct or indirect controls over the media is Costa Rica's main strength. The impact of the branches of government on the media is moderate, which encourages the free flow of ideas and opinions, including those that are critical or contrary to the political views of the government. Additionally, the independence of government bodies and legal stability have a positive impact on the exercise of freedom of expression and the press.
<b>WEAKNESSES</b>	Excessive dependence on information published by the Executive negatively affects journalism in the country. Delays and lack of clarity in information output have been constant, and the pandemic has increased the time required for delivering news and responding to requests filed, which undermines access to public information. Finally, the lack of an updated regulation for the media creates legal loopholes that may negatively affect the exercise of freedom of the press.
<b>OPPORTUNITIES</b>	The increase in the Internet penetration rate and the growth of e-commerce offer new opportunities for the media and for society in general. During the COVID-19 pandemic, the use of digital platforms has increased. Therefore, mainstream media can find in them a space for engaging with their audiences, which allows them to increase their revenue and remain operational. For its part, the Government has the possibility of implementing public policies aimed at ensuring freedom of the press on the Internet.
<b>THREATS</b>	The 2022 electoral process poses a threat to the exercise of freedom of expression. The multitude of candidates and the transition of broadcast television to digital present several challenges that will be difficult for the media to face. In particular, rural areas of the country face the risk of being left out, while community and independent media may be excluded from the Costa Rican media ecosystem. Finally, the national and global economic crisis has an impact on the availability of resources to preserve the pluralistic and independent communication typical of Costa Rican media.

## 2.7.3 OVERVIEW

### Costa Rica

Among the results of the Chapultepec Index 2019-2020 and those of the 2020-2021 period, **Costa Rica's** quantitative results (3.64 points less) and its position (three down) showed a decline; but it remains in the bracket of low restriction on freedom of expression. Fears over the results of electoral contests affect the perception of freedom of expression and the press, although the government guarantees protection to the media and journalists and free speech with it.

Realm A, Informed Citizens Free to Express Themselves, experienced a drop of 2.29 points between 2019-2020 and 2020-2021, much more evident in the sub-realm of Free Speech. The State continues to guarantee access to information by expanding internet access and allowing citizens to get news; there are no regulations affecting the people's freedom of expression.

Regarding Realm B, Exercise of Journalism, the difference in the results obtained in both editions was 3.01 points less. Freedom of the press is guaranteed, although we can notice that, in 2020-2021, the influence of the Executive is very strong on this realm in reason of the new communication policies to address the COVID-19. Under such measures, other government offices, such as the Ministry of Health, directly influence the communication strategy and the dissemination of information to the media.

In Realm C, Violence and Impunity, a slight improvement of 1.87 points is observed. Indeed, Costa Rica is considered a safe country for journalists. The government is respectful when engaging with the media and does not tolerate persecution or discrediting campaigns against journalists.

Regarding Realm D, Control over the Media, the results are similar, with 23 points in 2019-2020 and 23.14 in 2020-2021. In fact, the country has a legal framework that does not allow discretionary actions by officials from public bodies and authorities to exercise direct or indirect control over the media.

The moderate legislative and judicial influence, and low control over the media, encourage the free flow of ideas and opinions. The extent to which the different environments influence the media remains similar in both iterations regarding Realm B. All the others tend to show a greater influence, although always within the moderate range. Freedom of expression is protected by laws enforced by the Judiciary, although the influence of the Executive increases in the wake of electoral contests.

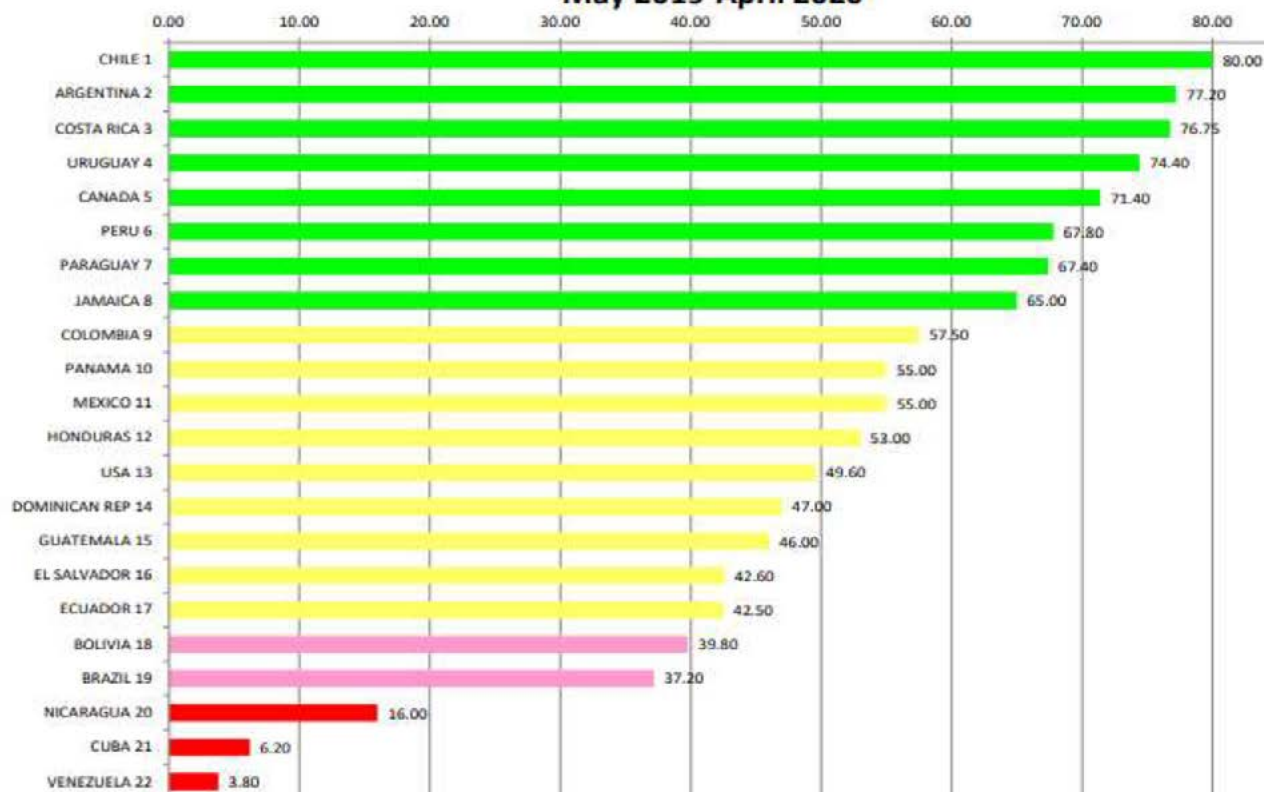


## 2.8. CUBA

### 2.8.1 CUBA 2019-2020

CUBA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>6.2</b>
REALM A: "Citizens informed and free to express themselves"	23	1.0
Flow of information	11	1.0
Free Expression	12	0.0
REALM B: Exercise of Journalism	10	1.6
REALM C: Violence and Impunity	42	0.0
Protection	10	0.0
Persecution	15	0.0
Impunity	17	0.0
REALM D: Control over the media	25	3.6
Direct control	16	2.4
Indirect control	9	1.2

**Chapultepec Index of Freedom of Expression and Press**  
May 2019-April 2020



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

CUBA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	7.03	6.27	8.08
REALM A: "Citizens informed and free to express themselves"	7.58	7.12	7.99
Flow of information	7.11	6.84	8.12
Free Expression	8.05	7.40	7.85
REALM B: Exercise of Journalism	6.95	5.59	8.00
REALM C: Violence and Impunity	6.67	6.03	8.13
Protection	6.70	5.70	8.00
Persecution	7.50	6.80	8.40
Impunity	5.80	5.60	8.00
REALM D: Control over the media	7.24	6.22	8.12
Direct control	7.69	6.63	8.10
Indirect control	6.78	5.82	8.13

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## Cuba: new rules to keep muzzling citizens and journalists

### Executive summary

Cuba, along with its allies Venezuela and Nicaragua, is among the countries posing the most obstacles to freedom of speech and press in the Americas, according to the Chapultepec Index. Cuba is rated at 6.2 points out of a maximum of 100, only over Venezuela. In the study period, since spring 2019, the government sponsored a constitutional reform vesting it with new means to muzzle the press and persecute journalists and dissidents.

## INTRODUCTION

The island of Cuba, in reason of its single-party and state-owned media system, is one of the ten countries with the highest levels of censorship in the world, according to the Committee to Protect Journalists (Committee to Protect Journalists, 2019). For six decades, the Cuban government has kept the press muzzled and freedom of expression limited “in accordance with the ends of the socialist society” (Miembros de la Comisión Redactora, 2019). Once the constitution was reformed in 2019 to suit a new government that consolidated the transition of power without free elections, the Cuban press has been subjected to a new onslaught from high-ranking officials.

The new Magna Carta (Miembros de la Comisión Redactora, 2019), enacted in April 2019, establishes that in no event will the fundamental media be privately owned. The Communist Party, solely authorized by statute, is the owner of all media in the hands of the State for all practical purposes.

In July 2019, and particularly in 2020 with the spread of the coronavirus pandemic, the Cuban government issued and enforced Decree Law 370 (Decreto Ley 370) (Cael, 2019), which establishes as an offense, in a vague and imprecise manner, the action of “disseminating, over public data transmission networks, information contrary to social interest, morals, decency, and the honor of persons”.

Since this decree was issued, over 30 individuals have been subjected to interrogations, threats, and seizures for voicing their opinions on social media, and over 30 have been fined with 3,000 Cuban pesos, (\$120), three times the average salary on the island. Various independent media and Human Rights organizations have condemned this decree law.

## Analysis of results

Between May 1, 2019 and April 30, 2020, the exercise of journalism in Cuba continued to be persecuted and harassed by those in power according to multiple reports from international organizations (SIP, 2019).

From positions of power, attacks on independent journalists, blockade of news sites critical of the regime, arbitrary detentions and arrests continued.

## Executive Environment

The executive environment is the worst rated by the experts surveyed with a very strong influence, at 8.08 out of a maximum of 10, on situations discouraging free speech. Those inquired agree that the executive environment is the main obstacle to freedom of expression and the press in Cuba.

Under the government of Miguel Díaz-Canel (2018-present), freedom of the press has regressed (Redacción Radio Televisión Martí, 2020a) in Cuba with a Constitution that muzzles and considers freedom of expression and the independent press criminal behavior.

Díaz-Canel has strengthened the power of the Communist Party over the media and made access to public information even more difficult thereby prosecuting the exercise of independent journalism. During the coronavirus pandemic, the government has used the public media to stir up hatred towards independent journalists.

From official government accounts and those of public officials on social media, smear tactics continue. There is also evidence (Gámez, 2020a) of an orchestrated government operation to influence public opinion by using bots and trolls.

## Judicial Environment

Of the three environments, that is, the branches of government, the Judiciary appears to have the least impact on situations unfavorable to free speech in Cuba. This result does not mean that it does not affect the exercise of such freedom. The influence of this environment was rated at 6.27 out of 10 possible ones by the experts inquired, within the range of strong influence.

In Cuba, laws and court proceedings serve to perpetuate the power of the Communist Party over the population and curtail any scintilla of criticism towards the regime. The most concerning incidents have been the imprisonment of journalist Roberto de Jesús Quiñones (Diario de Cuba, DDC, 2020), which took place in September 2019, while he was covering a trial in Guantánamo, additionally, the enactment of Decree 370, which restricts the exercise of free speech, as we will review below.

Quiñones (Quiñones, 2019) was sentenced to one year in prison for the alleged crime of resistance and disobedience in reason of covering a trial for the Cubanet agency.

During this period under analysis, travel ban measures, raids in journalists' homes, confiscation of devices used for work purposes, and house arrest of newsmen have been witnessed.

## **Legislative environment**

The Legislative environment was rated as strongly influential, at 7.03 out of a maximum of 10, on the situation of lack of freedom of expression in Cuba. Following the issuing of Decree Law 370 regarding the digitization of society on the island, in force since July 4, 2019, fines levied on dozens of journalists to prevent them from sharing content critical of the regime on social media have been constant during this period.

Although a series of bills are being drafted in the country as the necessary regulatory framework emanating from the new constitution, it should be noted that the Parliament adopts a submissive position towards the dictates of the Executive. In the latest months, there has been an attack against citizens and private businesses, even showing hundreds of allegedly criminal cases on TV thereby violating essential principles of presumption of innocence and journalistic ethics.

The government has stated that it is considering the enactment of a Media Law (Ley de Medios), which would set the legal framework for publications on the island. Journalists fear that such a law would further restrict the few spaces for critical voices.

## **REALM A: Cuban citizens do not have the right to express themselves freely or to be informed**

The government of Miguel Díaz-Canel has intensified persecution of independent journalists and hate speech on social media and state-owned media. During the study period, at least 245 activists and independent journalists have been banned from traveling overseas.

The actions regarding the sub-realms of information flow and free speech were rated respectively at 1 and 0 points out of 11 and 12 possible, in reason of the appalling conditions to exercise these freedoms on the island. In the midst of an economic crisis, the government has forbidden citizens from taking photos or videos of the rows or empty shelves in stores. It has also prohibited cooperating with independent media, under penalty of fine (Redacción, 2020).

Cuban law makes it impossible for a person subject to a penalty or undergoing criminal proceedings to exit the country. The government uses the vague term of "public interest rea-

sons” (Oppenheimer, 2020) to punish independent journalists and activists, preventing them from traveling abroad to take courses or for leisure (Suárez, 2020).

The government has blacklisted” (Huerga, 2020) media outlets which Cubans are not allowed to follow on social media. Meanwhile, last year, the presence of digital mercenaries, known as “cyber-spin doctors” (*ciberclarías*) (Gámez, 2020a) who seek to steer the public opinion favorably towards the regime on the Internet, has increased.

The state has ordered that citizens respond to what it considers attacks on the socialist system through social media and uses its propaganda machine to quell criticism on sensitive issues such as the commissioning of physicians overseas, considered by several NGOs as a form of forced labor (Diario de las Américas, 2018).

Therefore, unsurprisingly, Cuba has been rated as a society with no free speech, at 1 out of 23 points possible in this realm.

## **REALM B: Exercise of journalism:**

Over the past year, the government has persisted in its practice of holding activists and independent journalists at home when officials seek to prevent them from going out and cover events. Journalists such as Luz Escobar (CubitaNow, 2019), from *14ymedio* (loosely, 14 and ½ media); Mónica Baró (Chirinos, 2020), from *El Estornudo* (The Sneeze); Camila Acosta, and Iliana Hernández (Redacción de CiberCuba, 2020), among other reporters, have denounced being put under house arrest multiple times.

Cuba, through its state-owned telephone company, Etecsa, keeps all sites critical of the government, such as *Diario de Cuba* (Cuba Daily), *Cubanet*, *14ymedio*, *Radio Martí* and *Televisión Martí*, *Cibercuba*, *Cubanos por el Mundo* (Cubans all over the World), *El Estornudo*, *Tremenda Nota* (Some Big News), and *ADNCuba* among others, blocked. It also cuts off mobile data service to journalists in order to prevent whistleblowing on social media.

The exercise of journalism in Cuba is limited by statutory restrictions on achieving newspaper status. The Union of Journalists and Writers of Cuba (Unión de Periodistas y Escritores de Cuba), an official body to control journalists, establishes that those who obtain, among other requirements, a certificate of journalistic practice from the management of a media outlet for which they work shall be recognized as such within the framework of said official union (Unión de Periodistas de Cuba, 2019).

Independent journalists are often threatened with prosecution for “misappropriation of legal capacity” (Inter-American Commission on Human Rights, 2018), a figure devised by the regime to muzzle the independent press. Also in force is Law 88 (Ley 88), or the Gag Law ([Ley Mordaza] officially, on the Protection of Cuba’s National Independence and Economy [Protección de la Independencia Nacional y la Economía de Cuba]), which allows holding



journalists and activists over 10 years on charges of collaborating with the United States or practicing journalism in the interests of the Helms-Burton Act.

The impossibility of practicing independent journalism from a legal standpoint adds to the long list of difficulties that make the profession a dangerous job, with consequences ranging from social disrepute, by means of government media campaigns, to prison.

Cuba's Criminal Code offers the government a variety of legal provisions to suppress dissent and punish those who are openly critical of the official ideology.

In Cuba, the state denies access to public information, manipulates government statistics (Rallo, 2018) and prevents independent journalists from obtaining statements from official sources. Of the 10 possible points, the experts rated this item at 1.60.

Cuban journalists often suffer disruptions in their phone and data lines. Their email is also censored by means of keywords. Consequently, emails or SMS texts running on island-based servers may never reach their destination (Sánchez y Escobar, 2016).

## **REALM C: Violence and impunity**

This is one of the worst rated realms in Cuba, where journalists fear being harassed or imprisoned every day for publishing critical content. The experts scored this realm with 0 out of 42 for the reasons below:

The Criminal Code (Committee to Protect Journalist, 2016) defines three forms of defamation: libel, slander, and contempt for authority. In Cuba, it is a crime punishable by up to three years in prison to publish any criticism of the country's "heroes or martyrs," as well as of the nation's high-ranking officials.

Criminal Code Article 103 provides for penalties of up to 15 years' imprisonment for involvement in "enemy propaganda," which includes collaborating with news outlets considered hostile to the Revolution by the government. Charges of rebellion, pre-criminal social endangerment, unlawful liaisons, resistance, and espionage are some of those faced by Cuban newsmen last year (Diario de Cuba, 2019).

Cuba has enhanced its control over the media agenda in the wake of the economic and legitimacy crisis faced by the regime, undergoing a generational change in its leadership. During this period, propaganda has intensified and any dissent is deemed as complicity with the "enemy" in an increasingly evident besieged city mindset.

With one journalist in prison and dozens of journalists banned from leaving the country, authorities act in total impunity. The government frequently makes intimidating, stigmatizing, and hate statements against journalists whom it accuses of being paid by the United States. By late 2019, the official Union of Journalists and Writers of Cuba and ruler Díaz-Canel

attacked the Press and Society Institute (Instituto de Prensa y Sociedad), which they accused of being involved in an “international conspiracy” of counterrevolution (Cubanet, 2019).

On the other hand, in Cuba there are no laws to protect the exercise of journalism. Furthermore, there are not special categories of hate crimes against members of the press or bans on the statute of limitations thereof.

## **REALM D: The Communist Party is the sole owner of all the media in Cuba**

True to its Soviet model whereby the communist State claims the right to suppress all dissent, the Cuban government eliminated freedom of the press early on. In its latest constitutional reform, the article regarding the media barely changed to include non-mainstream outlets emerged during the so-called digital spring.

The experts inquired agree that Cuba cannot be considered a State that respects freedom of expression and press, and rated this item at 3.6 out of 25 points possible.

The Communist Party and its affiliates hold power over national-scope media and set a political propaganda and disinformation agenda (Sánchez, 2019). The alternative media that escape the power of the State are silenced by means of digital blockades (Salomón, 2017) and siege on journalists, thereby forced to accept the guidelines of the regime (Cubanet, 2017).

Cuba keeps a strict censorship against newspapers critical of the government, which citizens cannot access on the networks of the state communications monopoly. It also restricts the credentials of press agencies and openly or covertly threatens their stay in the country in case of critical reports.

In the summer of 2020, EFE news agency correspondent Lorena Cantó was publicly threatened by high-ranking officials of the Foreign Affairs Ministry (Ministerio de Relaciones Exteriores) on Twitter, after she published that State Security agents were surveilling the houses of independent journalists and preventing them from going out (Redacción Radio Televisión Martí, 2020b).

Cuba has two national newspapers, *Granma* and *Juventud Rebelde* (Rebel Youth), as well as a weekly, *Trabajadores* (Workers). All are property of the Communist Party, which establishes their ideological policy. As with the rest of the media – radio, press, and web sites, their objective is to make government propaganda, not journalism. The government subsidizes these propaganda-driven outlets, but does not offer any support to independent media. Instead, it persecutes the sources of funding for non-official press and considers it enemy agencies.

## CONCLUSIONS

Currently, Cuba remains one of the most difficult and dangerous places to practice journalism in the Western Hemisphere. This last year, arrests, harassment, residential raids, fines, and bans on traveling abroad were the credentials earned by independent journalists.

The island has forged alliances with friendly autocratic governments, such as those of Nicolas Maduro and Daniel Ortega, to quell any criticism about such regimes and coordinate strategies to control online chatter regarding their administrations.

With a statutory framework tailored to persecute and harass critical journalism, the government has in its hands the tools to imprison or destroy the character of any newsperson who dares to confront the regime.

During the review period, conditions for exercising freedom of expression and the press have worsened in the wake of the regime's internal crisis and the coronavirus pandemic, which have been used to increase persecution of independent journalism.

In the upcoming Chapultepec Index, the trend of perceptions on free speech in Cuba could continue to decline. After the period under analysis, the president has labeled independent journalists as "mercenaries" (Gámez, 2020b). On the Plaza de la Revolución (Revolution Square), ruler Miguel Díaz-Canel used this adjective to describe (Periódico Cubano, 2020) the media that dared to reveal that the government was planning to open stores selling on US dollars throughout the island to get hard currency. The perspectives seem to be negative.

## REFERENCES

- Canel, M. (2019, July 4). Decreto-ley NO. 370. *Juriscuba*. Retrieved from: <http://juriscuba.com/decreto-ley-no-370/>
- Chirinos, P. (2020, July 30). Periodista Mónica Baró Sánchez: «Cuatro oficiales vestidos de civiles me impiden salir de mi casa». *Cubanos por el mundo*. Retrieved from: <https://cubanosporelmundo.com/2020/07/30/monica-baro-sanchez-oficiales-impiden-salir-casa/>
- Comisión de Asuntos Constitucionales y Jurídicos de la Asamblea Nacional del Poder Popular. (2003). Constitución de la República de Cuba. Retrieved from: <https://www.wipo.int/edocs/lexdocs/laws/es/cu/cu054es.pdf>
- Committee to Protect Journalists. (2016, March 2). Criminal Defamation Laws in The Caribbean *Committee to Protect Journalists*. Retrieved from: <https://cpj.org/reports/2016/03/the-caribbean/>

- Committee to Protect Journalists. (2019). 10 Most Censored Countries. Committee to Protect Journalists. Retrieved from: <https://cpj.org/reports/2019/09/10-most-censored-eritrea-north-korea-turkmenistan-journalist/>
- CPJ, Cuba, <https://cpj.org/es/americas-es/cuba-es/>
- Cubanet. (2017, August 21). Díaz-Canel amenaza a OnCuba: 'Les vamos a cerrar la plataforma digital'. *CUBANET*. Retrieved from: <https://www.cubanet.org/noticias/diaz-canel-ataca-oncuba-les-vamos-cerrar-la-plataforma-digital/>
- Cubanet. (2019, October 14). Instituto de Prensa y Sociedad responde acusaciones de Díaz-Canel y la UPEC. *Cubanet*. Retrieved from: <https://www.cubanet.org/noticias/instituto-de-prensa-y-sociedad-responde-acusaciones-de-diaz-canel-y-la-upec/>
- CubitaNOW. (2019, November 29). Reporteros sin Fronteras sale en defensa de periodista cubana Luz Escobar. *Cubita Now*. Retrieved from: <https://noticias.cubitanow.com/reporteros-sin-fronteras-sale-en-defensa-de-periodista-cubana-luz-escobar>
- Diario de Cuba DDC. (2019, November 26). Tres veces en diez días: La periodista independiente cubana Luz Escobar, otra vez detenida en su propia casa. *ddc*. Retrieved from: [https://diariodecuba.com/derechos-humanos/1574792421\\_6681.html](https://diariodecuba.com/derechos-humanos/1574792421_6681.html)
- Diario de Cuba DDC. (2020, September 4). Washington reclama de libertad inmediata del periodista cubano Roberto de Jesús Quiñones. *ddc*. Retrieved from: [https://diariodecuba.com/derechos-humanos/1599214377\\_24796.html](https://diariodecuba.com/derechos-humanos/1599214377_24796.html)
- Diario de las Américas. (2018, October 14). Médicos cubanos obligados a responder en Twitter a críticas a la misión en Ecuador. *Diario las Américas*. Retrieved from: <https://www.diariolasamericas.com/america-latina/medicos-cubanos-obligados-responder-twitter-criticas-la-mision-ecuador-n4164388>
- Gámez, N. (2020a, July 2). Cuentas falsas y coordinación con Venezuela: cómo Cuba disemina propaganda en Twitter. *El Nuevo Herald*. Retrieved from: <https://www.elnuevoherald.com/noticias/mundo/america-latina/cuba-es/article243895407.html>
- Gámez, N. (2020b, September 11). Cuba arrecia la represión contra periodistas ante el desafío de la prensa independiente. *El Nuevo Herald*. Retrieved from: <https://www.elnuevoherald.com/noticias/mundo/america-latina/cuba-es/article244710837.html>
- Huerga, Y. (2020, January 23). Lista negra de webs alternativas confirma naturaleza totalitaria del régimen cubano. *Radio Televisión Martí*. Retrieved from: <https://www.radio-televisionmarti.com/a/lista-negra-de-webs-confirm%C3%B3-temor-del-r%C3%A9gimen-a-perder-el-monopolio-de-la-informaci%C3%B3n-/256336.html>
- Inter-American Commission on Human Rights. (2018). Reunión de trabajo con periodistas. 168 Periodo de sesiones. Retrieve from: [https://www.oas.org/en/iachr/media\\_center/PReleases/2018/104.asp](https://www.oas.org/en/iachr/media_center/PReleases/2018/104.asp)



Inter American Press Association. (2019) Report to the IAPA Midyear Meeting March 29 to 31. Cartagena, Colombia. Retrieved from: <https://en.sipiapa.org/notas/1213108-cuba>

Miembros de la Comisión Redactora. (2019). Constitución de la República de Cuba. Retrieved from: <http://www.granma.cu/file/pdf/gaceta/Nueva%20Constituci%C3%B3n%20240%20KB-1.pdf>

Oppenheimer, A. (2020, August 12). El caso de las 'personas reguladas' en Cuba. *El Nuevo Herald*. Retrieved from: <https://www.elnuevoherald.com/opinion-es/opin-col-blogs/andres-oppenheimer-es/article244907342.html>

Periódico Cubano. (2020, July 17). Díaz-Canel molesto con la prensa independiente por filtrar nuevas medidas económicas. *Periódico Cubano*. Retrieved from: <https://www.periodicocubano.com/diaz-canel-arremete-contr-medios-independientes-y-reconoce-que-el-mercado-en-dolares-no-es-para-todos/>

Quiñones, R. (2019, September 20). Roberto Quiñones desde prisión: no existe ningún barrote que pueda contra mi alma. *Cubonet*, Retrieved from: <https://www.cubonet.org/destacados/roberto-quinones-prision-periodista-barrotes-cuba-alma/>

Rallo, J. (2018, June 18). Cómo manipula Cuba sus estadísticas de salud. *El Confidencial*. Retrieved from: [https://blogs.elconfidencial.com/economia/laissez-faire/2018-06-18/cas-trismo-economia-mentiras\\_1580225/](https://blogs.elconfidencial.com/economia/laissez-faire/2018-06-18/cas-trismo-economia-mentiras_1580225/)

Redacción. (2020). Coronavirus: Cuba pondrá multas a quienes publiquen fotos de la situación. *Revista DimeCuba*. Retrieved from: <https://www.dimecuba.com/revista/coronavirus-cuba/coronavirus-cuba-multas-fotos/>

Redacción de CiberCuba. (2020, January 8). Policías entran en la vivienda de la periodista de CiberCuba Iliana Hernández para efectuar un registro. *CiberCuba*. Retrieved from: <https://www.cibercuba.com/noticias/2020-01-08-u1-e129488-s27061-policias-entran-vivienda-iliana-hernandez-efectuar-registro>

Redacción Radio Televisión Martí. (2020a, May 2). Amnistía Internacional, CPJ y Artículo 19 exhortan a Díaz-Canel a respetar la libertad de prensa. *Radio Televisión Martí*. Retrieved from: <https://www.radiotelevisionmarti.com/a/amnist%C3%ADa-internacional-cpj-y-art%C3%ADculo-19-exhortan-a-d%C3%ADaz-canel-a-respetar-la-libertad-de-prensa/264404.html>

Redacción Radio Televisión Martí. (2020b, July 31). Funcionarios del MINREX amenazan a corresponsal de EFE en Cuba; periodistas y activistas siguen vigilados. *Radio Televisión Martí*. Retrieved from: <https://www.radiotelevisionmarti.com/a/funcionarios-del-minrex-amenazan-a-corresponsal-de-efe-en-cuba-periodistas-y-activistas-siguen-vigilados/269717.html>



- Salomón, J. (2017, August 31). El control y la censura de Internet en Cuba. *Amnistía Internacional*. Retrieved from: <https://www.es.amnesty.org/en-que-estamos/blog/historia/articulo/el-control-y-la-censura-de-internet-en-cuba/>
- Sánchez, Y. (2019, December 5). Press or Propaganda? *Generation Y*. Retrieved from: <https://generacionyen.wordpress.com/2019/12/05/press-or-propaganda/>
- Sánchez, Y. y Escobar, R. (2016, September 3). Cubacel Censors Texts With The Words “Democracy” Or “Hunger Strike”. *14ymedio*. Retrieved from: [https://www.14ymedio.com/englishedition/Cubacel-Censors-Democracy-Hunger-Strike\\_0\\_2090790911.html](https://www.14ymedio.com/englishedition/Cubacel-Censors-Democracy-Hunger-Strike_0_2090790911.html)
- Suárez, Y. (2020, April 1). Regulados en Cuba, prisión a cielo abierto. *ddc*. Retrieved from: [https://diariodecuba.com/derechos-humanos/1585750314\\_15169.html](https://diariodecuba.com/derechos-humanos/1585750314_15169.html)
- Unión de Periodistas de Cuba (Upec). (2019, June 21). Estatutos de la Unión de Periodistas de Cuba. *Unión de Periodistas de Cuba*. Retrieved from: <https://www.cubaperiodistas.cu/index.php/estatutos-de-la-upec/>



## CUBA

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Cuban journalism's strength lies in the years it has resisted the onslaughts of State Security and censorship. Often operating on precarious means, independent journalism has known how to tell the ordeal of a Cuba much closer to the real one, even winning important international awards.
<b>WEAKNESSES</b>	Cuba is a nation ruled by a totalitarian regime, which has denied its citizens free speech for decades. It is considered one of the ten countries with the highest levels of censorship worldwide, where criticizing the government can put reporters and citizens behind bars.
<b>OPPORTUNITIES</b>	The independent press, emerging from the interior of the island of Cuba and in contrast to the government's informative agenda, represents an opportunity to build a more open, objective, and pluralistic kind of communication. On the island, there is great thirst for information contrasting the Communist Party propaganda.
<b>THREATS</b>	The information monopoly, held by the Communist Party for six decades, is the main threat to freedom of expression and the press in Cuba. The most radical sectors of the Party have been sabotaging attempts at opening the airwaves to more balanced and transparent media.

## 2.8.2 CUBA 2020-2021

CUBA	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>11,11</b>
<b>REALM A: "Citizens free to express themselves"</b>	<b>23,00</b>	<b>0,00</b>
Information flow	11,00	0,00
Free speech	12,00	0,00
<b>REALM B: "Exercise of journalism"</b>	<b>10,00</b>	<b>0,57</b>
<b>REALM C: "Violence and impunity"</b>	<b>42,00</b>	<b>7,68</b>
Protection	5,00	0,00
Persecution	7,50	0,00
Impunity	8,50	1,21
Registered violence	21,00	6,47
<b>REALM D: Control over the media</b>	<b>25,00</b>	<b>2,86</b>
Direct control	19,00	2,57
Indirect control	6,00	0,29

Chapultepec Index on Freedom of Expression and the Press 2021



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>CUBA</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	7,01	6,25	6,35
REALM A: "Citizens informed and free to express themselves"	7,50	4,33	4,49
REALM B: Exercise of Journalism	7,71	7,86	7,86
REALM C: Violence and Impunity	6,05	5,95	6,05
REALM D: Control over the media	6,79	6,86	7,00

Type of Influence      Points

SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Cuba: criminalized freedom of expression

### Executive Summary

According to the Chapultepec Index of Expression and the Press, Cuba is one of the countries throughout the Americas where this universal human right is inexorably restricted and one of the worst evaluated according to the opinions of experts. Out of a maximum of 100 possible points, the Caribbean country was awarded an evaluation of 11.11. That result is the result of the application of Decree-Law 370 ("scourge law") to censure criticism of State policy, and of a new rule (Decree-Law 35) that legalizes censorship on the island.

## INTRODUCTION

Year after year Cuba is one of the countries with a very serious situation for the exercise of freedom of expression and the press. The 2021 *ranking* of the global organization Reporters Without Borders (RSF), places Cuba in 171 place out of 180 countries included in the list, and points out that the independent press-without legal or constitutional recognition on the Island- can only exist through the Internet.

In the Caribbean country, journalists who have authorization within the framework of legality are those who practice in the media controlled by the State and, therefore, by the Communist Party of Cuba (PCC). Through this, all editorial policies are governed. Such a situation gives the state the authority to repress through detention, house arrest and censorship all those journalists who practice the profession independently.

Independent journalism is becoming increasingly difficult because the State limits citizens who want to access public information. This is also a consequence of the risks faced by press workers due to the persecution and criminalization of expressions that are critical of the State's policy.

It also highlights the limitation of the Internet, reflected in cuts to that service and in technological blackouts such as the one that occurred on July 11, 2021, amid the significant protests of the Cuban people.

Legal provisions such as the 370, promulgated by the Cuban government in 2018 to sanction "the dissemination of information on social networks contrary to social interest, morality and good customs" (Article 19, 2020), continues to be active to the detriment of anyone

who speaks out against the government on the Internet. Also, under the protection of this law, government officials are authorized to confiscate equipment used for these purposes.

The novelty of the year 2021 was the publication in the Official Gazette of the Republic of Cuba of Decree-Law 35 to criminalize freedom of the press and expression in general. This decree, which regulates the use of telecommunications, punishes those who publish on social networks content that may be considered as cybercrimes due as they voice discontent with the government, and aims to contribute to the use of telecommunications services being an instrument “for the defense of the Revolution” (Granma, 2021).

## Analysis of the results

In the period from August 2020 to July 2021, the repression against journalists, bloggers, freelancers, youtubers, human rights activists, opponents, artists, and anyone who dissents and publicly expresses themselves against the government of Miguel Díaz Canel, increased significantly.

Events such as the quartering at the headquarters of the San Isidro Movement in Havana, the “sit-in” of artists, activists and intellectuals for 12 hours in front of the headquarters of the Ministry of Culture on November 27, 2020, the concentration in that same place on January 27, 2021, the peaceful protest on Obispo Street and the demonstrations in almost the entire Island on July 11, resulted in criminal laws and immigration regulations that reinforced harassment of journalists.

## Executive Environment

According to the experts who participated in the survey, the Executive environment, of a maximum of 10 points, was awarded 6.35 with a very strong degree of influence in situations unfavorable to freedom of expression. In this period, the Cuban government’s crusade against the independent press continues with censorship and repression as banners to weaken non-official journalism.

Because the Constitution of the Republic of Cuba states that the Government establishes the principles of organization and operation for all media (Article 55) and that the PCC is the one that governs the editorial policies of all official media controlled by the State, the exercise of the independent press and freedom of expression in general is criminalized. Its recognition in the Constitution is a dead letter.

In practice, independent journalism is carried out within a hostile environment so reporters and community media based in Cuba (Amanecer Habanero, El Espirituano, Panorama Pinareño, Páginas Villaclareñas...) they suffer all kinds of attacks by the repressive organs of State Security, as well as by the state media themselves. Attacks translated into media discredit and defamation, without the right to reply, such as those carried out in the Cuban

television program called “Hacemos Cuba”, hosted by the lawyer and journalist Humberto López.

Many independent reporters, activists and artists were victims of repression by State Security and Police agents when, on January 27, they peacefully gathered in front of the Ministry of Culture in Havana to demand the release of journalist Camila Acosta, artist Tania Bruguera and poet Katherine Bisquet. The young demonstrators suffered beatings, threats and lengthy interrogations that day.

## Legislative Environment

The Legislative environment, the one with the least impact, was evaluated with 7.01 points out of 10, with a strong influence on situations unfavorable to freedom of expression. In the period analyzed, the application of Decree-Law 370, published in 2018 and implemented a year later; the new Decree-Law 35 and its associated norms, legislations that exposed inequality before the law due to political causes, continued.

After months with an apparent calm, so far in 2021 four fines of three thousand pesos have already been imposed under the “ley azote” (scourge law). The last sanctioned was the young Rafael Santos Regalado who has more than 12 thousand followers on Twitter. Already in March of this year, the activist Adrian Congora from Las Tunas had been fined for broadcasting live while he was at a store reporter of the independent audiovisual media Palenque Visión, Yeris Curbelo was also fined. In September, this law was applied to Guantanamenian activist and journalist Emilio Almaguer de la Cruz, for his publications on social networks.

Likewise, in the Sixth Plenary Session of the Union of Journalists of Cuba, held in January 2021, one of the highly polemic and echoed topics discussed was the proposal of the first vice president, Rosa Miriam Elizalde, who called for the creation of “a legal group in capacity to present legal cases against those who organize and execute actions of harassment and intimidation towards Cuban journalists” (Juventud Rebelde, 2020).

If this idea materializes, the Cuban State Union could call for legal actions against those who discredit or provoke journalists and media subordinate to the Communist Party. Independent journalists and media would not be able to do the same.

## Judicial Environment

The Judicial setting, on the other hand, was dimensioned with a value of 6.25 out of 10 points, so it presents a strong influence on situations unfavorable to freedom of expression. In Cuba, as long as the judicial processes have a political connotation, the Government Security Entities (Órganos de Seguridad del Estado, OSE) exercise control over this power.





Multiple court summonses, house arrests and detentions such as those of independent reporters Héctor Luis Valdés Cocho, Camila Acosta, Iliana Hernández, Luz Escobar, Rolando Rodríguez Lobaina, Esteban Rodríguez, Niober García Fournier (fined twice under the “ley azote”), Yoe Suárez, María Matienzo, Mauricio Mendoza (assaulted by the Minister of Culture Alpidio Alonso in the middle of the events On January 27, 2021, Mary Karla Ares and Lazaro Yuri Valle Roca (who has been detained since June 2021), characterized the period evaluated.

The most important events at this time were the anti-government protests that took place on the island on July 11, 2021. As a result of this historic event in which part of the Cuban people used their constitutional right to demonstrate (article 56), more than a thousand people were attacked in different ways (physical abuse, detentions, exemplary trials), including a dozen independent journalists.

## **REALM A: Cuban citizens have restricted the right to receive and offer information**

The Cuban State, at any level, limits and restricts citizens’ access to public information. This is demonstrated by Decree-Law 6, published on July 30, 2020, and its regulations Decree-Law 9; these Decree-laws restrict the constitutional right to public information (Article 53), by asking citizens to explain why they place the request, their personal data and confidentiality. All these requirements, along with the reprisals that anyone who seeks information related to the Government may suffer, do not provide security to access public information.

The State, and therefore the PCC, controls the official media. These are the only ones authorized to disseminate information related to the government, as long as the Party agrees. Everything published or transmitted by the State media passes through the ideological filter of the Party. This restricts the right of citizens to receive all kinds of information, not just favorable to the system and the government.

Subrealms such as “information flow” and “free expression” received an evaluation of 0 points out of a total of 11 and 12 respectively due to the monopoly of information by the State, the criminalization of criteria contrary to government policy, and the censorship and restrictions on the right to freedom of expression in the Net of Networks. In general, citizens in Cuba are not free to express themselves as it shows the evaluation of 0 points out of 23.

## **REALM B: The exercise of independent journalism in Cuba is uncomfortable for the government**

The exercise of independent, alternative journalism has been boycotted by the constant attacks of the Cuban political police on those who practice it. Arbitrary arrests, summary trials, criminal proceedings –without the guarantees of due process– exile... have characterized the government’s treatment of those who practice the profession or also those who project themselves differently from how the State commands.



Journalists and human rights activists are the highlight of the repression of the Cuban government, which applies a strategy of physical or psychological exhaustion on them. They are subjects of constant subpoenas, extensive interrogations, long hours inside patrols hermetically closed under the sun – a torture method called “oven-patrols”- (Suárez, 2021), and the use of ordinary crimes to keep them in prison.

One of the Cuban reporters who suffer the harassment and constant repression of the political police for exercising independent journalism is Camila Acosta Rodríguez, who has been the victim of constant arrests on public roads, evictions from the rented homes where she has lived, police surveillance in her home that has prevented her from leaving and hacks of her social media accounts. She is currently charged with incitement to commit a crime (Article 202 of the Cuban Penal Code) and public disorder (Article 200) for reporting the July 11 protests in Havana.

Other journalists such as Iliana Hernández (CiberCuba) and Luz Escobar (14yMedio) are also kept by State Security for long periods under home confinement without even being criminally prosecuted.

Another method used by the Cuban government to intimidate those who practice independent journalism on the island is the prohibition of leaving the country through “regulation” and the choice between deprivation of liberty through criminal convictions, or banishment (exile) from their own country.

Likewise, in this period, the journalist of the independent media ADN Cuba, Karla María Pérez, expelled in 2017 from the Central Martha Abreu University of Las Villas for collaborating with the protest site “Somos +” (We are more) and exiled in Costa Rica, was denied entry to the island. For this reason, in this realm, from a theoretical maximum of 10, the surveys to experts yielded a 0.6 as a result.

## **REALM C: The Cuban government violates its own laws and goes unpunished**

According to the opinion of specialists, this realm has an evaluation of 7.68 of 42 possible points. The Cuban government controls freedom of expression in practice as well in the legislation. On the island, since there is no legal or political equality, there is no press law that recognizes and protects all Cuban journalists equally. Only those who serve the ruling party are legally protected by the PCC and the Constitution.

There is no body of law that allows independent journalists and dissidents, in general, to use it when they are subject to slander and defamation by the state media, as has been happening in several broadcasts of the Noticiero Estelar of Cuban television.

In the Cuban Penal Code, although the government uses common crimes such as public disorder, contempt, attack, or spread of epidemic, to silence the voices of those who ex-



press themselves publicly differently, the law also penalizes critics of the system with crimes such as enemy propaganda (article 103), defamation (article 318) and some forms of crimes against State Security (title I).

An example is the case of independent reporter Esteban Rodríguez, in prison since April 30 for peacefully demonstrating. He is accused of the alleged crimes of public disorder and contempt. In the period from August 2020 until his arrest at the end of April, Esteban, one of the barracks of the San Isidro Movement, suffered three arbitrary detentions and constant police surveillance of his home, not allowing him to leave the house.

However, there is complete impunity for the Cuban government and its officials, who violate their own laws and the Constitution, refuse to give information on the whereabouts of detained reporters and refuse to acknowledge that there are human rights violations in Cuba. This happens instead of condemning those who commit such transgressions, punishes those who denounce them, making use of freedom of expression and risking being imprisoned for exercising it.

Despite the fact that in May 2021 the government announced that in the new process of judicial reform on the Island it would be established “to allow people to go to court if the administration infringes their rights” (Lezcano, 2021), the application of this provision in practice is a different matter.

## **REALM D: The State’s monopoly on the Cuban media**

This realm, related to media control, received 2.86 out of a maximum of 25 possible points. On the island, with a one-party system, the government monopolizes the media and part of the information that is disseminated, since it cannot control that disseminated by the independent media. The national press (Granma, Juventud Rebelde, Trabajadores, provincial newspapers...), radio, television and websites, are totally at the service of the Communist Party, so all the legal scaffolding also assists it.

The unofficial press, with an agenda different to the one of the official media, is considered mercenary and for it there are only attacks in the form of media discredit and defamation. Although article 54 of the Constitution of the Republic of Cuba recognizes freedom of expression (but not in practice), it is restricted by establishing that the fundamental media are socialist-owned and cannot be object of other types of property (article 55).

Precisely the Telecommunications Company of Cuba, the only one of its kind in the country, continues to block independent media that have their servers in other countries such as CubaNet, Diario de Cuba, Cubanos por el Mundo, Diario Las Américas, CiberCuba... and has directly targeted community media.

Such is the case of “Páginas Villaclareñas”, a newspaper attached to the Cuban Institute of Freedom of Expression and Press (ICLEP). In mid-March 2021, the political police confis-



cated their equipment and forced the reporters to close it down. The Committee to Protect Journalists demanded at the time the return of all equipment and an end to the harassment of their journalists.

## CONCLUSIONS

In the period from August 2020 to June 2021, independent journalists, artists, human rights activists, and anyone who exercises freedom of expression and the press in Cuba, continue to be victims of persecution, harassment, intimidation, confiscation of work equipment, repression ..., in a clear violation of Article 19 of the Universal Declaration of Human Rights.

Reporters continue to constantly face illegal detentions, fines, telephone and Internet line cuts... The government, protected by law, violates all the constitutional and legal rights of those who express themselves freely and shows a critical position against the system.

In May 2021, the law 88 or “Ley Mordaza” (Gag law) was mentioned on the Cuban television program Hacemos Cuba (We Make Cuba). This law has not been applied since 2003, when 75 dissidents were taken to prison, including 25 independent journalists, but it is still valid to criminalize freedom of association, expression and assembly.

Decree-Law 370 “On the Computerization of Society in Cuba” continues to apply to those who publish on social networks content that violates “the social interest, morality, good customs and integrity of people”; and Decree-Law 35 emerged that establishes the regulatory framework of telecommunications in Cuba.

The new provision criminalizes the “dissemination of false news, offensive messages and defamation with an impact on the prestige of the country” (Meza, 2021) and the “dissemination of content [...] that violate the constitutional, social and economic precepts of the State, incite mobilizations or other acts that alter public order” (Meza, 2021), in order to limit, first, the critical expressions of citizens towards the government and also restrict their right to demonstrate.

In the analyzed stage, it has been demonstrated, according to surveys of experts, that the right to exercise freedom of expression and the press in Cuba suffers a serious deterioration. The Executive environment and realm A, related to the flow of information and free expression, have been evaluated as the most deteriorated, while the legislative environment and realm C on violence and impunity are in a better state.

The next analysis of the Chapultepec Index in Cuba may not show variability because the government of Miguel Díaz Canel Bermúdez has shown its tendency to increase repression and censorship to restrict freedom of expression and the press on the island.

## REFERENCES

- Article 19 (2020, 15 de junio). Cuba: El Decreto-Ley 370 debe ser declarado inconstitucional pues atenta contra la libertad de expresión y prensa. *Article 19*. Recuperado de: <https://bit.ly/3G14tMg>
- Azor, M. (2021, 9 de enero). Sin acceso a la información pública en Cuba. *ddc*. Recuperado de: <https://bit.ly/3nbabCj>
- Baró, M. (2021, 15 de octubre). Multan con el Decreto Ley 370 a joven cubano por su activismo en redes sociales. *CiberCuba*. Recuperado de: <https://www.cibercuba.com/noticias/2021-10-15-u199955-e199955-s27061-multan-decreto-ley-370-joven-cubano-su-activismo-redes>
- Canel, M. (2019, 4 de julio). Decreto-ley NO. 370. *Juriscuba*. Recuperado de: <http://juriscuba.com/decreto-ley-no-370/>
- Cubalex (2020, 6 de mayo). Cuba y su Decreto Ley 370: aniquilando la libertad de expresión en Internet. *Cubalex*. Recuperado de: <https://bit.ly/3n7qJLN>
- EFE (2021, 21 de abril). Sigue la represión a periodistas independientes en Cuba, advierte la SIP. *SWI*. Recuperado de: <https://www.swissinfo.ch/spa/sip-asamblea-sigue-la-represi%C3%B3n-a-periodistas-independientes-en-cuba--advierte-la-sip/46554320>
- González, P. (2021, 17 de agosto). Las redes sociales contra el Decreto-Ley 35: “El pueblo quiere libertad”. *CubaNet*. Recuperado de: <https://www.cubanet.org/noticias/las-redes-sociales-contr-el-decreto-ley-35-el-pueblo-grita-libertad/amp/>
- Human Rights Watch (1999, 1 de junio). La maquinaria represiva de Cuba: Los derechos humanos cuarenta años después de la Revolución. *Refworld*. Recuperado de: <https://www.refworld.org/es/publisher,HRW,,CUB,57f79452c,0.html>
- ICLEP (2021, 19 de marzo). Continúa represión del régimen cubano contra la prensa independiente. *Voces del Sur*. Recuperado de: <http://www.vocesdelsurunidas.org/incidentes/continua-represion-del-regimen-cubano-contr-la-prensa-independiente/>
- Juventud Rebelde (2020, 30 de diciembre). Ratifica la UPEC importancia de las alianzas entre las instituciones y la prensa. *Juventud Rebelde*. Recuperado de: <http://www.juventudrebelde.cu/cuba/2020-12-30/ratifica-la-upec-importancia-de-las-alianzas-entre-las-instituciones-y-la-prensa>
- Keeley, G. (2021, 19 de julio). Cuba detiene e interroga a decenas de periodistas por las coberturas de las protestas. *Voz de América VOA*. Recuperado de: <https://www.vozde->

[america.com/a/libertad-de-prensa\\_cuba-detiene-e-interroga-decenas-de-periodistas-por-cobertura-protestas/6075331.html](http://america.com/a/libertad-de-prensa_cuba-detiene-e-interroga-decenas-de-periodistas-por-cobertura-protestas/6075331.html)

Lezcano, M. (2021, 20 de mayo). Normas jurídicas darán inicio a un amplio proceso de *reforma judicial y de procedimientos*. *Juventud Rebelde*. Recuperado de: <http://www.juventudrebelde.cu/cuba/2021-05-20/cuba-reformara-leyes-sobre-procedimientos-judiciales-e-investigativos>

Maldonado, L. (2021, 10 de septiembre). La escalada de la censura en Cuba entre el 27N y el 11J. *Agenda Estado de Derecho*. Recuperado de: <https://agendaestadodederecho.com/la-escalada-de-la-censura-en-cuba-entre-el-27n-y-el-11j/>

Meza, A. (2021, 6 de septiembre). Decreto Ley 35 en Cuba: lo que no se puede decir en redes sociales. *France24*. Recuperado de: <https://bit.ly/3jf5DtA>

OEA (2021, 15 de julio). La CIDH y sus Relatorías Especiales condenan la represión estatal y el uso de la fuerza en el marco de las protestas sociales pacíficas en Cuba, llamando al diálogo sobre los reclamos ciudadanos. *OEA*. Recuperado de: <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/177.asp>

Redacción Nacional (2021, 20 de agosto). Decreto-Ley 35: el derecho de Cuba y de todos los cubanos (+Video). *Periódico Granma*. Recuperado de: <https://www.granma.cu/cuba/2021-08-20/decreto-ley-35-el-derecho-de-cuba-y-de-todos-los-cubanos-20-08-2021-00-08-06>

Redacción Radio Televisión Martí (2021, 20 de abril). Reporteros Sin Fronteras: Cuba entre los países donde la libertad de prensa está “muy grave” (VIDEO). *Radio Televisión Martí*. Recuperado de: <https://www.radiotelevisionmarti.com/amp/cuba-entre-los-paises-donde-la-libertad-de-prensa-est%C3%A1-muy-grave-indica-rsf/293631.html>

Suárez, Y. (2021, 4 de junio). Patrulla-horno, una tortura cubana desapercibida. *ddc*. Recuperado de: <https://diariodecuba.com/etiquetas/yoe-suarez.html>



## CUBA

PERIOD SURVEYED

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	Al periodismo independiente en Cuba le asiste la libertad de expresión, no se debe a ninguna organización política. Su fortaleza está en hacer un periodismo diferente, objetivo, ético y minucioso que llega adonde el gobierno prohíbe llegar. Todo esto pese a la constante represión y censura de los órganos de la Seguridad del Estado.
<b>WEAKNESSES</b>	Freedom of expression and press in Cuba is limited due to the existence of a Single Party (PCC), to which all the country's mass media respond. Independent journalism, free expression, are considered unconstitutional (contrary to what is established in the Constitution of the Republic of Cuba), and those who exercise it can be deprived of their freedom.
<b>OPPORTUNITIES</b>	The gap between official journalism and the reality of the Cuban people highlights the differences between the agenda of the independent and governmental press. Many are the journalists graduated from Cuban universities who separate themselves from the Union of Journalists of Cuba – considered one more arm of the Party – in search of a different way of communicating. Citizens are increasingly consuming this type of journalism that moves away from officialdom and doctrines.
<b>THREATS</b>	The main threat to freedom of expression and the press in Cuba is the government. Its officials censor and repress anyone who projects themselves differently by writing, speaking or demonstrating. The pro-government press also constitutes a threat to independent journalism, which they defame and discredit at will.

## 2.8.3 OVERVIEW

### Cuba

**Cuba** is a nation constantly reaching low standards of freedom of expression and the press. For the second consecutive year, it ranked second to last in the Index. In a context of persecution against journalists and activists (245 of them being issued travel bans out of the island) or, for instance, restrictions in place so that no photos or videos showing the shortages can be taken, the effects of Decree-Law 9 curbing the constitutional right to government information by requiring citizens to provide their reasons and personal data when filing requests. In the second edition of the Index, Cuba showed a slight decrease in Realm A, Informed Citizens Free to Express Themselves, with respect to the previous one. Namely, the result of the first study, one point out of a possible 23 points, decreased to 0 points in this regard.

Similarly, Cuba's assessment in Realm B, Exercise of Journalism, dropped even lower from 1.60 points to 0.57 points. Attacks by Cuba's political police, arbitrary arrests, summary trials, and criminal proceedings (with constant summons, long stays in the so-called "oven patrols"<sup>1</sup>, and house arrest) are part of the routine harassment and victimization to which independent journalists in Cuba are subjected.

In Realm C, Violence and Impunity, the outcome was not so grim for the second edition of the Index. Cuba went from having 0 points to 7.42 points in this item, out of a theoretical maximum of 42 points, which means that it is still well below the average. This variation could be resulting from the fact that, despite the persecution and abuse to which reporters are subjected at the time of their arrest, as well as impunity for [enforcing] officers, in May 2021 the government announced that the process for judicial reform would allow people to go to court if their rights are violated by its agencies. However, this principle has not yet led to improvements in human rights.

In Realm D, Control over the Media, the score for both periods, first 3.6 and then 2.86 out of a total of 25 possible points, conveys the view of Cuba to be a nation under a communist model, assuming the right to control communications. The Constitution itself, in Article 55, establishes that the media are socialist property. The Empresa de Telecomunicaciones de Cuba (Cuban Telecommunications Company) blocks independent media's servers in other countries. Meanwhile, there is severe censorship against critical media ventures, restrictions on credentials for press agencies, confiscation of equipment for these outlets' activities, among other measures that restrict freedom of the press.

<sup>1</sup> Translator's Note (TN): The practice of leaving a detainee in a police car with the windows locked and no air conditioning for hours.

The Executive was the power most involved situations unfavorable to freedom of expression during the first review, moving to second place in the most recent edition. In the first year, the Miguel Díaz Canel government stirred up hatred towards independent journalists, making access to public information even more difficult early on the [COVID-19] pandemic. In the second iteration, the Legislative was the branch of government most closely involved in situations unfavorable to freedom of expression and the press, with the passing of Decree Law 370 and Decree Law 35, legislation with overt legal inequalities on political grounds. Although to a lesser degree than the other branches, the Judiciary also had a strong impact on situations unfavorable to freedom of expression.

## 2.9. DOMINICAN REPUBLIC

### 2.9.1 DOMINICAN REPUBLIC 2019-2020

DOMINICAN REPUBLIC	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>47.0</b>
REALM A: "Citizens informed and free to express themselves"	23	11.6
Flow of information	11	6.2
Free Expression	12	5.4
REALM B: Exercise of Journalism	10	7.0
REALM C: Violence and Impunity	42	8.4
Protection	10	3.2
Persecution	15	4.6
Impunity	17	0.6
REALM D: Control over the media	25	20.0
Direct control	16	11.0
Indirect control	9	9.0

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

DOMINICAN REPUBLIC	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	3.97	2.94	5.35
REALM A: "Citizens informed and free to express themselves"	6.68	5.32	6.78
Flow of information	5.23	3.92	6.09
Free Expression	8.13	6.73	7.46
REALM B: Exercise of Journalism	5.80	2.57	3.90
REALM C: Violence and Impunity	3.31	2.83	5.97
Protection	2.33	2.00	1.67
Persecution	4.08	4.00	8.75
Impunity	3.50	2.50	7.50
REALM D: Control over the media	1.66	1.00	3.41
Direct control	3.31	1.88	6.81
Indirect control	0.00	0.00	0.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## Dominican Republic: attempts at government Continuity threaten freedom of expression

### Executive summary

In an outlook of electoral contests defining the candidates for municipal, congressional, and presidential elections between February and May 2020, the government's attempt at clinging to power for a third consecutive term brought about conflicts with freedom of expression. Whistleblowing by journalists on government corruption sparked confrontations that made their way to the judicial sphere. Social media contributed to the redefinition of the country's media pulse with micro-narratives.

## INTRODUCTION

In the period covered by this study, freedom of expression was subjected to great pressure from government circles seeking to keep ruling Dominican Liberation Party (Partido de la Liberación Dominicana, PLD) and incumbent president Danilo Medina in power for another four years, after two consecutive terms in office.

In the study cycle, which began on May 1, 2019 and ended on April 30, 2020, the country was the stage of political confrontations within the party in power since 2004 and its most prominent leaders: President Danilo Medina and former President Leonel Fernández. By means of government-funded newspersons and media, dubbed *bocinas* (loudspeakers), those sections of public opinion in favor of a constitutional reform that would allow for yet another reelection of President Medina, after that agreed with Fernandez in 2016, gained a wider audience.

The fight for the cause of political opponents to the government continuity agenda was covered practically free from censorship by independent journalists, from both alternative and mainstream media, with the exception of journalist Marino Zapete, standing trial after blowing the whistle on a corruption case in the Ministry of Public Works (Ministerio de Obras Públicas). Newspersons critical of the government who launched independent projects, such as Sergio Carlo (El Antinoti, 2020) and Altagracia Salazar (Sin Maquillaje, 2020), on YouTube and Facebook, among other platforms, consolidated their media positioning with an exponential growth of followers, and got their content funded by voluntary contributions from users.



The cancellation of municipal elections, due to a “technical failure”, according to the Central Electoral Board (Junta Central Electoral, JCE), after being held on Sunday, February 17, 2020 (JCE, 2020), exacerbated the climate of political insecurity. Postponed to March 15, the contest in which opposition Modern Revolutionary Party (Partido Revolucionario Moderno, PRM) attained overwhelming victories took place amidst the onset of the pandemic triggered by COVID-19. The media, with its journalists deployed across the country, took risks to reflect the scope of this health issue (Rosario, 2020).

## Analysis of results

In the 22-country assessment of performance regarding freedom of expression, the Dominican Republic scored 47 points, whereby reaching the 14<sup>th</sup> position of this Index. This is a far cry from the first country in the ranking, Chile, which scored 80 points. Reports on corruption and impunity made by journalists and challenged by the government sparked a climate of uncertainty for democracy.

## Environments

### Executive environment

The executive environment had the greatest influence on situations discouraging free speech in the Dominican Republic, namely, a strong influence reflected in an average of 5.35.

On May 2, 2019, when this study began, the Dominican Association of Journalists (Colegio Dominicano de Periodistas, CDP) demanded more respect towards journalists and the exercise of their profession in the Dominican Republic on World Press Freedom Day (Listín Diario, 2019). It reported the cases of journalist Marino Zapete and others across the provinces of the country, who – it stated – “have been humiliated, imprisoned, handcuffed like criminals, stripped of their video equipment and got the images [therein] deleted” while in the exercise of their profession by National Police (Policía Nacional) and Army detail.

Zapete’s television program was cancelled by the owner of the media outlet, after this newsperson blew the whistle on an alleged act of corruption involving the sister of the Attorney General of the Republic (Procurador General de la República), Jean Alan Rodríguez Sánchez (an official appointed by the Executive), and later filed it in court. The above journalist echoed an investigation into contracts worth \$14 million awarded outside of the Purchasing and Procurement (Compras y Contrataciones) system.

On April 3, in a confrontation episode between newspersons and the government, journalist Alicia Ortega (Diario Libre, 2019), expressed her outrage when she learned on the news that the government had used a message from the media group headed by her to raise awareness of the need to stay home and prevent the coronavirus. The government used

said content without her consent. Days later, the director of the Communications Bureau of the Office of the President (Dirección de Comunicación [DICOM] de la Presidencia), Roberto Rodríguez de Marchena, apologized.

In the period analyzed, government advertising expenditures made headlines in view of their disproportionate amounts compared to social spending. An Oxfam report (2019) indicated that, during fiscal year 2019, the Dominican government “has spent five times more on advertising and publicity than on social housing”. Lawyer Cándido Mercedes (Mercedes, 2019) indicated in November 2019 that the government had turned the country into a “Loud-speaker State”, with a daily investment in advertising and publicity ranging between 11 and 16 million Dominican Pesos a day.

## Judicial and legislative environments

With respect to the judicial environment, there is a moderate influence, rated at 2.94 out of a maximum 10 points possible. In addition, with regard to the legislative environment, a moderate influence is evident with a score of 3.97 points.

On September 19, the Fourth National District Criminal Chamber (Cuarta Sala Penal del Distrito Nacional) sent the above journalist’s case to the Supreme Court for trial (El Nuevo Diario, 2019). He was indicted for slander and defamation against Maybeth Rodríguez Sánchez. Zapete went to court accompanied by journalists who denounced the “kidnapping of Dominican justice” (De León, 2019).

In another judicial issue, restrictions on freedom of expression were repealed allowing for the consequential recovery of rights. On September 16, 2019, the Constitutional Court (Tribunal Constitucional) ruled Electoral System Organic Law (Act #15-19) Articles 44 and 284 (Artículos 44, 284, Ley Nro. 15-19 Orgánica de Régimen Electoral) unconstitutional, since they curbed freedom of expression and penalized the media (Tribunal Constitucional, 2019).

On September 10, 2019, journalist Nuria Piera unveiled Executive Order 290-19, whereby Ingrid Jorge, a young woman from the entertainment world, daughter of a TV host known by the moniker *La Tora* (The She-Bull [*sic*]), was appointed first secretary at the Dominican Embassy in the United Arab Emirates. Piera denounced that the executive order had not been released to the media on the WhatsApp chat group used by the DICOM for briefing the press daily. It was under the General Law of Free Access to Public Information (Ley General de Libre Acceso a la Información Pública) that she was able to obtain the document, through the Advisory Office (Consultoría) of the Executive branch. After the executive order became known, Piera posted that she had received threats against her daughter from *La Tora* for making the above appointment public (N Digital, 2019).

In the context of actions by the Legislative and Executive to reform the Constitution, NGO *Participación Ciudadana* (Citizen Participation) stated in its 2019 status report, pub-

lished on December 18, “The growing pressure from citizens and the national press in favor of improving the quality of democratic and electoral processes in the country” (Participación Ciudadana, 2019).

## **REALM A: Hurdles to information flow challenge free expression**

The experts inquired assessed with a low score the information flow that citizens require in order to be considered well informed and able to express themselves freely: 11.6 out of 23 possible points. In line with the controls exerted by the government over public opinion by means of its advertising budget (realm of the survey regarding informed citizens free to express themselves), the greatest influence on this realm came from the Executive branch, with 6.78 points.

Meanwhile, with respect to free speech, the rating is reduced to 5.4 out of 12 points. This assessment is linked to the control exercised by the government over different types of media. This includes the digital domain and the judicial environment. During the period under review, operatives and news professionals hired by the government actively engaged in social media, as well as so-called bots, even with photographs of dead people, to set trends favorable to opinions of government officials and their actions (Lo que sucedió, 2019).

On February 6, an audio recording was released on WhatsApp by the director of the President’s Social Plan, Iris Guaba, in which she issued orders to the members of a group to “lynch-mob Huchi Lora, Altagracia Salazar, and Orlando Jorge Mera” (Diario Libre, 2020b). The first two, journalists recognized for their fight against corruption and impunity, and the third, leader of PRM (opposition), had questioned the above government institution’s tender for the purchase of electrical appliances, just a few days before the municipal elections, in order to give them away to low-income constituents.

The tensions between the Judiciary and the press were evident in another exchange on September 28, 2019. Then, journalist Zapete announced that his program had been taken off the air following whistleblowing on the sister of the Attorney General of the Republic. Head National District Attorney Rosalba Ramos reacted against this newsperson on her Twitter account: “Freedom of expression has a boundary: Veracity” (Ramos, 2019).

## **REALM B: Journalism faces tough challenges**

When the survey focuses on guarantees to the exercise of journalism, the rating, out of a theoretical maximum 10, that the Dominican Republic was given by the experts, reached 7 points. These experts inquired indicated that the government rewards media outlets portraying the public administration in a favorable light with allocations from its advertising budget.



In the legislative area, access to information is fluid, because sessions of both houses of Congress and draft bills under consideration are posted on the National Congress website. However, compared to the period under study, it is noteworthy that, in the previous year, 2018, the Speaker of the House spent on providing training for the journalists covering legislative sessions and activities so they would know how to find and download the wealth of information available on the site. In August 2019, the earmarking of resources allowing journalists to more skillfully search the information published was not renewed.

During the military and police blockage that the government deployed around the Congress in June 2019 (Herrera, 2019), as part of the pressure to get legislators to approve a constitutional reform that would allow for the president's re-election, journalists were affected by tight security measures for access to the parliamentary premises. Although they were not denied entry after showing their credentials, they were subjected to rigorous checks. On multiple occasions, there were also disruptions of the Internet service offered by the legislative body. Journalists had to use their own mobile internet so that they could report from the premises.

The COVID-19 pandemic also restricted media access to journalistic sources, although sessions from both Houses – Representatives and Senate – streamed on the National Congress YouTube channel allowed following live the deliberations and voting.

## **REALM C: The press focuses on impunity in the wake of the cancellation of elections**

In this realm, relating to violence and impunity, the Dominican Republic achieved 8.4 points out of a theoretical maximum of 42, suggesting a climate of violence and impunity against journalists. Relevant in the report are the scores obtained by the sub-realms of protection – that added 3.2 of a maximum 10; persecution, with 4.6 against the maximum of 15; and impunity, which decreased to minimum levels, with a rating of 0.6 against 17.

The 2019 Country Report on Human Rights Practices in Dominican Republic, published by the United States government on March 11, 2020, includes the CDP complaint regarding journalists who “were sued by politicians, government officials, and the private sector to pressure them to stop reporting” (El Día, 2020).

In the months reviewed, the exercise of journalism spurred confrontations between a faction of the press favoring the government and the Central Electoral Board, during the botched elections of February 2020 and the days following, and journalists critical of government bodies' officials. *Plaza de la Bandera* (Flag Square), located in front of the electoral body's headquarters, became the stage of protests demanding free elections, with the prominent participation of young people (Telemundo 47, 2020).

In this realm, the Executive Branch performed the poorest, with an influence of 8.75, regarding persecution. This result can be linked to the February 20 manifesto, in which 23 opinion leaders, including prominent journalists and newsmen, expressed their concern as media workers for the situation facing the country (Rivera, 2020). They demanded the implementation of minimum guarantees necessary for the elections scheduled for March 15 and May 17, 2020.

Since the release of the above document, the newsmen who signed it constantly made calls for the citizens' right of expression, and for the clarification of the reasons compelling the electoral tribunal to cancel the elections in which electronic voting was being introduced.

## **REALM D: The Medina government does not disguise its control over the media**

Opinions on this realm, which focuses on actions preventing direct and indirect control over freedom of expression, resulted in a score of 11 in the former sub-realm and 9 in the latter, out of 16 and 9 points possible, respectively.

However, in the context of a media ecosystem that is increasingly dependent on government advertising, alternative media assume the most active role in reporting on the facts challenging government-sponsored releases.

Based on the perception of the experts inquired on the influence exerted over the media to the detriment of freedom of expression, it is relevant to establish that the major privately owned media outlets preserve critical spaces, op-ed pages, and reports. Their digital platforms also enable users to express themselves. These spaces serve as a counterweight to the information released by government communications offices.

On the other hand, there is a particular take on the possibilities that the media and the citizenry enjoy in terms of benefitting from access to official sources so that they can blow the whistle on actions in conflict with ethics and get replies to complaints.

During the period under analysis, there was not a single complaint regarding the General Bureau of Ethics and Government Integrity (Dirección General de Ética e Integridad Gubernamental) website. Considered inoperative by the press and the public, the agency, which reports to the Dominican Republic Ministry for the Office of the President (Ministerio de la Presidencia de la República Dominicana), is the "governing body in matters of ethics, transparency, open government, fight against corruption, conflict of interest, and free access to information in the government's administrative sphere".

## CONCLUSIONS

As indicated by the experts inquired, the favoritism shown by government institutions when choosing media outlets, or radio and television programs, in which to buy advertising slots continued to be relevant. Those taking a stance favorable to the government were rewarded with millionaire allocations.

The credibility of the government's favorite commentators, dubbed "loudspeakers", during a period of increasing whistleblowing on corruption and impunity, was challenged by statements from political opponents and journalists critical of the prevailing system.

The impact of government advertising allocations became vital during the beginning of the pandemic caused by the spread of the Coronavirus. The media and its journalists, as of mid-March 2020, endeavored to report on this health issue in the country, which implied spending on daily transportation to hospitals or areas with positive cases and on health protection for media professionals.

With the increase of coverage expenses, there was a drop of over 50% in advertising from the private sector, which represented a new challenge for the profitability of the media's [efforts to] guarantee job security for journalists and technical crews part of communications and content production professions.

In general, Dominican journalists were not exposed to the deployment of the military and law enforcement against them. However, as stated herein, other branches of government, such as the Judiciary, set at least one precedent for attempts at quelling the voice of a journalist critical of the government.

During this period, the call for respect of free speech and responses to citizens' demands during a massive event on *Plaza de la Bandera* in Santo Domingo on February 27, Dominican Independence Day, was significant. This mobilization known as *El Trabucazo 2020* (The Huge Demonstration 2020), organized by concerned youth and independent organizations, received an important endorsement from outstanding newsmen of the country, who joined pop artists in support of this rally that gathered thousands of people.

While independent journalists expressed themselves freely on social media during the period reviewed, there was a boom in micro-narratives that added up hashtags to whistleblowing and opinions against the government. Memes from social media users and cartoons from the mainstream media largely defined the rallies for the free expression of thought amidst the social tension sparked by electoral processes.

## REFERENCES



- Castellanos, L. (2020, February 16). Pleno de la Junta Central Electoral suspende proceso de elecciones municipales en todo el país. *Junta Central Electoral (JCE)*. Retrieved from: <https://jce.gob.do/Noticias/pleno-jce-suspende-proceso-de-elecciones-municipales-en-todo-el-pais>
- De León, R. (2019, December 12). Marino Zapete recibe apoyo de sus colegas. *El Caribe*. Retrieved from: <https://www.elcaribe.com.do/2019/12/12/marino-zapete-recibe-apoyo-de-sus-colegas/>
- Diario Libre. (2019, April 3). Alicia Ortega desautoriza al gobierno por utilizar video de prevención del COVID-19 sin su consentimiento. *Diario Libre*. Retrieved from: <https://www.diariolibre.com/revista/cultura/alicia-ortega-desautoriza-al-gobierno-por-utilizar-video-de-prevencion-del-covid-19-sin-su-consentimiento-MB18080738>
- Diario Libre (2020, February 6 a). Huchi Lora le responde a Iris Guaba: Dice sus declaraciones revelan “las miserias del Gobierno. Retrieved from: <https://www.diariolibre.com/actualidad/politica/huchi-lora-le-responde-a-iris-guaba-BP16914603>
- Diario Libre. (2020, February 6 b). Video | Iris Guaba confirma es de ella el audio en que ordena “caerle encima” a periodistas. *Diario Libre*. Retrieved from: <https://www.diariolibre.com/actualidad/video-iris-guaba-confirma-es-de-ella-el-audio-en-que-ordena-caerle-encima-a-periodistas-AP16913355>
- El Antinoti. (2020, March 17). Derrota Aplastante Al PLD | Antinoti. *Youtube*. Retrieved from: <https://www.youtube.com/watch?v=tq8Bq5xldCw>
- El Día. (2020, March 11). Estados Unidos resalta corrupción e impunidad en RD; cita supuesto soborno para Punta Catalina. *El Día*. Retrieved from: <https://eldia.com.do/estados-unidos-resalta-corrupcion-e-impunidad-en-rd-cita-supuestos-sobornos-para-punta-catalina/>
- El Nuevo Diario. (2019, December 19). Envían a juicio de fondo caso Marino Zapete. *El Nuevo Diario*. Retrieved from: <https://elnuevodiario.com.do/envian-a-juicio-de-fondo-caso-marino-zapete/>
- Herrera, D., Adames, M., y Pérez, R. (2019, June 27). Cerco militar y policial tiene frizada a Cámara de Diputados. *Listín Diario*. Retrieved from: <https://listindiario.com/la-republica/2019/06/27/571681/cerco-militar-y-policial-tiene-frizada-a-camara-de-diputados>
- Jovine, R. (2019). Autopsia fiscal: Evaluación de los gastos del gobierno dominicano para garantizar derechos. Santo Domingo: Oxfam. Retrieved from: [http://vigilantes.do/wp-content/uploads/2019/10/Digital\\_Resumen-Ejecutivo-Autopsia-Fiscal.pdf?fbclid=IwAR32Qxxh7CqiwTZhbll7ECX4Lv17FMvecUNUxFSldBd\\_qt\\_tLZy8LSzcT0k](http://vigilantes.do/wp-content/uploads/2019/10/Digital_Resumen-Ejecutivo-Autopsia-Fiscal.pdf?fbclid=IwAR32Qxxh7CqiwTZhbll7ECX4Lv17FMvecUNUxFSldBd_qt_tLZy8LSzcT0k)
- Listín Diario. (2019, December 5). Gremio de periodistas defiende a Zapete. *Listín Diario*. Retrieved from: <https://listindiario.com/la-republica/2019/12/05/594540/gremio-de-periodistas-defiende-a-zapete>
- Mercedes, C. (2019, November 13). Oxfam: Radiografía social-institucional y gobernanza. *Primicias*. Retrieved from: <https://primicias.com.do/?p=13110>

- N Digital. (2019, September 10). Por fin aparece el decreto 290-19, y si es verdad el nombramiento de Ingrid Jorge, hija de la Tora. *N Digital Multimedia*. Retrieved from: <https://n.com.do/2019/09/10/por-fin-aparece-el-decreto-290-19-y-si-es-verdad-el-nombramiento-de-ingrid-jorge-hija-de-la-tora/>
- Ramos, R. [RosalbaRamos\_]. (2019, September 28). La libertad de expresión tiene un límite: la veracidad! [Tweet]. Retrieved from: [https://twitter.com/RosalbaRamos\\_/status/1177982105579659264](https://twitter.com/RosalbaRamos_/status/1177982105579659264)
- Redacción Lo que sucedió. (2020, April 17). Acusan al vocero de la Presidencia Rodríguez Marchena y Leonardo Grisanty del DICOM de utilizar bots de fotos de personas fallecidas. *Lo que sucedió*. Retrieved from: <https://loquesucedio.com/acusan-al-vocero-de-la-presidencia-rodriguez-marchena-y-leonardo-grisanty-del-dicom-de-utilizar-bots-de-fotos-de-personas-fallecidas/>
- Participación Ciudadana. (2019, December 18). Balance del año 2019. Retrieved from: <https://pciudadana.org/balance-del-ano-2019/>
- Rivera, S. (2020, February 20). Periodistas y productores de televisión reclaman garantías para elecciones limpias. *Diario Libre*. Retrieved from: <https://www.diariolibre.com/revista/cultura/periodistas-y-productores-de-television-reclaman-garantias-para-elecciones-limpias-EO17196893>
- Rosario, B. (2020, March 30). Coronavirus ataca fuerte a periodistas dominicanos. *Hoy digital*. Retrieved from: <https://hoy.com.do/coronavirus-ataca-fuerte-a-periodistas-dominicanos/>
- Sin Maquillaje (2020). YANALAN ven a ver, Maquillaje, Abril 09, 2020. *Youtube*. Retrieved from: <https://www.youtube.com/watch?v=LUw11y3pck8>
- Telemundo47. (2020, February 23). REPÚBLICA DOMINICANA: Jóvenes, paladines de la democracia dominicana, enfrentan a la vieja guardia. *Telemundo47*. Retrieved from: <https://www.telemundo47.com/historias-destacadas/jovenes-paladines-de-la-democracia-dominicana-enfrentan-a-la-vieja-guardia/2025308/>
- Tribunal Constitucional de República Dominicana. (2019, September 16). Detalle sentencia TC/0348/19. Retrieved from: <https://www.tribunalconstitucional.gob.do/consultas/secretar%C3%ADa/sentencias/tc034819/>

## DOMINICAN REPUBLIC

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	IT platforms ensure that social demands are not subdued by the will of groups that exercise social control. Recent elections have shown their relevance. Attempts of the government to limit criticism against its activity are met with a key counterweight in digital spaces.
<b>WEAKNESSES</b>	Freedom of expression in the Dominican Republic shows weaknesses stemming from an institutional transition that, for decades, has slowed down its democratic consolidation. With a legal framework partially renewed by the 2010 Constitution, the presidential model exerting controls over almost all entities, primarily by means of the advertising budget, hinders the opening necessary in the field of 21st century communications.
<b>OPPORTUNITIES</b>	There is an increasingly favorable balance, resulting from the vibrant prominence of young Dominicans determined to assert their right to freely express their thought, in media spaces – namely social media – and public squares turned into the arena for social protest. This demographic constitutes almost 30% of the 2020 electoral roll, which totaled 7.4 million voters.
<b>THREATS</b>	However, the country must advance towards an institutional development guaranteeing the fundamental rights of citizens to express themselves in its media ecosystem, primarily in matters relating to freedom of expression, regardless of political and economic circumstances. Dominican media, on the other hand, face the challenge of surviving the negative economic impact of the COVID-19 pandemic.

## 2.9.2 DOMINICAN REPUBLIC 2020-2021

DOMINICAN REP.	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>77,91</b>
REALM A: "Citizens free to express themselves"	23,00	18,57
Information flow	11,00	8,57
Free speech	12,00	10,00
REALM B: "Exercise of journalism"	10,00	7,43
REALM C: "Violence and impunity"	42,00	29,77
Protection	5,00	0,79
Persecution	7,50	7,00
Impunity	8,50	1,64
Registered violence	21,00	20,34
REALM D: Control over the media	25,00	22,14
Direct control	19,00	16,43
Indirect control	6,00	5,71

Chapultepec Index on Freedom of Expression and the Press 2021



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>DOMINICAN REP.</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	0,97	0,71	1,30
REALM A: "Citizens informed and free to express themselves"	1,36	0,61	0,82
REALM B: Exercise of Journalism	2,43	2,14	4,14
REALM C: Violence and Impunity	0,10	0,10	0,24
REALM D: Control over the media	0,00	0,00	0,00

Type of Influence	Points
SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Dominican Republic: New government, freedom of expression free of threats

### Executive Summary

The victory of the Modern Revolutionary Party (Partido Revolucionario Moderno, PRM) and the inauguration of Luis Abinader's presidential term on 16 August 2020 reopened the floodgates of freedom of expression in the country. Journalists critical of the government defeated at the polls, from the Dominican Liberation Party (Partido de la Liberación Dominicana, PLD), witnessed how threats against them, issued by officials and followers of the previous regime, ceased to be a danger to their professional practice. This renewal that reached the congressional sphere and part of the Judiciary redefined the government media landscape. At the same time, social media solidified their place as platforms of expression for citizens and independent journalists, alongside the traditional media.

## INTRODUCTION

The period covered by this report is framed in a historical process of the Dominican democracy: A party – the PLD – was subjected to handing over the Executive after controlling it for 16 consecutive years. This electoral defeat, which occurred on July 5, 2020, amid the COVID-19 pandemic, obliterated the bid on continuity implemented by the government and its president Danilo Medina with aggravating practices aimed at the field of freedom of expression. Journalists who questioned the strategies of the PRI government to remain in power and had to take refuge in alternative media, primarily social media platforms, managed to develop successful business models to fund their activity. In the months covered by the study, there was a consolidation of programs by independent journalists – with daily broadcasts – by receiving contributions from their viewers, allowing them to survive without government advertising (El Antinoti, 2021; Sin Maquillaje, 2021; Somos Pueblo, 2021).

In the tapestry of social control exercised by journalists from traditional and alternative media, government advertising remained as a key factor to be followed up. The PRM government has maintained millionaire advertising budgets, benefiting journalists who were previously deemed as *bocinas* (loudspeakers) for the past government (Rodríguez, 2020).



It is also noteworthy the fact that aggressions from government power circles against journalists have been reduced to insignificant levels. Only one instance in a community near the capital, where a police officer hit a journalist in the face, has gone on record.

Dominican journalists, as well as healthcare staff, and agencies linked to armed forces, benefited from the priority vaccination against COVID-19 funded by the Dominican government. The main offices of the Dominican Association of Journalists (Colegio Dominicano de Periodistas, CDP) became, for weeks, a vaccination center. This allowed the journalists and media crews most exposed in news coverage during the pandemic to fulfill their duties with less risk.

Massive layoffs of journalists, because of the impact of the economic crisis on the media stemming from declining advertising, affected the practice of journalism in the private sector, even though the pandemic caused an exponential increase in ratings. (CIC-Funglode, 2020). The CDP expressed its concern for the loss of jobs of reporters, camera operators, and photographers (Hoy, 2020).

## Results Analysis

The assessment of the Dominican Republic in terms of freedom of expression shows a very favorable variation with respect to the previous period surveyed (July 2020-August 2021). Among the 22 countries reviewed by the Index, with 77.91 points, it managed to advance ostensibly from the 47 achieved last year. The country moved up closer towards the top, holding the fourth position, three places behind Uruguay, which achieved the highest score: 84.10.

The experts' appraisal of the Dominican Republic shows the improvement made during the period under analysis in all realms: Citizens Free to Express Themselves, Exercise of Journalism, Violence and Impunity, and Control over the Media. In the Legislative, Judicial and Executive environments, it yielded a result of slight influence, with ratings of 0.97, 0.71, and 1.30 points, respectively.

A climate of freedom brought about by the change of government in all matters related to the practice of journalism was witnessed with few ups and downs, even during the curfews and restrictions on mobility resulting from the COVID-19 pandemic.

## Environments: Dominican journalists saw a decrease in attacks from the echelons of power

Regarding situations unfavorable to freedom of expression in the Dominican Republic, the Executive environment had a moderate influence, which on average reached 4.14 points out of a maximum 10.



In the Mid-Year Report of the Inter American Press Association (IAPA), a direct aggression against a journalist while conducting news coverage was reported (IAPA, 2021). Journalist Dulce Glorían García Robles suffered injuries to her face when she was hit with a revolver by a National Police officer on October 18, 2020. The incident occurred while she was reporting on a protest staged by broadcast announcers in the province of San Pedro de Macorís. The confrontation took place during the pandemic curfew. The journalist sustained injuries, as denounced by the National Press Workers Union ([Sindicato Nacional de Trabajadores de la Prensa, SNTP] *El Nuevo Diario*, 2020).

A month later, the Office of the Chief Inspector of Police (Inspectoría General de la Policía) issued a report claiming that the incident involving the journalist occurred during her participation in an assault on a precinct of that law enforcement body. The journalist and two announcers, according to the report, were trying to release a journalist arrested on orders from a prosecutor (*Diario Antillano*, 2020).

The IAPA report mentioned another incident involving a police colonel in the tourist community of Boca Chica during the first week of January 2021. There, Officer Nerys Aguilar prevented Marcelino Celedonio, a producer for local Channel 3, and other journalists from working during restricted mobilization hours due to the curfew in effect to address the pandemic. The CDP contested this decision (*Últimas Noticias*, 2020). The colonel was removed for his actions and journalists were reassured that they could work without restrictions (*Al Momento*, 2020).

On October 26, 2020, President Luis Abinader welcomed the members of the CDP and SNTP boards at the National Palace. During the meeting, the head of State accepted pension requests for affiliated journalists who had been unable to exercise their professional duties for years (*El Caribe*, 2020).

As regards the Legislative, changes in the internal makeup of the Senate of the Republic and the House of Representatives following the defeat suffered by the PLD had no negative repercussions on journalists' coverage. The majority achieved by the PRM in Congress and the resignations of members of the PLD to join the *Fuerza del Pueblo* (Force of the People) party – founded by former President Leonel Fernández after his departure from the PLD – did not cause any confrontations or clashes with traditional and alternative media.

The inauguration (for the first time in the Dominican Republic's recent democratic history) of an independent Attorney General's Office (*Procuraduría General de la República*) reduced the frictions and threats frequent from within that body of the Judiciary in the previous period. Miriam German, a prominent former judge, was appointed on 16 August by the President of the Republic (*Listín Diario*, 2020). Conversely, in August 2020, a sister of the former prosecutor had dismissed an injunctive relief filed by a recognized journalist critic of the previous government, Marino Zapete (*El Nuevo Diario*, 2020).

## **REALM A: more information flow and less friction with the powers that be**

Regarding the information flow and citizens' freedom to express themselves, the experts inquired raised the country's approval ratings compared to the previous index. With 18.56 points, out of a maximum 23, Dominican society witnessed an improvement in the climate of freedom. The greatest influence noticed in this realm was from the Legislative, with 1.36 points, which constitutes a slight influence.

The assessment regarding the Executive showed a result also qualifying as slight influence, with 0.82 points out of a maximum 10. Per inquiries and records in connection with this outlook, the growth of citizens' opinions circulating on social media and opinion platforms enabled by mainstream media during live streaming broadcasts stands out. Protests by citizen movements demanding that the National Congress approve three grounds for abortion stood out in this period, with no attacks on those critical from the power elite (El Caribe, 2021).

Similarly, the appraisal on the Judiciary yielded a result of slight influence with 0.61 points achieved. The multiple court actions filed by the new authorities of the Attorney General's Office have been conducive to greater engagement with citizens, informed of these proceedings by means of official press releases and intense media coverage. The reactions of Dominicans are evident in digital platforms and call-in radio shows.

## **REALM B: Safer exercise of journalism, but with fewer jobs**

During this period, the exercise of journalism was rated at 7.43 out of a maximum 10 points. The lowest scores were from the Executive, an environment achieving 4.14, which is considered a moderate influence.

In context, the rapprochement of President Luis Abinader to members of the Dominican Society of Newspapers, leaders of the guilds and unions gathering journalists and media crewmembers is noteworthy. There was a turning point on March 17, 2021. During a meeting at the National Palace, the President pledged to respect freedom of expression and journalists' activities, in addition to proposing funding training programs (Presidencia, 2021).

During the national celebration of Journalists' Day (Día del Periodista), President Abinader issued Executive Order No. 109-21, whereby he granted a special government pension of DOP 40,000 (Dominican Pesos) per month to 44 journalists (Diario Libre, 2021). This was a response to a long-standing claim and proof of the precarious conditions of jobs in the Dominican media.

In the Judicial and Legislative environments, those surveyed gave a rating of 2.14 and 2.43 points, respectively. This translates into a slight influence. Journalists, in general, exer-

cised their coverage and gave their opinions on issues in a climate of freedom, free of evident threats.

## **REALM C: Journalism free of significant pressure and violence**

Violence and impunity did not form a significant part of the conflict inextricable from journalistic duties in a society that has seen both phenomena grow in recent decades. Out of a maximum score of 42 points, the Dominican Republic obtained 29.77 in this category.

Given the virtual absence of clashes with the activity of journalists and the media in the form of incidents during the coverage of or criticism over the Legislative and Judicial environments, the experts gave a score of 0.10 points. This translates into minimum values for which they are deemed slightly influential. The Executive also achieved a good score, with 0.24 points. The minimum score to qualify for slight influence in this realm is 1 point.

The reading of the results becomes even more relevant when compared to the previous period, during which a climate of violence and impunity against journalists was reported for this realm. Journalistic work, which faced challenges posed by the pandemic and restrictions on citizens' free mobility, did not become an obstacle for media professionals and independent journalists.

## **REALM D: Journalism released from the burden of control by the power elite**

The best scores achieved by the country in the Index are those relating to the realm of Control over the Media. Out of a theoretical maximum of 25 points, the score was 22.14. From this total, 16.43 correspond to Direct Control and 5.71 to Indirect Control.

The experts inquired gave the best scores, 0.00 out of a maximum possible 10-point appraisal, considering the actions from the Legislative, Judicial, and Executive environments to be excellent. The summary notes that the main bodies of the branches of government have distanced themselves from the quest of private media companies and independent professionals for influencing news content.

The result cannot be disassociated from the change brought by the demise of the PLD government, which stepped down after 16 years of continuity, as mentioned above. The restrictions imposed by the pandemic did not become a means to restrict the role of the press even amid the challenges posed by the COVID-19 pandemic. However, there was no lack of one instance of criticism: The Dominican Society of Newspapers warned about the danger of government advertising concentration (Listín Diario, 2021). The Office of the President's Director General for Communications (Dirección General de Comunicación, Dicom), Milagros German, requested that the agency be audited in defense of her tenure (Listín Diario, 2021).

## CONCLUSIONS

The climate of freedom in the Dominican Republic underwent a great change during the period under analysis, both in terms of the exercise of journalism and the possibilities for citizens to voice their demands to government authorities and bodies, without getting their physical safety or mental wellbeing jeopardized.

The election results of July 5, 2020, which removed the PLD from power after 16 consecutive years of rule, constituted the closing of a cycle of official threats to the independent press. The role of social control exercised by journalists has been preserved and consolidated.

Official actions, in general, did not hinder or threaten the work of journalists. The change in attitude during the period surveyed was a step forward for the free expression of thought in the country.

In the outlook reviewed, the loss of jobs caused by the pandemic is relevant, due to a significant decrease of advertising in the media. Journalists and crewmembers of the media sector were victims of the pandemic and its economic implications, even though there was an exponential growth in the consumption of informative contents.

The allocation of government advertising, on the other hand, continues to be a pending task that has not been solved by the Executive. A lack of regulations promoting greater equity in the allocation of government advertising is noticed to guarantee greater pluralism in news output.

The consolidation of independent journalistic projects, with the support of voluntary contributions from viewers, has resulted in a greater pluralism of opinion spaces for citizen demands. Social media consolidate their position as the platforms *par excellence* to boost the success of journalistic ventures by news men and women of different generations.

## REFERENCES

- Al Momento. (2020). *Policía destituye a su comandante en Boca Chica por amenaza a periodistas*. <https://almomento.net/destituyen-coronel-pn-dijo-apresaria-periodistas-durante-toque-de-queda/>
- CIC-Funlode (2020). *Ejecutivos y productores de medios destacan el aumento exponencial de las audiencias y la reducción sustancial de la publicidad durante la cuarentena provocada por la Covid-19*. <https://cic.funlode.org/el-festival-de-cine-global-de-funlode-y-barlovento-comunicacion-organizan-panel-avizorando-el-audiovisual/>

- Diario Antillano (2020). *SPM: Acusan una periodista y 2 locutores de asalto a Destacamento P.N.* <https://www.diarioantillano.com/spm-acusan-una-periodista-y-2-locutores-de-asalto-a-destacamento-p-n/>
- Diario Libre (2021). *Poder Ejecutivo otorga pensión del Estado a 44 periodistas.* <https://www.diariolibre.com/actualidad/poder-ejecutivo-otorga-pension-del-estado-a-44-periodistas-IA25432497>
- Diario Libre (2021). *Milagros Germán pide a la Cámara de Cuentas hacer auditoría a Dicom desde 2012.* <https://www.diariolibre.com/actualidad/politica/milagros-german-pide-a-la-camara-de-cuentas-hacer-auditoria-a-dicom-desde-2012-DC26175017>
- El Antinoti (2021). *Antinoti Channel.* YouTube. <https://www.youtube.com/channel/UCbT19igbhnlBEW-rna2iMQ>
- El Caribe (2021). *Marcha multitudinaria en la República Dominicana por la aprobación del aborto en tres causales.* <https://www.todaspr.com/marcha-multitudinaria-en-la-republica-dominicana-por-la-aprobacion-del-aborto-en-tres-causales/>
- El Caribe (2020). *Presidente Abinader recibe comisión del CDP y acoge solicitudes.* <https://bit.ly/2XliQZM>
- El Nuevo Diario (2020). *Sindicato deplora medida cautelar dictada a periodista agredida por la policía en SPM.* <https://elnuevodiario.com.do/sindicato-deplora-medida-cautelar-dictada-a-periodista-agredida-por-policia-en-spm/>
- Hoy (2020). *Preocupa al CDP despidos de periodistas de empresas de comunicación.* <https://hoy.com.do/preocupa-al-cdp-despidos-de-periodistas-de-empresas-de-comunicacion/>
- Inter-American Press Association, IAPA (2021). *Dominican Republic: Report to the Midyear Meeting.* <https://en.sipiapa.org/notas/1214444-dominican-republic>
- Listín Diario (2020). *Luis Abinader designa a Miriam Germán Brito como procuradora.* <https://listindiario.com/la-republica/2020/08/16/630973/luis-abinader-designa-a-miriam-german-brito-como-procuradora>
- Listín Diario (2021). *Periodistas ya comenzaron a recibir su primera dosis de la vacuna contra el Covid.* <https://listindiario.com/la-republica/2021/04/24/667427/periodistas-ya-comenzaron-a-recibir-su-primera-dosis-de-la-vacuna-contra-el-covid>
- N Digital (2021). *Destituyen a coronel de Boca Chica que amenazó con apresar “hasta la prensa” en toque de queda.* <https://n.com.do/2021/01/03/suspenden-a-coronel-de-boca-chica-que-amenazo-con-apresar-hasta-la-prensa-en-toque-de-queda/>
- Presidencia (2021). *Presidente Abinader se compromete a que el periodismo en el país sea garantía de transparencia.* <https://bit.ly/2XliQZM>



Sin Maquillaje (2021). Altagracia Salazar. *Sin Maquillaje*. YouTube. <https://www.youtube.com/user/altagraciasalazar>

Somos Pueblo (2021). *Somos Pueblo Media*. YouTube. <https://www.youtube.com/channel/UCyJsXorJT3fTvPfPy1q6jOQ>

Últimas Noticias (2020). *Colegio de Periodistas rechaza amenazas de comandante policial de Boca Chica contra la prensa*. <https://www.ultimasnoticias.com.do/2021/01/03/cole-gio-de-periodistas-rechaza-amenazas-de-comandante-policial-de-boca-chica-con-tra-la-prensa/>

## DOMINICAN REPUBLIC

PERIOD SURVEYED

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	The Dominican Republic has recovered spaces of freedom of expression in the field of journalism in mainstream and alternative media. The July 5, 2020, elections, at which the will to put an end to the incumbent government by means of the ballot box, resulted in the improvement of the climate of freedoms in a wavering democratic society.
<b>WEAKNESSES</b>	Despite the progress the country has made in terms of public policies addressing free access to information, the structural weaknesses of the institutions persist in reason of the power claimed by their sitting officers. Recovering spaces of freedom, both for the press and for the citizens, depends on national and international circumstances. Social activism has not been able to prevail over a presidential system that remains unchecked in multiple government bodies.
<b>OPPORTUNITIES</b>	Although the Dominican Republic continues to perform poorly in education, as reflected in assessments from international organizations, the awareness of empowered citizens continues to expand. Self-expression on social media and the resort to these platforms to call for demonstrations in defense of societal issues is a growing reality. Traditional media outlets, in their convergent processes, increasingly take the challenge of delivering news in tune with the transparency demanded by viewers. Online media expand the opportunities for whistleblowing and articulate social dissent.
<b>THREATS</b>	If the country's powers that be, which include the Catholic and Protestant ecclesiastical hierarchies, do not join forces with the political leadership and its structures, the country will continue to depend on circumstantial events to preserve a climate of freedom. The temptation to curb criticism of the authorities' blunders with hefty government advertising budgets continues to exist. A period of progress does not imply lasting stability if comprehensive reforms that guarantee sustainable social peace are not introduced.

## 2.9.3 OVERVIEW

### Dominican Republic

The **Dominican Republic** rose 10 positions in the Chapultepec Index of Freedom of Expression and the Press, moving up from No. 14 to No. 4 for the second study period, and from Partial Restriction to Low Restriction [on free speech]. The position in the 2019-2020 iteration is explained by the pressure on the media and journalists from different institutional environments, including the Executive and the Judiciary. What happened for the following period of the Index is explained by a shift of government after the presidential elections of August 2020, and consequent changes in the legislative and judicial dynamics, perceived by the experts inquired as favorable for freedom of expression and the press.

In Realm A, Informed Citizens Free to Express Themselves, the country experienced a leap in its score from 11.6 points, out of a theoretical maximum of 23, to 18.57 in the more recent study. The tensions triggered by government propaganda, including disinformation strategies and statements against critical journalists, were followed by a period in which, after announcements from the new officials in favor of the press and free speech, social media flowed more freely, a fact reflected in the lack of measures introduced against opposing stances, as was seen in the form of mild reaction to demonstrations.

In Realm B, Exercise of Journalism, the increase was moderate, going from 7 to 7.43 points out of a possible 10. While in the first iteration there was evidence of measures restricting its exercise in wake of the COVID-19 pandemic, in the second study there was a turning point on March 17, 2021, when President Luis Abidán pled to respect freedom of expression before media representatives, offering guarantees to the free exercise of journalism. The experts surveyed agreed that this exercise enjoys a favorable environment.

Meanwhile, Realm C, Violence and Impunity, was the one that varied the most for the Dominican Republic, initially scoring 8.4 points out of a possible 42, to reach 29.77 points for the second edition of the Chapultepec Index. In the more recent iteration, low figures regarding violence against media professionals were achieved; but protection from impunity against newsmen following harmful actions targeting them continues to be an unfinished task, according to the scores in both editions of the Index.

In Dimension D, Control over the Media, the results remained relatively stable, although with a slight drop, from 24 to 22.14 points, out of a possible 25. The legislative, executive, and judicial environments do not seem to have a major interest in regulating media activity or in pressuring its intermediaries and technological providers, according to the experts consulted. However, it is noteworthy that the Dominican Society of Newspapers (Sociedad Domini-

cana de Diarios) warned about the danger of concentration of government advertising in the period corresponding to the second edition of the survey.

The impact of the legislative, executive, and judicial environments in situations unfavorable to free speech also experienced a significant decrease in the Dominican Republic, dropping to slight in all three cases, after showing moderate and strong values, especially regarding actions from the Executive. Nevertheless, this branch of government still exerts a moderate influence on unfavorable situations for the exercise of journalism according to the experts surveyed.

## 2.10. ECUADOR

### 2.10.1 ECUADOR 2019-2020

ECUADOR	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>42.5</b>
<b>REALM A: "Citizens informed and free to express themselves"</b>	<b>23</b>	<b>11.0</b>
Flow of information	11	6.8
Free Expression	12	4.3
<b>REALM B: Exercise of Journalism</b>	<b>10</b>	<b>4.3</b>
<b>REALM C: Violence and Impunity</b>	<b>42</b>	<b>9.0</b>
Protection	10	0.5
Persecution	15	7.5
Impunity	17	1.0
<b>REALM D: Control over the media</b>	<b>25</b>	<b>18.3</b>
Direct control	16	10.0
Indirect control	9	8.3

Chapultepec Index of Freedom of Expression and Press  
May 2019-April 2020



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

ECUADOR	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	4.47	4.89	5.88
REALM A: "Citizens informed and free to express themselves"	4.55	5.26	6.85
Flow of information	4.60	4.10	6.40
Free Expression	4.50	6.42	7.29
REALM B: Exercise of Journalism	5.83	5.97	7.33
REALM C: Violence and Impunity	4.78	5.39	5.82
Protection	3.83	4.17	4.96
Persecution	6.00	6.25	6.25
Impunity	4.50	5.75	6.25
REALM D: Control over the media	3.10	2.98	4.29
Direct control	4.88	4.63	6.25
Indirect control	1.33	1.33	2.33

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00



MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## Ecuador: October 2019, a decisive month to examine freedom of expression in the country

### Executive Summary

In the case of Ecuador, the study period might be reviewed based on a turning point: The social protests that took place from October 3 to 14, 2019. Before and after these developments, there were events showing a system that still does not have appropriate mechanisms to protect the media and a State that is incapable of taking responsibility for crimes against journalists. In those days of October, however, a particularly violent environment against journalists was evident, and stigmatizing and hostile discourse towards the press resurfaced. The country ranked 17<sup>th</sup> in the Chapultepec Index of Freedom of Expression and the Press, with 42.50 points.

## INTRODUCTION

2019 seemed to be a year in which the status of freedom of expression, freedom of the press, and access to information in Ecuador would continue to improve. This improvement has been tangible since Lenín Moreno took office in May 2017. For example, he ruled out nationwide *cadenas* “*sabatinas*” (mandatory simulcasts of government addresses on Saturdays) in which, on numerous occasions, there were unfavorable statements towards the members of the press. Additionally, he eliminated the Superintendence of Information and Communication (Superintendencia de la Información y Comunicación, Supercom), an entity commissioned with sanctioning and fining the media since 2013.

However, 2019 was marked by the days of social protests in October. These were especially complicated times for the country in which the press fell victim to violent acts perpetrated by both the civil society and law enforcement: Abductions, insults, physical assault, intimidation, censorship, etc. As a result, Ecuador achieved a score of 42.5 out of 100 in the overall Index, reaching the 17<sup>th</sup> place out of 22 countries part of the study.

In addition to the October events, during the study period, the Inter-American Commission on Human Rights (IACHR) report on the kidnapping and murder of *El Comercio* (The Commerce) newspaper journalists was published. The report shows that the entities in charge of the investigation are making little effective progress. It points out that Ecuador, although it has a regulatory framework that protects journalists’ work in principle, in practice it does not have an efficient system for guaranteeing the rights of the press.

## Analysis of results

Between May 1, 2019 and April 30, 2020, journalism was exercised under concerning conditions in Ecuador, especially in October. Of the 194 alerts for violations of fundamental freedoms during 2019, 60% of these occurred in the months of October and December, during and after the national strike. In the midst of demonstrations, 116 attacks on the press and 138 on journalists went on record (Fundamedios, 2019, p. 5); but equally relevant were the instances of violence by law enforcement against the press.

Another key element to consider in the analysis is that the government has not taken responsibility for attacks on the media. It failed to do so in the aftermath of October and, above all, it has failed to do so in the case of the three *El Comercio* newspaper journalists murdered. Although this unfortunate incident occurred in 2018, in December 2019 the IA-CHR published its report where it clearly stated that the Ecuadorian State did not take the necessary measures to protect the news team and further suggested that there were both non-existent coordination and omissions that proved decisive in the course of events (Jorge R. Imbaquingo, 2019).

Finally, in 2019, matters were also left unfinished regarding reforms and laws required to improve the status of the fundamental right of free speech. It must be acknowledged that, earlier that year, major amendments to the Organic Law of Communication (Ley Orgánica de Comunicación, LOC) were approved. Nevertheless, other key aspects have not even been debated by the Legislative, such as reforming the role of public media, which have been so far the communication arm muscles flexed by sitting governments.

## Legislative Environment

Of the three environments, the Legislative shows the least influence in situations discouraging free speech in Ecuador, at a moderate level, with 4.47 out of a maximum of 10.

This perception stems mainly from the amendments made to the LOC by the National Assembly [Legislative]. This law, which was enacted during the government of former president Rafael Correa, drew a great deal of criticism from the media because it provided the government with a legal framework whereby several of the abuses against freedom of expression and the press could be left unpunished. The law was substantially reformed in several key points. We could highlight two: Oversight entity Supercom was eliminated; and the legal figure of media lynching was struck out.

Although this reform was performed in February 2019, in June it returned to public debate because of a procedural error. Additionally, the amendment of an article had been left incomplete “seeking that communication be regarded as a human right instead of a utility, taking into consideration the jurisprudence of the Inter-American Court of Human Rights” (Observacom, 2019). The changes to the LOC allowed for one thing not very common in



the Ecuadorian legislative outlook: the alignment of different political forces. Similarly, the journalists' union assessed these actions favorably, as reflected in an interview with Guadalupe Fierro, president of the National Union of Journalists (Unión Nacional de Periodistas), in which she highlighted positive changes and the improvement of the legal framework for exercising journalism (Consejo de Regulación, Desarrollo y Promoción de la Información y Comunicación, 2019).

Fundamedios, a free-speech watchdog NGO that constantly conducts monitoring activities, estimated that there was legislative backlog at the National Assembly in 2019, among pending matters, little progress in reforming statutes that currently prevent the exercise of free speech stemming from professional degree constraints. She also criticized the non-existent regulation on nationwide *cadenas* and government advertising, as well as the need for a clear role of the public media (Fundamedios, 2019).

## Judicial environment

This environment, with a moderate score of 4.89 in the study, is the second to influence situations discouraging free speech in Ecuador.

One of the most concerning incidents, perhaps, was the one that occurred again amidst the October 2019 social protests. On the third day of that month, the Prosecutor's Office (Fiscalía) and the National Police (Policía Nacional) raided the facilities of *Radio Pichincha Universal*, which is critical of the government. On a tweet, the Prosecutor's Office informed that the process sought to "gather information on the alleged crime of inciting discord among citizens". The radio station, in a press release, assured that these actions from the authorities were in response to opinions aired on the show *En la Oreja* (In Your Ear) a day before social protests erupted. This program was conducted by journalist Washington Yépez and, on that occasion, he was interviewing a political leader, Luisa Maldonado, a *Correísta* movement loyalist – political adversary of the current government of Ecuador – as she, according to the Prosecutor's Office, had called on people to join the protests. (El Comercio, 2019).

In May 2019, however, the Agency for Health Regulation, Control, and Surveillance (Agencia de Regulación, Control y Vigilancia Sanitaria, Arcsa) filed a lawsuit for libel against *La Posta* (The Post) website, after the latter blew the whistle on alleged serious negligence in conducting HIV tests. The news again raised concerns about the status of freedom of expression and the press that undoubtedly affected the perception on this environment. However, a few days later, the President of the Republic, Lenín Moreno, asked Arcsa's director to resign and the lawsuit was withdrawn (La República, 2019).

On the other hand, it has become evident that, in order to retaliate against journalists, various members of civil society have threatened to file or actually filed lawsuits on three counts: slander, defamation, and discredit or crimes against honor. One of the cases was that of Jaime Vargas, president of the Confederation of Indigenous Nationalities (Confederación



de Nacionalidades Indígenas, CONAIE), who accused *Expreso* daily of slandering him after the publication of a piece about his assets. The aborigine leader warned that he would take legal action, but this did not come to fruition.

## Executive Environment

The study indicates that this environment is the one that most unfavorably influenced the state of free speech in Ecuador with a score of 5.88, placing it in the strong influence range.

For a better understanding of this perception, it is worth mentioning two significant events involving the Telecommunications Regulation and Control Agency (Agencia de Regulación y Control de las Telecomunicaciones, Arcotel). In July 2019, the agency issued an order to withdraw the temporary frequencies granted to the media group owned by Mexican businessman Ángel González. These frequencies were granted in an irregular manner, according to various groups and members of the communications industry. However, the order was put on hold after a judge in Guayaquil granted a constitutional injunction. Subsequently, no new tenders for frequencies have been called, which, in the words of Fundamedios, “keeps the industry under significant legal uncertainty” (Fundamedios, 2019, p. 4).

The second episode once again involves *Radio Pichincha Universal*, a media outlet critical of the government, as discussed above. In October 2019, the station was off the air for 16 days on an order from Arcotel; but an injunction determined that the right to freedom of expression had been breached, and the station could return to its regular programming. However, in January 2020, the agency again terminated the broadcast license, and finally a new appeal prevented it from going off the air (Punto Noticias, 2020).

In addition to administrative actions, the Executive also played an unfavorable role in the state of freedom of expression and the press during the social protests of October, especially between that month’s 3<sup>rd</sup> to 5<sup>th</sup> days, when law enforcement forcibly repressed the media. Several journalists’ testimonies report actions ranging from intimidation to hours-long arbitrary detention. This is a topic further elaborated on in Realm C regarding violence and impunity.

## REALM A: Informed citizens free to express themselves

Several of the journalists and academics surveyed agree that freedom of expression and plurality of content disseminated in the country have improved in Ecuador. They also concur that 2019 was specifically a year when progress was made owing to the amendments on the LOC mentioned above.

In any case, there are still restrictions on full access to information, especially because of the cumbersome procedures for requesting public information. The score in this realm, according to the Chapultepec Index, reached 11 points out of a maximum of 23.

The country's government institutions do not abide by their own disclosure standards, which require, for example, that all public information be accessible on their websites. In practice, commentators say, not all information is posted and when something additional is required, the request for information falls into a cumbersome bureaucratic process. Similarly, there is a consensus that the public media, albeit encouraging plural contents, still tend to be used as the political arm of the sitting government.

The overdue debt in this realm once again revolves around what happened to *Radio Pichincha Universal* in October 2019, when its license was withdrawn for 16 days during that month's protests (Fundamedios, 2019). In January 2020, it further received another request for license termination (Punto Noticias, 2020). The grounds for the penalty – with the support of the Ministry of Defense (Ministerio de Defensa) and the Council for Regulation, Development, and Promotion of Information and Communication (Consejo de Regulación, Desarrollo y Promoción de la Información y Comunicación) – stated that the contents of the media outlet incited protest and posed a threat to national security.

## **REALM B: Exercise of journalism**

The LOC is the legal basis for all communication and advertising activities in the country, including journalists' work. Under this legal framework, articles 40 to 42 thereof set forth the rights of source protection, professional secret, and free exercise of communication.

There is no provision that expressly protects press contents from possible misuse and there is a restriction on the exercise of journalism consisting in the requirement of a professional degree. With this in mind, the journalists inquired consider, in general, that the government has been able to improve the conditions for journalistic work in comparison to the previous administration. However, the rating for this realm was 4.3 out of a maximum of 10 points.

This perception is reinforced, once again, by the reforms to the LOC and by specific cases such as the removal of Juan Carlos Galarza, Executive Director of Arcsa, by President Moreno. Galarza was dismissed in May 2019, after he filed a lawsuit against the digital media outlet *La Posta* for reporting alleged negligence in conducting HIV tests. The president and several ministers of the cabinet stated on Twitter that the removal was intended to preserve freedom of expression and the press in the country. (Romero, 2019)

There are also other ways, perhaps new and therefore insufficiently regulated or debated yet, whereby the government restricts the exercise of journalism. One of these examples is what happened at the Quito Book Fair in December 2019. This event was organized by the

National Book and Reading Plan (Plan Nacional del Libro y la Lectura), an initiative of the Ministry of Culture (Ministerio de Cultura) of Ecuador, headed by María Fernanda Ampuero. This official received some criticism from journalists; one of them was that the logistics was poor and that several writers were not included. In response, Ampuero blocked some of these critical voices from her Twitter account, which begs the question: Can a public official, who currently uses social media to provide information on public interest matters, block journalists? (Minga, 2020).

Another way in which the exercise of journalism was restricted by government agencies occurred during the COVID-19 pandemic. Especially in March and April 2020, the government could not devise an effective means to include some members of the press in online conferences with the media. Consequently, many of the questions in those early press conferences came from virtual private rooms, where the questions reaching officials went through various filters.

## REALM C: Violence and impunity

Regarding violence, journalism in Ecuador during 2019 was undoubtedly marked by the social protests of October. National and international organizations reported on this. In its January 2020 report, the IACHR stated that violence in the midst of the national strike “led to the obstruction of the work of the press, in the form of a series of attacks against journalists and the media, both by law enforcement and demonstrators” (IACHR, 2020). The number of media outlets attacked was at least 20, located in the provinces of Pichincha, Guayas, Tungurahua, Chimborazo, Morona Santiago, Manabí, Azuay, Pastaza, and Sucumbíos.

In this realm, Ecuador scored only 9 points out of 42 possible.

One of the most notable assaults was that sustained by Juan Carlos González, a reporter with the digital media *Wambra*, who, according to the IACHR, was allegedly hit in the face with a tear gas canister in Quito. Another, that of journalist Ronald Cedeño, who was run over by a policeman on a motorcycle in Guayaquil.

In terms of impunity, on the other hand, the State has also been indebted. Not only because of the aforementioned case regarding its joint responsibility in the deaths of *El Comercio* journalists, but also because there have been no measures against members of the civil society who attacked the media in October 2019. Such events as the fire at *Telemazonas* facilities in Quito, or an attack against transmission antennas on Pilisurco Hill, in the province of Tungurahua, which left 65 radio and television stations off the air, remain completely unpunished.



## REALM D: Control over the media

In the realm of control over the media, Ecuador appears better rated by the experts surveyed, with 18.3 points of 25 possible. Even so, according to the journalists and academics inquired, the most usual way to control the news and opinion content that media outlets publish in Ecuador is through the allocation of resources for advertising purposes.

In this regard, the regulatory framework only sets forth that government agencies purchasing advertising and publicity services on the media shall be governed by equal opportunity criteria taking into consideration purpose of communication, target audience, agency territorial jurisdiction, and ratings and viewership levels. However, these guidelines prove ineffective at regulating which outlet is allocated advertising money and which outlet is not.

The only control mechanism provided for is the publication of annual reports by government entities reflecting their expenditures on media advertising categories.

## CONCLUSIONS

October was the month that reversed a positive trend in the status of freedom of expression and the press in Ecuador. During the social protests that month, 116 of the 194 alerts for violations of fundamental freedoms in 2019 went on record: An increase of 133% compared to 2018 (Fundamedios, 2019, p. 5).

The protests also brought Ecuador back into the spotlight in the region. Commissions formed by the IACHR visited the country and, in their reports, they corroborated this setback, expressed in the case, for example, of *Radio Pichincha Universal*, where it was evident that the State, by means of administrative and judicial actions, briefly took this media outlet off the air and tried to terminate its operations definitively.

The same month of October, the Executive branch, through the National Police, used violent mechanisms resulting in attacks on media and journalists. Similarly, the government has not initiated the necessary judicial action in the numerous cases where media and journalists were attacked during the national strike.

On the other hand, 2019 also showed that Ecuador still does not have a comprehensive system to protect the activity of the media and journalists. This is especially true after the government's inability to take action and/or responsibility for the death of three *El Comercio* journalists. According to the report by the Special Monitoring Team (Equipo de Seguimiento Especial, ESE) to probe into the kidnapping and murder of Javier Ortega, Paúl Rivas, and Efraín Segarra, government institutions showed a lack of coordination and omissions in handling the case. They also indicated that Ecuador and Colombia should take steps to systematically collect information and declassify documents. That would be the only way to get the full picture of the facts (Jorge R. Imbaquingo, 2019).

The legislative environment is the one that displays the best behavior in Ecuador according to the study's Index. This is largely because the National Assembly substantially reformed the LOC. In any case, although the statutory framework shows some good progress with respect to the exercise of freedom of the press, there are several voices critical of the fact that no progress has been made in enacting a clear regulation for the operation of public media. Similarly, there has not been much progress in regulating national broadcast media or government advertising.

Attention should be directed to a new dynamic, at least for the current government, in which high officials respond in a particular and accusatory manner to information published by the press. The reason for this is what has happened between La Posta online newspaper and a high-ranking government official: Minister of the Interior (Ministra de Gobierno) María Paula Romo. In August 2020, the media published a report linking the minister to an alleged scandal involving allocations of public hospital contracts destined to certain congressional districts in exchange for votes for some national assemblypersons. Not only did Romo deny the allegations, but also responded to the media outlet in a particular way, by accusing them, in a video uploaded on her personal social media, of committing a crime. This has not been a common practice in this government and we will have to look closely how this case unfolds.

## REFERENCES

- Inter-American Commission on Human Rights. (2020, January 14). CIDH Presenta observaciones de su visita a Ecuador. *OEA*. Retrieved 2020, September from: <http://www.oas.org/es/cidh/prensa/comunicados/2020/008.asp>
- Revista Enfoques de la Comunicación. (2019, June 1). Consejo de Regulación, Desarrollo y Promoción de la Información y Comunicación. *Revista Enfoques de la comunicación*. Retrieved 2020, September from: <https://www.uide.edu.ec/wp-content/uploads/2020/04/REVISTA-ENFOQUES-DE-LA-COMUNICACION-2019.pdf>
- Fundamedios. (2019). Los malos tiempos continúan. Informe 2019. Retrieved 2020, September from: <https://www.fundamedios.org.ec/wp-content/uploads/2019/12/Informe-FDM-EC-2019-2.pdf>
- Imbaquingo, J. (2019, December 12). Informe de la CIDH: Descoordinación de militares ecuatorianos desencadenó en secuestro y asesinato de equipo periodístico de EL COMERCIO. *El Comercio*. Retrieved 2020, September from: <https://www.elcomercio.com/actualidad/informe-cidh-secuestro-periodistas-elcomercio.html>
- La República. (2019, May 17). Moreno pide la renuncia al director del ARCSA por demandar a La Posta. *La República*. Retrieved 2020, September from: <https://www.larepublica.ec/blog/2019/05/17/moreno-pide-la-renuncia-al-directo-de-la-arcsa/>

Minga, A. (2020, January 27). La Cultura Institucional está pendiente señor Presidente. *Plan V*. Retrieved 2020, September from: <https://www.planv.com.ec/ideas/ideas/la-cultura-institucional-esta-pendiente-senor-presidente>

Observacom. (2019, July 5). Asamblea Nacional de Ecuador debate reformas en la definición de comunicación como servicio público. *Observatorio latinoamericano de regulación de medios y convergencia*. Retrieved 2020, September from: <https://www.observacom.org/asamblea-nacional-de-ecuador-debate-reformar-la-definicion-de-la-comunicacion-sea-un-servicio-publico-como-establece-la-ley-de-comunicacion/>

Punto Noticias. (2020, January 23). Arcotel dispone la extinción del título habilitante de Radio Pichincha Universal. *Pichincha Comunicaciones*. Retrieved 2020, September from: <http://www.pichinchauniversal.com.ec/arcotel-dispone-la-extincion-del-titulo-habilitante-de-radio-pichincha-universal/>

Redacción Elcomercio.com. (2019, October 8). Fiscalía allana instalaciones de radio Pichincha Universal bajo acusaciones de 'incitación a la discordia'. *El Comercio*. Retrieved 2020, September from: <https://www.elcomercio.com/actualidad/fiscalia-allanamiento-radio-pichincha-universal.html>

Romero, D. (2019, May 17). Lenin Moreno pide renuncia de director del Arcsa por demanda penal en contra de medio digital. *El Comercio*. Retrieved 2020, September from: <https://www.elcomercio.com/actualidad/moreno-renuncia-director-arcsa-demanda.html>

## ECUADOR

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

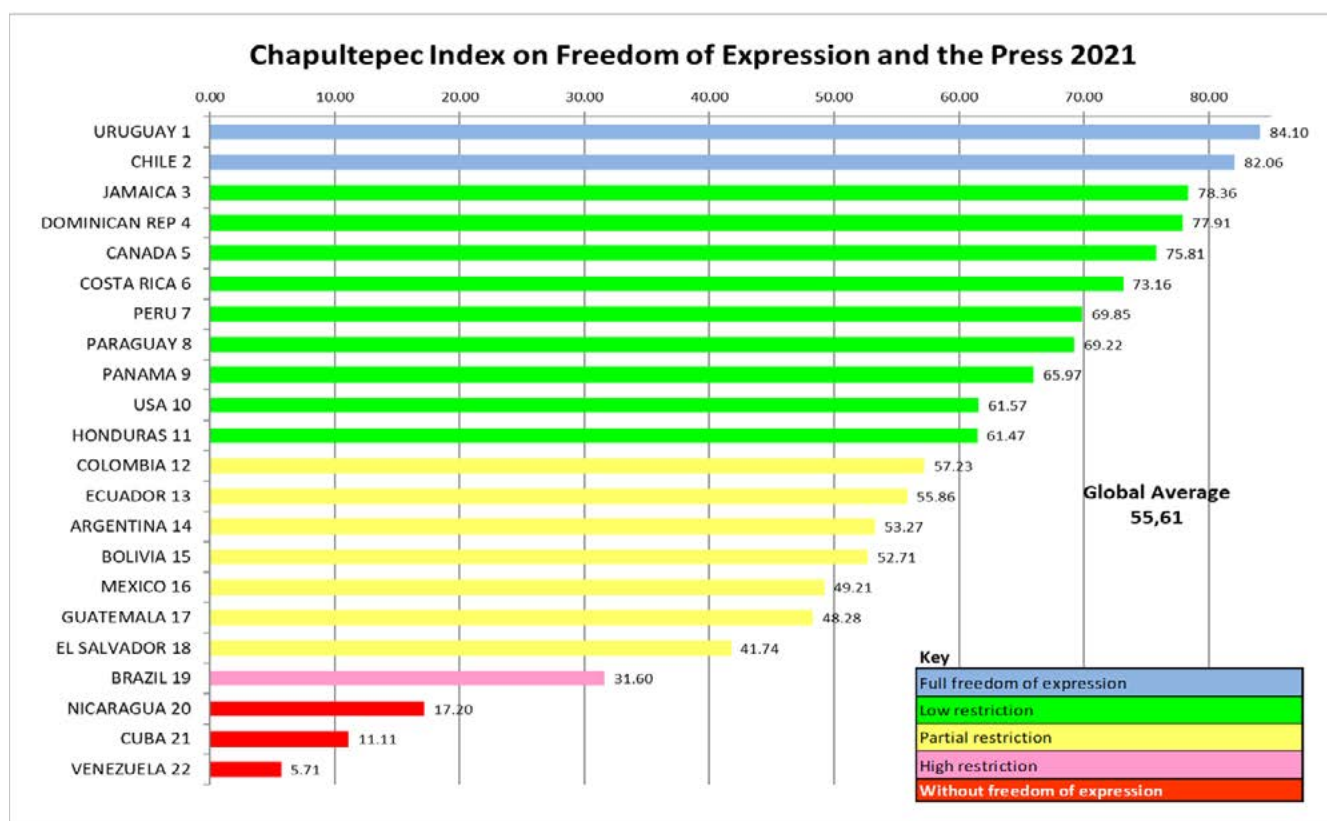
STRENGTHS	<p>One of the strengths is the good will evident in the government to improve the status of freedom of speech and press. Likewise, having a reformed – yet imperfect – statutory framework compared to that in force years ago is also a strength. The mobilization capacity of the communications industry is also noteworthy, which, through joint initiatives, launches projects to watch and permanently monitor the state of freedom of expression and the press in the country. That same spirit has allowed for the creation and growth of new media in the digital domain thereby encouraging plurality of voices and sources.</p>
WEAKNESSES	<p>The greatest weakness in Ecuador has been the non-realization of sufficient good will to improve the status of freedom of expression and press, translated into amendments to the Organic Law of Communication. In practice, the October 2019 protests and their aftermath demonstrated two key facts: The persistence of violent and authoritarian practices entrenched in the government that undermine freedom of the press and expression. Furthermore, its institutions do not function adequately in order to punish violations of fundamental freedoms, allowing a cloak of impunity to hide unacceptable actions against the press and freedom of expression.</p>
OPPORTUNITIES	<p>The last few years have been ones of great economic hardship for Ecuador, even more so with the advent of COVID-19. Several media outlets have closed and hundreds of journalists have lost their jobs. This same undesirable circumstance is also perceived as an opportunity worth considering for overcoming this same crisis. Actually, in recent months, new communication ventures have been created, such as Public Journalism, by former workers of government media outlets. New projects like this one can build the momentum necessary to provide something missing in Ecuadorian journalism: New voices, sources, approaches, and audiences.</p>

**THREATS**

In recent times, Ecuador has experienced extreme political polarization between supporters of former President Rafael Correa and his opponents. In the past, this division translated into stigmatizing and violent speeches against the press that spawned animosity among a good part of the population against several media outlets. Although this has subsided in the last two years, elections will be held 2021, and it has already been possible to note that this disparaging discourse towards the press is beginning to emerge again. On the other hand, Ecuador faces the same global threat of fake news. This same climate of tension has given rise to the creation of media with good and deontological principles not aligned with those of good professional practices. This, added to the lack of knowledge from the State of how to regulate a space such as social media, poses a potentially complicated scenario.

## 2.10.2 ECUADOR 2020-2021

ECUADOR	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>55,86</b>
REALM A: "Citizens free to express themselves"	23,00	13,00
Information flow	11,00	6,43
Free speech	12,00	6,57
REALM B: "Exercise of journalism"	10,00	4,00
REALM C: "Violence and impunity"	42,00	21,15
Protection	5,00	0,50
Persecution	7,50	5,07
Impunity	8,50	1,29
Registered violence	21,00	14,29
REALM D: Control over the media	25,00	17,71
Direct control	19,00	11,71
Indirect control	6,00	6,00





## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>ECUADOR</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	1,87	1,71	1,91
REALM A: "Citizens informed and free to express themselves"	1,64	0,88	0,95
REALM B: Exercise of Journalism	3,57	3,43	2,71
REALM C: Violence and Impunity	1,19	1,33	1,33
REALM D: Control over the media	1,07	1,21	2,64

Type of Influence      Points

<b>SLIGHT INFLUENCE</b>	0,1 - 2,50
<b>MODERATE INFLUENCE</b>	2,51 - 5,00
<b>STRONG INFLUENCE</b>	5,01 - 7,50
<b>VERY STRONG INFLUENCE</b>	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## ECUADOR: MOVES UP IN THE INDEX WHILE LACKING STRUCTURAL REFORMS

### Executive Summary

In spite of Ecuador moving up in the overall index, threats and violent speeches against journalists became evident in contentious episodes; hence the realm on Exercise of Journalism is the one showing the most unfavorable figures. The Judicial environment has been on the spotlight for sentencing a journalist to prison while holding little evidence and by means of a legal instrument that has been questioned for a long time. With presidential elections in between, the Executive Branch is also under the focus of this report, while the Legislative scenario maintains the same immobility of 2019.

## INTRODUCTION

Ecuador was amid a presidential election during the period covered by this report. Such event marks a turning point in the analysis of freedom of expression and the press. From August 2020 to May 2021, the country was still run by former President, Lenín Moreno. His image embodied a leader who tried to make substantial reforms to the conflictive legal frameworks for the press, but he fell halfway. He also epitomized the mismanagement of the global health crisis that was evident in the field of communication in the form of inaccurate information on infections and deaths, and at ministries during talks with journalists whose questions and requests were often ignored.

However, in May 2021, Guillermo Lasso became president and took office with a discourse in favor of freedom of expression and the press. He supported this with an immediate action: The submission of a new bill named the Freedom of Expression Law (Ley de Libertad de Expresión). Journalists and academics consulted for this report assure that President Lasso, although none of his proposals has materialized, generates positive expectations with regards to the relationship with the press. Thus, with a score of 56.07 out of 100, Ecuador has moved up from 17<sup>th</sup> to 14<sup>th</sup> place in this Chapultepec Index.

Conversely, the study also shows that Ecuador is a scenario holding unfavorable conditions, especially for the practice of journalism. The pandemic worsened the working conditions for many journalists and, in some cases, has led to layoffs. The use of lawsuits continues to be a form of intimidation against journalists and there are still tangible examples of how

the Government directly influences over the control of the messages and information disseminated by the media.

## Results Analysis

During the period covered by this report, a non-governmental organization that watches over freedom of expression and carries out continuous monitoring exercises, Fundamedios, reported 254 alerts against the exercise of journalism and freedom of expression. Of these, 164 are directly related to the realms and environments under study by this report. The remaining 90, for the most part, belong to alerts related to the global COVID-19 pandemic. This data speaks of the impact that the pandemic has had over the exercise of journalism itself, which is further reflected by the obstructive actions by the government toward the free exercise of journalism.

The results of this Index, in its chapter on Ecuador, also allow inferring that the perception of freedom of the press and expression in the country has been slightly improving from August 2020 to July 2021. Until May 2021, Ecuador was still led by former president Lenín Moreno, who left office with barely 4.6% of approval, according to the pollster *Cedatos* (Ecuador Verifica, 2021). This reflects poor administration management (especially during times of pandemic) which also became obvious in terms of freedom of expression. For example, some ministries did not provide timely and accurate information in the midst of the health crisis, and at times, limited the participation of journalists at press conferences (Fundamedios, 2020). Moreover, Moreno's government ended its administration while leaving pending issues regarding promised, yet unfulfilled, meaningful reforms such as the Organic Law of Communication (Ley Orgánica de Comunicación, LOC). Public opinion is still discussing how his government did not take responsibility for the attacks against the media during the strike in October 2019, and for the case of three journalists from *El Comercio* newspaper murdered in 2018. However, in April 2021, Ecuador elected Guillermo Lasso as a new president who brought with him some optimism to freedom of expression matters. On May 25, one of Lasso's first actions was the submission of the draft Organic Law on Freedom of Expression and Communication (Ley Orgánica de Libre Expresión y Comunicación) which repealed the current statute known as the "gag law". In this regard, IAPA itself considered this action as a positive step for freedom of the press and democracy in the country (El Comercio, 2021). At different stages, President Lasso has also expressed that he believes more in media's self-regulation than in a law that regulates their labor.

## Environments: The Exercise of Journalism, the realm most affected by the three environments

The Index shows that the Legislative environment has some mild unfavorable influence of 1.87 points out of 10 on freedom of expression. This indicator means a positive im-



provement compared to the 4.7 points attained during the previous year's report. "There are no structural changes that could explain this improvement", said Jorge Cruz, journalist and coordinator of the communication area at the Pontificia Universidad Católica del Ecuador (Cruz, 2021), since the country still maintains the same laws and the same legislature.

The perception of this change would be then due to the fact that within the term of this report, there have been no new episodes that would be subject of extensive media coverage as attention has focused on the pandemic and presidential elections. In addition, citizens and public opinion are still debating cases that may be perceived as old, but still valid and showing that the Legislative does not give priority to improving the conditions of freedom of expression and the press. We are talking about, for example, the amendments to LOC. Although some key points of this law were amended during the administration of Lenín Moreno, the new general regulations required by the instrument were not issued until May 2021. Moreover, no progress was made on the amendment of Article 5 declaring communication as a public service (Fundamedios, 2020, p. 6). Furthermore, the announced reforms to the Criminal Code (Código Penal) to fully decriminalize opinion have not been implemented, and, according to the alerts recorded by NGO, Fundamedios, "these criminal maneuvers are still being used to persecute and take journalists, some citizens, and activists to court for exercising freedom of expression" (Fundamedios, 2020, p. 7). Hence, within the judicial environment of this Index, the realm on the exercise of journalism is the one with the highest unfavorable score with 3.57 points.

Another fact explaining said progress at the legislative environment, compared to last year, is that the new administration of Guillermo Lasso has placed the new Law of Freedom of Expression and Communication in the hands of the Legislative. The law seeks to establish mechanisms for self-regulation of public and private media in the country and to fully remove LOC. Although this is an initiative by the Executive, several voices in the legislative body have expressed their willingness to bring this draft bill to a successful conclusion. (El Universo, 2021).

With regards to the judicial environment, Ecuador scores 1.71 points. Like in the previous environment, in this one too, the country shows improvement compared to last year's 4.89 score. Although the index has improved, Cruz argues, once again, that there have been no structural changes in the national system of justice, but adds that, in recent times, the country has gone through a "discharge phenomenon" (Cruz, 2021). In other words, the administration of Moreno ended, and with it, also ended a series of events by the system of justice that had a negative influence over freedom of expression and the press.

One must acknowledge that there have been no episodes like the social protests of October 2019 during the current administration. Though, among other abuses, the Attorney General's Office raided Radio Pichincha Universal, a station critical of the government then. This action, in addition to others, ended with the radio off the air for 15 days. From that mo-



ment until now, no similar events have been reported. Although this is part of the reasons for the improvement within the current Index, during this period, the country still experienced legal actions that particularly affect the exercise of journalism.

One of the most representative events was the conviction of journalist Juan Sarmiento for moral injury confirmed on November 12, 2020. The journalist was sentenced to ten days in prison, to pay 25% of a basic compensation (USD 100), and to offer a public apology to former governor of Napo Province, Patricio Espíndola (Committee to Protect Journalists, -CPJ-) (CPJ, 2021). In the program *Tendencia Digital*, Sarmiento criticized the incompetence of the province official during the health crisis caused by the pandemic, both for not disclosing the real number of infections and for the lack of responsiveness by Napo's health system. This resulted in former governor, Espíndola, filing a lawsuit for damages to his reputation, his character, and for emotional abuse.

Sarmiento resorted to protection by an international program for journalists at risk, and traveled to Peru on November 28, 2020. As he was returning to the country, he was arrested by the National Police, despite the fact that the arrest warrant had expired. Finally, that same day, the arrest warrant was revoked during a court hearing (Fundamedios, 2021).

The executive environment also shows improvement. It went from a score of 5.88 to 1.91. These figures respond to a specific event: the election of a new government and the scores can be interpreted at two levels: a practical, and a symbolic one. The first was already mentioned above: the so-called Law of Freedom of Expression and Communication presented by the Executive to the National Assembly, a movement can be interpreted as a moment of "clear understanding and empathy between the Government, journalism, and the citizens", said Yolanda Aguilar, director of the journalism program at the Universidad de las Américas (Aguilar, 2021). Nevertheless, Aguilar also points out that this relationship may change over time if there are no concrete changes with respect to the state of freedom of the press by the government of Guillermo Lasso.

The second level, the symbolic one, involves the election of a new president and the expectations of change that this implies; and also, the narrative that Guillermo Lasso seeks to build on his relationship with the press and liberties. In September 2021, the newspaper *El Universo* - one of the most important and oldest in the country - turned 100 years old. President Lasso attended the celebration ceremony and said: "Nobody can stop power if you (the press) are not here" (El Universo, 2021). Beyond the president's words, the context in which these occur is significant: *El Universo* is a newspaper former President Rafael Correa filed a lawsuit against in 2012 for alleged slander to later claim USD 80 million and three years of imprisonment for the newspaper's board and the editor of the magazine *Opinión*. The lawsuit ended with a ruling favorable to the former president, although it was never enforced because Correa, finally, resorted to the legal figure of pardon for those named in the case. It was a judicial process with remarkable media impact that has even reached the offices of

IACHR and has internationally positioned Ecuador as a country with unfavorable conditions for the exercise of journalism. Today, for a change, *El Universo* is the stage where a new president awards the exercise of the press.

## **REALM A: The same problems of access to timely information and plurality of voices continue.**

Some of the journalists and academics consulted agree that the arrival of a new government in Ecuador will improve, *a priori*, the conditions of freedom of expression and access to information. They look forward to both, the definitive reforms to LOC, and the tension-free relationship with the press and the general public that Guillermo Lasso proposes. Ecuador scored 13 points out of a maximum of 23 in the present Index.

However, there are still limitations to full access of information, especially due to the difficult processes to undergo when requesting for public information (Guerrero, 2022). There are also problems that persist over time. Something that was already noted in last year's report and that continues is that government institutions do not make all public information accessible from their own web pages. In practice, the information available is incomplete and requests for information are often entangled in long bureaucratic processes.

One of the events that have directly affected the plurality of voices is the dismantling of public media. Although many have criticized the fact that public media have often served as a channel for the dissemination of information of government's interest, it is also true that these have also been spaces featuring more diverse contents than the private media. However, on July 29, 500 workers were reported to have been dismissed from the public media in the country (GK, 2021). This event, for the experts, is not only due to the deep fiscal crisis accelerated by the COVID-19 pandemic, but also denotes the ideological position of the new government: a smaller government.

Regarding access to information, the declaration of all information regarding the sale or securitization process of state-owned bank *Banco del Pacífico* as classified by the National Financial Corporation, became one of the most representative instances that occurred in 2019 (Fundamedios, 2020). However, the floor of the National Assembly resolved to declassify the information related to this matter.

## **REALM B: A realm that worsened**

In Ecuador, a continuing problem is that "there is no article that expressly protects the press from a possible misuse of its content and there is a limitation of professional title to practice journalism" (Chapultepec Index, 2021). Journalist Santiago Guerrero (2022), also consulted last year for the generation of this Index, reiterates that the State has been unable to structurally improve the conditions for journalistic work, although he predicts that the



treatment of a promised new communication law may change this. In this realm, the rating obtained was 4 out of a maximum of 10 points; the rate of the previous Index was 4.3, which means a decline on this category.

As in the previous year, state institutions continued to restrict press coverage of the COVID-19 pandemic. In virtual press conferences, government officials took few questions from journalists and often from the media themselves. In addition, the questions reached the authorities with several filters. This was particularly evident in April and May 2020, but continued - with some adjustments - until about November.

The pandemic emphasized the real problem the country has when accessing timely and accurate information. Many times the figures on the deaths by COVID-19 reported by the government turned out to be “unreliable and limited [...] there has been a continuous underreporting on the number of deaths” (Fundamedios, 2020, p. 5). This issue was reported by the press and remedied when the media published the figures on the excess deaths on record from the National Institute of Statistics and Census (Instituto Nacional de Estadísticas y Censos). This problem continued until January 2021, when the vaccination process began in Ecuador.

## **REALM C: The realm that recorded most progress**

In terms of violence and impunity, Ecuador scored 21.15 out of a maximum of 42, a substantial improvement compared to the 9 points recorded in the previous Index. Fundamentally, this can be explained since during this period there was no incident similar to the social protests of October 2019 when the violence recorded then “obstructed the work the press, given the series of attacks against journalists and the media committed both by law enforcement officials and demonstrators” (IACHR, 2020)

However, the country continued to experience - between August 2020 and July 2021 - some episodes that can be considered as violent. One of the most illustrative examples was the case of journalist Dayanna Monroy, who was threatened and intimidated several times. The first one took place in July 2020, when the lawyer of Daniel Salcedo, a man accused of being involved in a corruption scheme in hospitals in the country, accused the journalist of lying in some reports while assuring that she would have to “answer for everything” (Vaca-Villarreal, 2021). In October, for a change, alleged threats from the former president, Abdalá Bucaram, to Monroy were made public. The alleged threats were due to a series of reports by the journalist who pointed out that the Bucaram family was involved in irregular sales of medical supplies (Vaca-Villarreal, 2021).

In another event that occurred in August 2021, the same Bucaram family threatened -via Twitter- cartoonist Xavier Bonilla ‘Bonil’, who had published a cartoon in the newspaper *El Universo* called “El Huyecaminos” (The Roadrunner), in reference to Jacobo Bucaram who is a fugitive from justice for the case of irregular sales of medical supplies (Vaca-Villarreal, 2021).



Other remarkable cases of violence occurred on August 29, 2020 when journalist Gonzalo Rubén Piña reported being a victim of verbal and physical attacks at the Reina del Cisne stadium in Loja, by the public relations officer of the Provincial Sports Federation. By the end of November 2020, journalist Wilson Cabrera, correspondent of Teleamazonas in Morona Santiago, reported having been threatened by the National Police Commissioner, in Morona Santiago. Finally, on December 13, 2020, two sticks of dynamite were found in the balcony of the residence of journalist Mario Pinto, director of the digital media MPNoticias, in Machala city. Fortunately, the device did not explode. (Vaca-Villarreal, 2021).

## **REALM D: Former President Moreno favored allocation of frequencies to Mexican businessman.**

In the realm related to control over the media, Ecuador's rating reaches 17.71 points out of 25, a slight drop from 18.3 points on record in the previous Index. According to the experts consulted, in Ecuador, the most common way to control the type of information and opinion that media outlets publish is through the allocation of advertising funds.

Nevertheless, in this area, the allocation of frequencies to Ángel González, alias "El Fantasma" (The Ghost), is the most relevant issue that occurred within the period surveyed. According to a research by the digital media outlets *4Pelagatos* and *Fundamedios*, on the last days of his government, Lenín Moreno "awarded the media czar, of Mexican nationality and owner of the newspaper *El Comercio*, the frequencies of four other radio stations that had been disqualified for not complying with requirements during their contest for award" (Fundamedios and 4P, 2021). These four frequencies had been excluded because they did not comply with the rules of the Telecommunications Regulation and Control Agency (Agencia de Regulación y Control de las Telecomunicaciones, ARCOTEL). However, on May 27, 2021, the agency published a resolution allowing the stations to continue operating.

According to the research, former President Moreno pushed the Ministry of Foreign Affairs and ARCOTEL so that the order would favor Gonzalez in exchange for "protection against possible lawsuits" Moreno might face in the future.

## **CONCLUSIONS**

The election of Guillermo Lasso as the new president of Ecuador raises expectations among the people with regards to freedom of expression and the press. In principle, this represents a renewal of public policy ideas that encourage a scenario of media self-regulation. This would represent a radical change after almost 15 years the country has gone from having a very restrictive law for the exercise of journalism under former President Rafael Correa, to a less restrictive but insufficiently reformed law under former President Lenín Moreno.

Also, Lasso's presence in the public arena changes the narrative on the relationship between the press with the government and with citizens. The current president has promoted a much less heated rhetoric and has once again placed value on the exercise of the press and the full freedom of expression by citizens as a counterweight to his own power. This is something that his predecessor, Lenín Moreno, also promoted in his speech, but was very often contradicted in practice.

Either way, as Yolanda Aguilar warns, the government is just starting and “we are living a dangerous honeymoon” (Aguilar, 2021). She argues that, if these expectations are not matched by actions, the relationship of those in power with the press will change little in Ecuador.

Although a new government lightens the atmosphere among society, it is essential to mention that on judicial or legislative matters, for example, there have been no structural changes in the country: Access to free and plural information continues to be an enormous challenge; there is still a regulatory framework in place to persecute journalists as in the case of Juan Sarmiento, and there is still concrete evidence that those in power actively seek to control the information that circulates among society; as an example of this is in the case of “El Fantasma” González.

Finally, the effects of the pandemic also bore a significant impact over national press. It is widely known that journalists were some of the most vulnerable professionals to the infection; this resulted in 23 media workers dying in 2020 (Fundamedios, 2020). But the impact of COVID-19 also reached the workplace itself: several news industries were forced to lay off employees; the most remarkable case was the dismissal of 500 people from the public media sector.

Having said that, and following the results of this Index, we can state that Ecuador has gone through a two-track period. On the one hand, structures that often clash with freedom of the press and freedom of opinion were maintained as society seems to have become somehow accustomed to said structures; and on the other, a new administration is taking shape in the Executive seeking to, in principle, re-enhance the image of the press, and remove from its way those historical obstacles. This would explain why Ecuador climbed three positions in this Chapultepec Index.

## REFERENCES

- Aguilar, Y. (2021, septiembre 21). Directora de la carrera de Periodismo en UDLA. (R. Moreano, Interviewer)
- CIDH (2014 de enero de 2020). *CIDH presenta observaciones de su visita a Ecuador*. Obtenido de OEA: <http://www.oas.org/es/cidh/prensa/comunicados/2020/008.asp>
- CPJ (23 de noviembre de 2021). *Sentencian a pena de cárcel al periodista ecuatoriano Juan Sarmiento por 'desacreditar' a funcionario local*. Obtenido de CPJ: <https://cpj.org/es/2020/11/sentencian-a-pena-de-carcel-al-periodista-ecuatoriano-juan-sarmiento-por-desacreditar-a-funcionario-local/>
- Cruz, J. (21 de septiembre de 2021). Periodista y coordinador de la carrera de comunicación - PUCE. (R. Moreano, Entrevistador)
- Ecuador Verifica (12 de mayo de 2021). *criteriosdigital.com*. Obtenido de <https://criteriosdigital.com/contexto/everifica/lenin-moreno-aprobacion-crisis-politica-ecuador/>
- El Comercio (27 de mayo de 2021). *La SIP considera como un paso 'positivo' la iniciativa de Guillermo Lasso para derogar la Ley de Comunicación*. Obtenido de El Comercio: <https://www.elcomercio.com/actualidad/politica/sip-positivo-derogatoria-ley-comunicacion-lasso.html>
- El Universo (12 de julio de 2021). *Gobierno insistirá en la autorregulación de los medios en la nueva Ley de Libertad de Expresión*. Obtenido de El Universo: <https://www.eluniverso.com/noticias/politica/ley-de-libertad-de-expresion-y-comunicacion-inicia-tramite-en-asamblea-nacional-nota/>
- El Universo (17 de septiembre de 2021). *Guillermo Lasso: Si ustedes (la prensa) no están, al poder no lo frena nadie*. Obtenido de El Universo: <https://www.eluniverso.com/noticias/politica/guillermo-lasso-entrego-condecoracion-a-diario-el-universo-por-sus-100-anos-de-vida-institucional-nota/>
- Fundamedios y 4P (11 de septiembre de 2021). *Moreno dio frecuencias al Fantasma a última hora*. Obtenido de Fundamedios: <https://www.fundamedios.org.ec/moreno-dio-frecuencias-al-fantasma-a-ultima-hora/>
- Fundamedios (7 de febrero de 2021). *Periodista Juan Sarmiento quedó libre tras prescripción de sentencia*. Obtenido de Fundamedios: <https://www.fundamedios.org.ec/alertas/periodista-libertad-prescripcion-sentencia/>
- Fundamedios (NA de NA de 2020). *Fundamedios Ecuador 2020: la pandemia marcó el trabajo periodístico*. Obtenido de Fundamedios: <https://www.fundamedios.org.ec/wp-content/uploads/2020/12/Informe-2020-EC2-2.pdf>

GK (24 de julio de 2021). *Medios Públicos terminará los contratos de 500 funcionarios*. Obtenido de GK.city: <https://gk.city/2020/07/24/despidos-medios-publicos/>

Guerrero. (20 de septiembre de 2022). Periodista de Primicias. (R. Moreano, Entrevistador).

Índice de Chapultepec. (2020). Ecuador: octubre de 2019, mes clave para analizar la libertad de expresión en el país. Índice de Chapultepec. Recuperado de <https://www.indicede-chapultepec.com/2020/indice/17/informes.pdf>.

Vaca-Villarreal, P. (30 de marzo de 2021). *Informe anual de la relatoría especial para la libertad de expresión*. Obtenido de OEA: <http://www.oas.org/es/cidh/docs/anual/2020/capitulos/rele.PDF>

PERIOD SURVEYED

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## SWOT Analysis

<b>STRENGTHS</b>	<p>One of Ecuador's strengths is that the country is under a new administration that has shown, both in discourse and practice, its intention to improve the conditions of freedom of expression and the press. On the one hand, it seeks to create a new communication law and to definitively repeal the current one which, despite the amendments, continues to be restrictive. On the other hand, the country has publicly and symbolically vindicated the value of the free press. Among the strengths is also the resilience by all players in the media business. Despite being a year of pandemic, with all that it means, journalists have shown ability to adjust to continue reporting and also to reinvent themselves through the implementation of new projects, with new formats, and new content.</p>
<b>WEAKNESSES</b>	<p>The greatest weakness continues to be the inability of the government - as a whole - to make structural changes to the regulatory frameworks that govern the exercise of journalism and freedom of expression. Additionally, it has become evident; once again, that public figures or government officials still use violent practices against journalists undermining freedom of the press and expression. Unfortunately, civil society seems to have become accustomed to seeing these practices as something normal.</p>
<b>OPPORTUNITIES</b>	<p>The fresh energy coming from a new administration could be used to improve the state of freedom of expression in the country through concrete actions. Although some journalists and news professionals have lost their jobs due to various factors (mainly due to the health crisis), they have devised new ventures that have innovated the practice many times. This may be used as a driving force for other media outlets that may look into such innovations and update their storytelling, approaches and voices.</p>



<p><b>THREATS</b></p>	<p>The immobility of the political class and their lack of will to agree - to the smallest extent - for the welfare of the country, for this case, in favor of a change over the relations between the government, the press, and the citizens themselves. Also, Ecuador surely faces the same threats as the rest of the countries; such threats, by the way, emerged a couple of years ago: fake news. In a heated political environment like Ecuador's own, it is easier for the appearance of "media outlets" committed to disinformation. This poses a potentially complicated scenario along with the lack of knowledge on how to regulate spaces like the social media.</p>
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## 2.10.3 OVERVIEW

### Ecuador

**Ecuador** experienced a four-position rise in the Chapultepec Index of Freedom of Expression and the Press, moving from No. 17, with 42.5 points out of 100 and below the overall average, to No. 13 in the scoreboard with 55.86 points, slightly above the average for the second edition of this study: 55.61. This variation occurs in the context of a change of administration towards the last quarter of the study period for the second iteration, with Guillermo Lasso's rise to power in May 2021.

In Realm A, Informed Citizens Free to Express Themselves, Ecuador went from 11 to 13 points, out of a theoretical maximum 23. In this item, the sub-realm of Free Speech was the one that rose more prominently, while that of Information Flow remained stable. Although expectations for greater transparency in the public sector grew with the change of administration, measures for broader access to information had not been implemented during the review period.

Despite Ecuador's improved score in the second edition of the Index, Realm B, Exercise of journalism, experienced a slight decline among the experts inquired, from 4.3 points to 4 points out of a theoretical maximum 10, remaining below the average. Amid the [COVID-19] pandemic, there were difficulties in overcoming hurdles to questions during online press conferences, in addition to the fact of data deemed unreliable resulting from underreported cases.

In Realm C, Violence and Impunity, namely against journalists, Ecuador experienced a significant variation: from 9 points out of 42 in the first iteration, it reached 21.5 in the second. During this second period, there was no incident resembling the social protests of October 2019, when there was a series of attacks against journalists and media both by public security forces and demonstrators. However, this figure is still within partial restriction bracket because of instances of aggression and threats to media workers.

In Realm D, Control over the Media, Ecuador was rated at 17.71 points out of a possible 25 in the second edition of the Index, a slight decline against the 18.3 points of the previous study. There are no mechanisms to control media companies, although there are audits on advertising spending by government entities.

There was a considerable change, with a decreasing trend, regarding the extent of influence of the three institutional environments on situations unfavorable to freedom of expression. From having a strong influence, the Executive, the most responsible for situations adverse to these rights according to the respondents consulted in the first edition, had little impact on these situations for the second iteration, according to the experts.



## 2.11. EL SALVADOR

### 2.11.1 EL SALVADOR 2019-2020

EL SALVADOR	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>42.6</b>
<b>REALM A: "Citizens informed and free to express themselves"</b>	<b>23</b>	<b>11.0</b>
Flow of information	11	3.6
Free Expression	12	7.4
<b>REALM B: Exercise of Journalism</b>	<b>10</b>	<b>6.4</b>
<b>REALM C: Violence and Impunity</b>	<b>42</b>	<b>6.4</b>
Protection	10	0.8
Persecution	15	3.2
Impunity	17	2.4
<b>REALM D: Control over the media</b>	<b>25</b>	<b>18.8</b>
Direct control	16	10.4
Indirect control	9	8.4

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

EL SALVADOR	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	2.88	2.47	4.83
REALM A: "Citizens informed and free to express themselves"	2.20	2.18	5.27
Flow of information	2.35	2.75	6.38
Free Expression	2.05	1.60	4.15
REALM B: Exercise of Journalism	1.51	1.35	3.03
REALM C: Violence and Impunity	4.38	3.69	5.78
Protection	4.50	5.10	2.90
Persecution	3.63	1.97	8.43
Impunity	5.00	4.00	6.00
REALM D: Control over the media	1.23	1.00	3.42
Direct control	1.13	1.00	4.18
Indirect control	1.33	1.00	2.67

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## El Salvador: A New Authoritarian Escalation

### Executive summary

President Bukele's administration has been undermining freedom of expression at a faster pace in his first year in office. Financial, digital, and legal harassment of critical media and newsmen has escalated alarmingly, without sufficient legal guarantees to protect the exercise of journalism. Likewise, authorities have obstructed access to public information in the wake of the COVID-19 pandemic. With months to go before the mid-term elections 2021, in which the incumbent party may concentrate more power, greater violations in this regard are forecast.

## INTRODUCTION

In 2019, El Salvador began a new political cycle with the election of the now president, Nayib Bukele, after almost three decades in which both main parties of the democratic transition following the armed conflict ruled in the late 20<sup>th</sup> century. This new cycle is taking place in a context of constant erosion in the credibility of the political system, shown by at least three indicators during the period between 2004 and 2018: Continued decline in voter turnout at presidential, legislative, and municipal elections; constantly declining confidence in political parties; and sustained decrease in satisfaction with democracy – the latter two as measured by the Latin American Public Opinion Project's (LAPOP) Americas Barometer (Latin American Public Opinion Project – LAPOP, 2018).

Low credibility in political institutions is coupled with leniency from a significant part of the population towards authoritarian practices. In January 2020, a public opinion study found that 47% of respondents would regard an authoritarian regime more favorably than a democratic one under certain circumstances (Instituto Universitario de Opinión Pública, 2020). In this context, the new administration, which began on June 1, 2019, has shown authoritarian traits in its interaction with both the media and citizens in general, as well as in its relationship with other branches of government. All across the board, an issue has been the use of law enforcement for political purposes, including the military and the police, which have been the subject of complaints domestically and abroad.

This new authoritarian escalation is evident in three areas fundamental for democracy. First, regarding checks and balances, President Bukele has not complied with judicial rulings and has resorted to intimidating behavior against political opponents. Among these is the

call for civil uprising and the military occupation of the Legislative Assembly (Asamblea Legislativa) on February 9, 2020, to demand parliamentary approval for an international loan to fund law enforcement equipment. Secondly, regarding respect for human rights, the national Executive has performed illegal detentions in contempt for rulings issued by the Supreme Court of Justice Constitutional Chamber (Sala de lo Constitucional de la Corte Suprema de Justicia) under the guise of measures to contain the COVID-19 crisis.

Third, with respect to public scrutiny and accountability, not only has the executive branch obstructed access to public information, but also increased its hostility towards civil society organizations and media reporting on cases of corruption and abuse of power. This report, which covers the period from May 1, 2019 to April 31, 2020, focuses precisely on the influence of the national Executive in this regard, which is significantly greater than that of the Legislative and Judiciary.

In this context, and months before the February 2021 legislative and municipal elections, in which the incumbent administration may even concentrate more power than at present, there are sufficient elements to forecast greater threats to freedom of expression and democracy in El Salvador in the near future.

## Analysis of results

El Salvador is ranked 16<sup>th</sup> among 22 countries in the hemisphere on the Chapultepec Index, with a score of 42.6 on a 0-100 scale. The six countries under El Salvador are Ecuador, Bolivia, Brazil, Nicaragua, Cuba, and Venezuela. The following is an analysis of the environment of each branch of government – Executive, Legislative, and Judiciary – as well as the four realms to be addressed: Informed and free citizens, exercise of journalism, violence and impunity, and control over the media.

### Executive environment

In the first place, the executive environment shows a moderate and strong influence in most of the realms analyzed, and very strong regarding acts of persecution within the violence and impunity realm. Of the three branches of government, the national Executive exerts a significantly greater degree of influence than the rest.

The respondents interviewed point towards a systemic trend of intolerance towards critical media, even escalating to the use of government agencies and digital media to harass and harm them financially, as confirmed below. The proliferation of defamation and disinformation channels on social media has been another of the remarks made by the respondents. This is consistent with a report prepared by the Center for Monitoring Attacks on Journalists (Centro de Monitoreo de Agresiones a Periodistas) of the Association of Journalists of El Salvador (Asociación de Periodistas de El Salvador, APES). During President Bukele's



first year, between June 1, 2019 and May 31, 2020, 61 aggressions went on record therein: four times the figure reported the previous year (Asociación de Periodistas de El Salvador, 2020).

Among the most distinctive behaviors of the Executive against several media nationwide, it is worth mentioning denial of entry to official proceedings (Marroquín y Jurado, 2019 y Avelar, 2019), punishment by means of cancelling government advertising and printing contracts (El Faro, 2020), harassment against media outlets through selective inspections (Diario Co Latino, 2019), intimidation of journalists on digital platforms (Hernández, 2019) or physically (Cáceres, 2019), and repeated denial of turns to ask questions at press conferences (Asociación de Periodistas de El Salvador, 2020), among others. There are also restrictions on the right of access to public information, from denying citizens' petitions and exposing their personal data to appointing, in an irregular manner, the head of the Institute of Access to Public Information (Instituto de Acceso a la Información Pública, IAIP) (Fundación Salvadoreña para el Desarrollo Económico y Social, 2020), which is the agency guaranteeing this right. These events are addressed in greater depth in the sections below.

## **Legislative environment**

The legislative environment shows, regarding most realms, a low influence. However, with respect to the realm of violence and impunity, the score achieved reflects a moderate influence, to the point of affecting the overall rate and placing it within said description. This result reflects a passive behavior on the part of the Legislative Assembly in providing legal and political tools to protect freedom of information and punish violations against it.

The shelving, for over a year, of the Special Law for Comprehensive Protection of Journalists, Reporters, and Media and News Workers (Ley Especial para la Protección Integral de Personas Periodistas, Comunicadoras y Trabajadoras de la Comunicación y la Información) confirms this (Chávez, 2020). This bill was drafted by the APES, presented in October 2018 by the Journalists' Protection Roundtable (Mesa de Protección de Periodistas), which is made up of civil society organizations, and introduced for floor debate by two representatives. The proposal includes the creation of a specialized unit of the Attorney General's Office (Fiscalía General de la República, FGR) to address crimes against journalists, in addition to devising security protocols and filing protective relief for journalists experiencing dangerous circumstances (Asociación de Periodistas de El Salvador, 2018).

During the period reviewed and despite the serious threats reported herein, the Legislative Assembly did not take any initiative to ensure accountability for actions of the national Executive.

## Judicial environment

Finally, with respect to the judicial environment, it was rated on average as having low influence. However, there was a moderate influence regarding information flow, protective actions, and actions against impunity.

With regard to information flow, in August 2019, eight of the 15 Supreme Court justices banned the disclosure of reports from its Ways and Means Office (Sección de Probidad) regarding officials under investigation for corruption because, in their opinion, the information was confidential, despite the fact that the IAIP had ordered the preparation of redacted versions for the public (Flores, 2019). Civil society organizations claimed that the decision was a serious setback to the constitutional right of access to public information (Escalante, 2019).

Additionally, during the ongoing pandemic, the Legislative and the Executive passed and signed, respectively, orders suspending administrative proceedings for access to public information temporarily (Fundación Salvadoreña para el Desarrollo Económico y Social, 2020).

## REALM A. Informed citizens free to express themselves

According to the experts, this realm achieved 11 points out of 23 possible. The restrictions on the right of access to public information can be divided into four categories during the period under review. The first concerns citizens' exercise of this right. On the one hand, there was continued denial of information on public funds management by government agencies, including the State Intelligence Bureau (Organismo de Inteligencia del Estado), the Ministry of Defense (Ministerio de Defensa), and the General Office of Corrections (Dirección General de Centros Penales), on the part of the executive branch (Fundación Salvadoreña para el Desarrollo Económico y Social, 2020), and the reports of the Supreme Court of Justice Ways and Means Office, as discussed above, regarding the judicial branch. On the other hand, in November 2019 it was revealed that the IAIP had leaked to the Office of the President (Casa Presidencial) confidential data of those persons who had requested information in previous years (Avalos, 2019).

The second restriction noticed is with regard to institutional guarantees of access to public information; specifically, in February 2020, with the irregular appointment by President Bukele of an advisor attached to the Ministry of the Interior to head the IAIP as a representative of the country's newsmen community. APES, the leading association of journalists nationwide, denounced having been excluded from the vetting process, in a breach of the provisions of the Law on Access to Public Information (Ley de Acceso a la Información Pública) (Sibrián, 2020). Pressure from the organized civil society, which blew the whistle on the appointment as an attempt to compromise IAIP's independence, caused the commissioner to resign less than a week after being sworn in.

The third restriction occurs during the present COVID-19 crisis, in which a legislative order passed in March 2020 suspended the administrative proceedings for access to public information, and subsequently extended them by the closing of this report (Fundación Salvadoreña para el Desarrollo Económico y Social, 2020). In these exceptional times, when figures of positive cases and casualties, as well as related public administration expenditure should have been thoroughly audited, citizens have not had access to such information. Instead, some data provided by the Executive on hospital infrastructure spending was incomplete and thereby challenged in reason of its high degree of opacity (Fundación Salvadoreña para el Desarrollo Económico y Social, 2020).

## REALM B. Practice of journalism

The exercise of journalism has been substantially under attack by president Bukele's administration during the period reviewed. The rating for this realm reached 6.4 points out of a theoretical maximum of 10. A first incident occurred at the presidential inauguration ceremony on June 1, 2019, when a photojournalist from *El Diario de Hoy* (Today's Daily) was recording a video on his cell phone of how Office of the President Security Service (Estado Mayor Presidencial) military detail denied entry to a senior citizen. In addition to physically detaining the photojournalist, the military detail threatened to send him "to jail and to the courts" if he did not delete the recording" (Cáceres, 2019). Despite the severity of the events reported, there has been no official reply.

Hostility towards media critical of the government escalated into selective actions of prior censorship in September 2019, when the Office of the President banned journalists from *El Faro* (The Beacon) and *Revista Factum* (Factum Magazine) from joining a press conference held by President Bukele (Committee to Protect Journalists, 2019). Ironically, the address was regarding the launch of the International Commission against Corruption and Impunity in El Salvador (Comisión Internacional contra la Corrupción y la Impunidad en El Salvador, CICIES), established by the Organization of American States (OAS). The ban, which remained in effect for other conferences (Avelar, 2019), was confirmed by an official release from the Office of the President Communications Service (Secretaría de Comunicaciones de la Presidencia) (Secretaría de la Presidencia, 2019).

In the press release, the government blamed the journalists for "disruptive behavior" during previous conferences, due to alleged interruptions that would have involved "shouting" (Secretaría de la Presidencia, 2019). Coincidentally, shortly ago, both media outlets had published articles critical of the government regarding transparency in public administration and links to certain gangs (Committee to Protect Journalists, 2019). The mere publication of this incident in *El Diario de Hoy* spawned various attacks by the national Executive against this outlet, as discussed in the realm of control over the media. Although the ban was eventually lifted, the opportunity of these and other media outlets, which have also exposed cases of corruption – such as the case of *Gato Encerrado* (loosely, "something is rotten in Den-



mark”) – to ask questions at government press conferences has been restricted during the period reviewed (Asociación de Periodistas de El Salvador, 2020).

## REALM C. Violence and impunity

The realm of violence and impunity, particularly regarding the prevailing shows the most concerning score of the Index under analysis: 6.4 points out of 42. The sub-realm regarding persecution achieves 3.2 points out of a theoretical maximum of 15, in line with the report prepared by the APES on the first year of President Bukele’s government, as mentioned above. Therein, the whistle is blown on incitement by the president against “journalists who have published information sensitive to the government” to be “harassed and attacked on-line”. Additionally, in some cases, “attempts at hacking” social media “accounts of some journalists who have tried to go further regarding official information are reported” (Asociación de Periodistas de El Salvador, 2020). The president of this association, Angélica Cárcamo, has herself been blocked on social media by several official government accounts because of her criticism of the government” (Asociación de Periodistas de El Salvador, 2020).

An example of this took place just one day before the period under review, on April 30, 2019, when president Bukele accused a journalist from *Revista Factum* of being “journalistic hitman” (Bukele, 2019). Similarly, in June 2019, the Association of Municipal Workers (Asociación de Trabajadores Municipales, ASTRAM), a union allegiant to the president, requested, on social media, to identify another journalist from the above outlet because he was one of the “journalistic hitmen”, after said newsperson uploaded a post critical of the Minister of Labor on social media (Redacción Diario El Mundo, 2019).

The attacks on record even include alarming gender-based violence statements against female journalists. In June 2019, a journalist from *La Prensa Gráfica* received a series of threats after President Bukele unleashed a tirade against her for critical statements made by her on his administration (Asociación de Periodistas de El Salvador, 2019). In July of the same year, after the president quoted a remark unflattering to his administration made by an interviewer on the television program *Focos*, she received numerous death and sexual violence threats (Redacción El Liberal, 2019). Likewise, in October 2019, after publishing an article on a local infrastructure project undergoing notorious delays compared to the deadline initially set by the government, a journalist from *El Faro* received threats on social media in the form of messages about searching for her and hitting her “on the pie hole for being a liar” (Asociación de Periodista de El Salvador, 2019).

Finally, acts of violence were reported at the beginning of the period under review in San Miguel, where two camera operators from the *Televisión Oriental* (Eastern Television) channel who were trying to cover a murder scene were beaten by police officers in May 2019 (Redacción Diario El Mundo, 2019). That same month, *Radio Bálsamo* (Balm Radio) reported the theft of several items from its production equipment (Girón, 2019).



The violence described above takes place in the context of a legal vacuum, despite the proposed Special Law for Comprehensive Protection of Journalists, Reporters, and Media and News Workers, which has not been discussed since its introduction to the Legislative Assembly in October 2018, as mentioned in the analysis of the legislative environment. Hence, the passivity of the legislative and judicial branches in the face of these facts contributes to the impairment of free speech in the realm analyzed.

## REALM D. Control over the media

In this realm, the result of the rating by the experts surveyed was 18.8 points out of a possible 25. The Executive has engaged in actions aimed at controlling certain media outlets in at least two instances. The first one involves acts of indirect censorship by means of selective allocation of government advertising or removal thereof from critical media. This took place in September 2019, when the Office of the President repeatedly denied journalists from *El Faro* and *Revista Factum* entry, as mentioned in the realm of restrictions on the practice journalism. Immediately after *El Diario de Hoy* covered the first incident, the national Executive cancelled the advertising previously purchased in this media outlet; this cancellation has remained in effect by the closing of this report (El Faro, 2020 y Baires, 2020).

The harassment against *El Diario de Hoy* was not limited to the removal of government advertising. Concurrently, the Ministry of Education (Ministerio de Educación) cancelled a contract worth US\$1 million with *Grupo Editorial Altamirano*, parent company of the above newspaper, to print textbooks, despite it was awarded in a competitive tender process (El Faro, 2020 y Baires, 2020). Additionally, and regarding the second instance of attempts to control the media, as was the case with other critical outlets, *El Diario de Hoy* has been targeted with numerous selective inspections by the Ministry of Labor.

In October 2019, three inspectors from the Ministry of Labor visited the facilities of *Diario Co Latino*. This media outlet warned of a possible agenda behind the inspection, as it revealed that other media opposed to the national Executive, such as *Radio Maya Visión* and *GenteVé*, had also been subject to such procedures (diario Co Latino, 2019).

## CONCLUSIONS

Freedom of expression in El Salvador is undergoing a general and incremental deterioration in all its realms. Far from the occurrence of isolated threats and incidents, a sustained pattern of violence and persecution against journalistic, selective restrictions on the exercise of the freedom of the press, attempts at control over the media, and obstacles to access to public information can be noticed.

The institutional environment is unfavorable, mainly that of the executive branch. The fact that the period analyzed in this report concurs with the first year of President Bukele's



government allows us to identify, very accurately, the beginning of a new authoritarian escalation, in a country where, decades ago, the most violent armed conflict in Latin America ended.

In this new cycle, journalistic investigations of corruption cases and uncomfortable questions are met with financial, digital, and even legal harassment, along with the closing of spaces for media and citizens who wish to exercise their right to know. This response is given in an orchestrated manner by services part of the Office of President of the Republic, ministries, unions, digital platforms operating under anonymity, and even president Bukele himself.

The weakening of several of the fundamental pillars of democracy, noticed on February 9 with the call for civil uprising and the military occupation of the Legislative Assembly, and deepened during the pandemic, has not only caused significant whistleblowing by local stakeholders, but has also set off alarms overseas (Redacción Associated Press, 2020). Warnings about threats to freedom of expression, namely prior censorship, as well as defamation and stigmatizing attacks on journalists, were made in the latest annual report of the Inter-American Commission on Human Rights (IACHR) Office of the Special Rapporteur on Freedom of Expression (Comisión Interamericana de Derechos Humanos, 2020), for 2019.

Finally, it is important to briefly mention some of the events that took place after the closing of this report. With respect to the legislative environment, one representative proposed the creation of a special committee to inquire on cases of harassment against journalists and the media (Gutiérrez, 2020). Additionally, the Supreme Court of Justice Constitutional Chamber declared the orders that suspended access to public information proceedings at the IAIP unconstitutional (Sala de lo Constitucional de la Corte Suprema de Justicia, 2020).

On the other hand, there were serious attacks on the freedom of the press and even on journalists' physical safety. These include the use of cases of gender violence against a digital media outlet, the theft of a computer used for work purposes by a journalist who was investigating a case of corruption, cyber attacks on the server of this media outlet, and a midnight raid on the family home of the editor of a magazine critical of the government's management of COVID-19. Months before the legislative and municipal elections, these cases seem to indicate that threats against freedom of expression could worsen for our review next year.

## REFERENCES

Asociación de Periodistas de El Salvador. (2018). Anteproyecto de Ley Especial para la Protección Integral de Personas Periodistas, Comunicadoras y Trabajadoras de la Comunicación y la Información. El Salvador. Retrieved 2020, August 12 from: <http://apes.org.sv/wordpress/wp-content/uploads/2018/07/Anteproyecto-de-Ley-Especial-para-la-Protecci%C3%B3n-Integral-de-personas-periodistas-comunicadoras-y-trabajadoras-de-la-comunicaci%C3%B3n-y-la-informaci%C3%B3n.pdf>.





Asociación de Periodistas de El Salvador. (2019, July 2). Acoso digital contra periodista de LPG. *Asociación de Periodistas de El Salvador*. Retrieved 2020, August 13 from: <http://apes.org.sv/alertas/ataque-digital-contra-periodista-de-lpg/>.

Asociación de Periodistas de El Salvador. (2019, October 9). Periodista de El Faro es amenazada en Twitter. *Asociación de Periodistas de El Salvador*. Retrieved 2020, August 12 from: <http://apes.org.sv/alertas/periodista-de-el-faro-es-amenazada-en-twitter/>.

Asociación de Periodistas de El Salvador. (2020, March 24). Gobierno restringe por tercera ocasión derecho de preguntas a periodistas en conferencias de prensa. *Asociación de Periodistas de El Salvador*. Retrieved 2020, August 12 from: <http://apes.org.sv/alertas/gobierno-restringe-por-tercera-ocasion-derecho-de-preguntas-a-periodistas-en-conferencias-de-prensa/>.

Asociación de Periodistas de El Salvador. (2020, June 3). Pronunciamiento de Mesa de Protección a Periodistas sobre primer año de Gobierno de Nayib Bukele. *Asociación de Periodistas de El Salvador*. Retrieved 2020, August 10 from: <http://apes.org.sv/pronunciamiento-de-mesa-de-proteccion-a-periodistas-sobre-primer-ano-de-gobierno-de-nayib-bukele/>.

Associated Press. (2020, April 21). ONU se preocupa por estado de derecho en El Salvador. *Associated Press*. Retrieved 2020, August 12 from: <https://apnews.com/4f328bf9f6259807dd0818a3bc3fccab>.

Ávalos, J. (2019, November 8). IAIP compartió a Casa Presidencial información confidencial de ciudadanos. *Revista Factum*. Retrieved 2020, August 12 from: <https://www.revista-factum.com/iaip-entrego-informacion-ciudadanos-capres/>.

Avelar, R. (2019). Presidencia vuelve a impedir acceso de periodista a conferencia de prensa. *elsalvador.com*. Retrieved 2020, August 9 from: <https://www.elsalvador.com/eldiariodehoy/presidencia-vuelve-a-impedir-acceso-de-periodista-a-conferencia-de-prensa/639431/2019/>.

Baires, R. (2020, April 7). CIDH registra el 2019 como un año de amenazas y agresiones a la prensa en El Salvador. *Revista Factum*. Retrieved 2020, August 12 from: <https://www.revistafactum.com/cidh-registra-el-2019-como-un-ano-de-amenazas-y-agresiones-a-la-prensa-en-el-salvador/>.

Bukele, N. [nayibbukele]. (2019, April 30). Hoy FACTUM se graduó de Fake News, “interpretando” tuits con cosas que no tienen NADA QUE VER. ¿Método periodístico? ¿Dónde? @FitoSalume deberías de decirle a tu empleado @HsilvAvalos que deje de hacer sicariato periodístico. Ya que entiendo que es un tema de dueño del circo [Tweet]. Twitter. Retrieved 2020, August 12 from: <https://twitter.com/nayibbukele/status/1123377644828090369?s=20>.

- Bukele, N. [nayibbukele]. (2019, September 6). *Los de Factum y El Faro se están haciendo las "vístimas", pero esta es la realidad* [Tweet]. Twitter. Retrieved from: <https://twitter.com/nayibbukele/status/1170184271660814336/photo/1>.
- Cáceres, M. (2019, June 1). Batallón Presidencial retiene y amenaza a fotoperiodista de El Diario de Hoy. *elsalvador.com*. Retrieved 2020, August 9 from: <https://www.elsalvador.com/eldiariodehoy/batallon-presidencial-retiene-y-amenaza-a-fotoperiodista-de-el-dia-de-hoy/608870/2019/>.
- Chávez, G. (2020, March 10). Ley para proteger a los periodistas engavetada desde hace 17 meses. *Diario El Mundo*. Retrieved 2020, August 9 from: <https://diario.elmundo.sv/ley-para-proteger-a-los-periodistas-engavetada-desde-hace-17-meses/>.
- Committee to Protect Journalists (2019, September 12). El Gobierno salvadoreño bloquea la participación de dos medios de periodismo investigativo en las conferencias de prensa en la residencia presidencial. *CPJ*. Retrieved 2020, August 12 from: <https://cpj.org/es/2019/09/el-gobierno-salvadoreno-bloquea-la-participacion-d/>.
- Diario Co Latino. (2019, October 8). *Compartimos comunicado ante inspección de @TrabajoSV, realizada el lunes 7 de octubre a nuestras instalaciones* [Tweet]. Twitter. Retrieved 2020, August 9 from: <https://twitter.com/DiarioCoLatino/status/1181679342151229440>.
- El Faro. (2020, July 30). Bukele amenaza al periodismo. *elfaro*. Retrieved 2020, August 9 from: <https://elfaro.net/es/202007/columnas/24691/Bukele-amenaza-al-periodismo.htm>.
- Escalante, D. (2019, August 22). Organizaciones piden a Corte revocar decisión de no dar informes de probidad. *elsalvador.com*. Recuperado 2020, agosto 12 de <https://www.elsalvador.com/eldiariodehoy/organizaciones-piden-a-corte-revocar-decision-de-no-dar-informes-de-probidad/632643/2019/>.
- Flores, R. (2019, August 20). Corte Suprema: revelar los informes de Probidad viola la Constitución. *La Prensa Gráfica*. Retrieved 2020, August 12 from: <https://www.laprensagrafica.com/elsalvador/Corte-Suprema-revelar-los-informes-de-Probidad-viola-la-Constitucion-20190819-0434.html>.
- Fundación Salvadoreña para el Desarrollo Económico y Social (2019). El Salvador. Año Político. *El Salvador: Hanns Seidel Stiftung Oficina para Centroamérica y el Caribe*. Retrieved 2020, August 9 from: [http://fusades.org/sites/default/files/EI%20Salvador.%20A%C3%B1o%20Pol%C3%ADtico%202019-2020\\_0.pdf](http://fusades.org/sites/default/files/EI%20Salvador.%20A%C3%B1o%20Pol%C3%ADtico%202019-2020_0.pdf).
- Fundación Salvadoreña para el Desarrollo Económico y Social. (2020). Limitaciones al acceso a la información pública durante la pandemia de COVID-19. Retrieved 2020, August 10 from: [http://fusades.org/sites/default/files/PI\\_Limitaciones%20al%20acceso%20a%20la%20informaci%C3%B3n%20p%C3%BAblica%20durante%20la%20pandemia%20de%20COVID-19.pdf](http://fusades.org/sites/default/files/PI_Limitaciones%20al%20acceso%20a%20la%20informaci%C3%B3n%20p%C3%BAblica%20durante%20la%20pandemia%20de%20COVID-19.pdf).

- Girón, K. (2019, May 19). Nuevo Atentado contra Radio Bálsamo. *Arpas*. Retrieved 2020, August 12 from: <https://arpas.org.sv/2019/05/nuevo-atentado-contra-radio-balsamo/>.
- Gutiérrez, M. (2020, July 31). Proponen crear comisión especial para investigar acoso a periodistas. *Asamblea Legislativa de la República de El Salvador*. Retrieved 2020, August 9 from: <https://www.asamblea.gob.sv/node/10438>.
- Hernández, W. (2019, July 3). APES condena acoso a periodistas por sus opiniones en Twitter. *El Diario de Hoy*. Retrieved 2020, August 9 from: <https://www.elsalvador.com/eldiario-dehoy/apes-condena-acoso-a-periodistas-por-sus-opiniones-en-twitter/617815/2019/>.
- Inter-American Commission on Human Rights. (2020, February 24). Annual Report of the Inter-American Commission on Human Rights 2019. Retrieved 2020, August 14 from: <http://www.oas.org/en/iachr/expression/reports/ENGIA2019.pdf>.
- Instituto Universitario de Opinión Pública. (2020, January 29). Las salvadoreñas y salvadoreños evalúan los acuerdos de paz a 28 años de su firma y opinan sobre la democracia en el país. Boletín de prensa Año XXXIV No. 2., Universidad Centroamericana José Simeón Cañas (UCA). El Salvador. Retrieved 2020, August 12 from: [http://www.uca.edu.sv/iudop/wp-content/uploads/BOLETI%CC%81N\\_AA.pdf](http://www.uca.edu.sv/iudop/wp-content/uploads/BOLETI%CC%81N_AA.pdf).
- Marroquín, L., Jurado, V. (2019, September 6). Presidencia prohíbe entrada a periodistas de El Faro y Revista Factum a conferencia de prensa. *El Diario de Hoy*. Retrieved 2020, August 9 from: <https://www.elsalvador.com/noticias/nacional/presidencia-prohibe-entrada-de-el-faro-y-revista-factum-a-conferencia-de-prensa/637790/2019/>.
- Proyecto de Opinión Pública de América Latina. (2018). Barómetro de las Américas, series 2004 - 2018. *Universidad de Vanderbilt*. Retrieved 2020, August 10 from: <https://www.vanderbilt.edu/lapop/el-salvador.php>.
- Redacción web. (2019, June 16). Atram lanza graves acusaciones y pone en riesgo a periodista de Factum. *Diario El Mundo*. Retrieved 2020, June 16 from: <https://diario.elmundo.sv/asttram-lanza-graves-acusaciones-y-pone-en-riesgo-a-periodista-de-factum/#:~:text=Astram%20lanza%20graves%20acusaciones%20y%20pone%20en%20riesgo%20a%20periodista%20de%20Factum,-Redacci%C3%B3n%20web%2FDEM&text=La%20Asociaci%C3%B3n%20de%20Trabajadores%20Municipales,ministro%20de%20Trabajo%20a%20Suiza..>
- Redacción web. (2019, May 13). Agentes agreden a periodistas mientras cubrían escena homicidio en San Miguel. *Diario El Mundo*. Retrieved 2020, May 13 from: [https://diario.elmundo.sv/agentes-agreden-a-periodistas-mientras-cubrian-escena-homicidio-en-san-miguel/?utm\\_source=website&utm\\_medium=email&utm\\_campaign=share](https://diario.elmundo.sv/agentes-agreden-a-periodistas-mientras-cubrian-escena-homicidio-en-san-miguel/?utm_source=website&utm_medium=email&utm_campaign=share).
- Redacción El Liberal (2019, July 14). Denuncian nuevo caso de ciberacoso de parte de seguidores del presidente Bukele contra periodista. *El Liberal*. Retrieved 2020, August 12

from: <https://liberalsv.com/denuncian-nuevo-caso-de-ciberacoso-de-parte-de-seguidores-del-presidente-bukele-contra-periodista/>.

Sala de lo Constitucional de la Corte Suprema de Justicia. (2020, June 8). Sentencia de inconstitucionalidad 21-2020/23-2020/24-2020/25-2020. El Salvador Retrieved 2020, August 10 from: [http://www.jurisprudencia.gob.sv/pdf/I\\_21-2020.pdf](http://www.jurisprudencia.gob.sv/pdf/I_21-2020.pdf).

Sibrián, W. (2020, February 10). Asociación de Periodistas denuncia irregularidades en elección de nuevo comisionado del IAIP en representación de gremio. *La Prensa Gráfica*. Retrieved 2020, August 12 from: <https://www.laprensagrafica.com/elsalvador/Asociacion-de-Periodistas-denuncia-irregularidades-en-eleccion-de-nuevo-comisionado-del-IAIP-en-representacion-de-gremio--20200210-0060.html>.

## EL SALVADOR

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	The independence of the Constitutional Chamber, ending its term in 2027, the response capacity of some organized civil society groups dedicated to the rule of law, and the existence of independent media are the main strengths in this area.
<b>WEAKNESSES</b>	The organization of a media and propaganda ecosystem in favor of the current administration, the fragility of oversight institutions, the continued fragmentation of the party system – which could become more acute after the 2021 legislative elections, the economic crisis, and the inability of civil society to mobilize massively are the main weaknesses identified.
<b>OPPORTUNITIES</b>	The attention that El Salvador has drawn from the international community is the greatest opportunity in the foreign affairs front. Both international human rights organizations and the international press are closely monitoring actions detrimental to free speech. Likewise, foreign political personalities, including U.S. congresspersons, have raised their voices of alarm over the decline of the democratic system and freedom of expression violations.
<b>THREATS</b>	There are at least two latent threats. One is the current relationship between the government of El Salvador and the US government, which has remained passive in the face of abuses noted by officials from both the State Department and both sides of the aisle in Congress. The results of the November elections in the United States may have a significant impact in this regard. The other threat is the spread of the pandemic, with effects on the local economy creating greater extent of dependence, and even political cronyism among different groups with respect to the central government.

## 2.11.2 EL SALVADOR 2020-2021

EL SALVADOR	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>41,74</b>
REALM A: "Citizens free to express themselves"	23,00	6,57
Information flow	11,00	2,00
Free speech	12,00	4,57
REALM B: "Exercise of journalism"	10,00	5,43
REALM C: "Violence and impunity"	42,00	15,74
Protection	5,00	0,00
Persecution	7,50	0,00
Impunity	8,50	0,64
Registered violence	21,00	15,10
REALM D: Control over the media	25,00	14,00
Direct control	19,00	9,71
Indirect control	6,00	4,29

Chapultepec Index on Freedom of Expression and the Press 2021





## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

EL SALVADOR	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	5,81	4,61	6,53
REALM A: "Citizens informed and free to express themselves"	5,71	4,21	5,10
REALM B: Exercise of Journalism	9,00	8,14	9,57
REALM C: Violence and Impunity	6,52	4,71	8,14
REALM D: Control over the media	2,00	1,36	3,29

Type of Influence      Points

SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASURING PERIOD  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## El Salvador: freedoms on the brink of the abyss

### Executive Summary

The accelerated concentration of power following the legislative elections without integrity in February 2021, and the consequent co-optation of the Judiciary branch in May of the same year, paint a very alarming picture for free speech and freedom of the press in El Salvador. During the second year of President Nayib Bukele's term, the law enforcers committed acts of physical and verbal violence against journalists, government institutions restricted the exercise of journalism and harassed independent media, and citizens did not have institutional tools to rely upon to become aware of information that should have been public. The Central American country is approaching high levels of restraint, in a context unprecedented in its recent history.

## INTRODUCTION

El Salvador faced serious actions in the consolidation of an authoritarian regime during the period of observation between August 2020 and July 2021. Within the pandemic crisis, the government extended its powers by declaring unconstitutional states of emergency, in disobedience to court rulings; by obtaining a supermajority in the Legislative Council, upon misusing public resources for propaganda purposes; and by cutting public funding received by both political parties and municipalities (Escobar, 2021; OAS, 2021). On the first day of the new legislative majority, the ruling party removed the Constitutional Chamber's and the Attorney General of the Republic's justices and imposed subordinate officials. In June 2021, the Executive Branch expelled the International Committee against Corruption and Impunity in El Salvador (Comisión Internacional contra la Corrupción y la Impunidad en El Salvador, CICIES), one of the major promises of President Nayib Bukele's campaign. By the end of this period, it is clear the authoritarian pattern in the President's actions since 2016 (Meléndez-Sánchez, 2021, p. 23) and the installment of a hybrid regime in which there are no checks and balances, no institutional guarantees to ensure full elections, and no respect for fundamental rights (Corrales and Penfold, 2010, p. 11).

Dissident voices, including those of citizen organizations and independent journalism, were faced to a scenario of increasing vulnerability (Fundación Salvadoreña para el Desarrollo Económico y Social -FUSADES-, 2021, p. 165-189). Harassment against journalists rose substantially during the electoral process that culminated in the February 2021 legislative and municipal vote. The system of access to public information is neutralized and inopera-



tive. Attacks on the physical integrity of journalists, the systematic harassment of troublesome media outlets and the expulsion from the country of foreign journalists are now part of the new political dynamics. These actions would be less disturbing if the main government control institutions, such as the Judiciary branch or the Attorney General's Office, were not co-opted by the current administration. At the end of the year, two of four realms studied by this Index already show levels of "high restriction".

Free speech and freedom of the press in El Salvador are at their darkest point in the last three decades. Institutional advances fostered with the end of the armed conflict in 1992 and achieved in recent years –electoral democracy, independence of the Judicial branch and citizen participation– are now a thing from the past. By the end of the period under observation, there is sufficient evidence to anticipate a total decline of the rule of law that threatens the freedom and physical integrity of independent voices in the Central American country.

## Analysis of Results

The Chapultepec Index of Freedom of Expression and Press in El Salvador shows a decline from 42.60 points in 2020, to 41.74 points in 2021. In comparison with other countries in the region, El Salvador ranks 18th out of 22 countries; it only tops Brazil, Nicaragua, Cuba and Venezuela; moreover, their score in the "partial restriction" category is the lowest. In other words, El Salvador is the country closest to the "highly restrictive" category. Regarding the previous year, El Salvador dropped one position and is now even below Bolivia, which previously ranked 18th.

A major deterioration is identified in the first realm, linked to the citizens' practice of access to information and freedom of expression. As will be specified below, the dismantling of the system of access to public information and the consolidation of an environment of disinformation and harassment have to do with this decay. Both this and the third realm, focused on acts of violence and impunity, are within the "high restriction" range. A change that turns on red alerts when compared to the previous year.

Per the Index, too, the influence of the three government environments is "very strong" at the expense of the practice of journalism. The Executive environment has a "very strong" influence over all other realms; in terms of information and citizen action, actions of violence and impunity, and control over the media. It is followed in levels of influence by the Legislative environment, which shows "strong influence" in these areas. Lastly, the Judicial environment shows "strong influence", with the exception of control over the media, whose influence is still "mild". However, the co-optation of the courts of justice in recent months may increase the influence of the Judicial environment at the expense of free speech and freedom of the press in the near future.

## The New Hegemonic Environment

The February 2021 legislative elections reconfigured the Salvadoran state apparatus in a drastic way. With a majority of more than two thirds of the deputies, the ruling party dismantled the Constitutional Chamber and dismissed the attorney general on his first day in office, May 1, 2021. In this context, the Executive branch kept closing spots of expression and information at a boosted rate using a narrative sustained against the independent press, in a situation where the lack of inter-institutional control paves the way to impunity (Asociación de Periodistas de El Salvador -APES-, 2021a). Unlike the previous year, in which it was recorded an overall “mild influence” of institutional environments on these freedoms, the Index provides a new “very strong influence” rating for the period under observation.

The influence of the central government against free speech and freedom of the press has been looked into in various forms. In a nutshell, the Executive branch has hindered these freedoms directly through at least five methods: by dismissing non-ruling-party officers at the head of the Institute for Access to Public Information (Instituto de Acceso a la Información Pública, IAIP), and replacing them with government-related individuals; by using law enforcement officers to intimidate and attack journalist both physically and verbally; by utilizing diatribe, disqualification and ongoing stigmatizing statements against voices critical of the government, both against civil society organizations and human rights advocates, as well as against independent journalists and media; by turning the Ministry of Finance into an instrument to exercise fiscal harassment against the Media; and by exploiting the General Directorate of Migration and Foreign Nationals Affairs to expel from the country foreign journalists assigned to the investigation of corruption cases.

These methods are set in motion within an environment of government propaganda. In October 2020, the Executive branch launched the television program “Noticiero El Salvador” (*News El Salvador*) and began to issue the newspaper “Diario El Salvador”. In each case, far from showing an independent editorial line, these government-supporting media stick to the ruling party’s version of the facts under the leadership of the Office of the President’s Office of the Press Secretary.

The influence of the Legislative Council over the practice of journalism has gone from a “mild” to “strong” rating. One of the main deficits of the outgoing legislature, which has not been addressed by the new legislative majority, is the lack of a legal framework that provides safeguards and institutional resources for journalists. In October 2020, the Journalist Protection Roundtable submitted to the Legislative Council the draft of the Special Act for Comprehensive Protection of Journalists, Communicators and Press Workers, which involves the creation of a unit within the Attorney General’s Office which specialized in aggressions against journalists, and the implementation of security protocols.

The Legislation and Constitutional Points Committee formally initiated the discussion of the project few weeks before the end of the previous legislature. However, when the new legislature took office, the discussion did not go on, despite the fact that the proposal was drafted by a broad citizen coalition formed by the Association of Journalists of El Salvador (Asociación de Periodistas de El Salvador, APES), the Association of Participatory Broadcasting of El Salvador (Asociación de Radiodifusión Participativa de El Salvador, ARPAS), the Universidad Centroamericana José Simeón Cañas (UCA), the Female Journalists, Communicators and Press Workers' Group (Colectiva de Mujeres Periodistas, Comunicadoras y Trabajadoras de la Información, MPCTI), the Foundation for Applied Law Studies (Fundación de Estudios para la Aplicación del Derecho, FESPAD) and the Human Rights Advocacy Solicitor's Office (Procuraduría para la Defensa de los Derechos Humanos, PDDH); all organizations comprising the Mesa de Protección de Periodistas (Journalist Protection Roundtable).

The new legislative majority's agenda includes actions tending to restrain access to public information and to somewhat impact certain media outlets. In the first group is a draft amendment sent by the Ministry of Internal Affairs that weakens basic components of the Bill on Access to Public Information, such as allowing the hiding of information that currently must be mandatorily posted by all government institutions –called “informal information”– and holding back the patrimonial statements of public officials (Benítez, 2021). In the second group is the May 2021 amendment made to the Printing Press Law, which mandates newspapers to pay import tariffs for raw materials and equipment. Also included was an elimination of income tax exemptions, which has existed in Salvadoran legislation since 2014 but was used by the ruling party to falsely accuse newspapers of not paying taxes (FUSADES, 2021, p. 185).

The influence of the Judiciary branch presents an important change in comparison to the previous year, in which it registered a “slight influence” in general terms while now presents a “strong influence”. This trend takes place in a period during which the new legislative majority appointed two thirds of the 15 justices of the Supreme Court of Justice in only a couple of months –May and June 2021–, violating the Constitution and its 1991 amendments that established a gradual integration of the Court precisely to avoid that one political wing had too much power concentrated in their hands.

The Supreme Court of Justice's co-optation in favor of a new hegemonic regime echoed in two instances of infringement of free speech and freedom of the press during the last months of the period under observation. The first instance is an incident from June 2021, in which new Chief Justice Oscar López discredited a journalist and accused him of having “a rather poor mentality” in order to evade his questions (APES, 2021a).

The second instance is the prosecuting process initiated in July 2021 by the Professional Investigation Section of the Supreme Court of Justice against lawyer Enrique Anaya, who is a renowned columnist from an independent newspaper and has been overtly critic to the



current administration. The process accuses the lawyer of “professional misconduct” and could conclude with the suspension of his legal practice (Anaya, 2021).

## THE REALMS

### Less information and more intolerance to criticism

The greatest damage identified during the period under observation has to do with the Index’s first realm, which addresses the capability of citizens to get informed and express themselves freely and is labeled as “highly restrictive”. By April 2021, it was recorded a drastic reduction in the effectiveness of the Institute for Access to Public Information based on the number of cases handled on requests for access to public information that were denied, the number of cases finalized, and the number of resolutions that favored the citizens, while they forced government institutions to provide the requested information (Acción Ciudadana, 2021, p. 13).

Ordered by President Bukele, the dismissal in April 2021 of IAIP commissioner Liduvina Escobar was another action aimed at undermining the access to public information system. The former commissioner had been critical to the current administration because of the opacity the government has shown while handling the pandemic and the appointment of commissioners submitted to the President’s Office. Following her dismissal, the Bill on Access to Public Information Promoting Group highlighted “the escalation of setbacks that have been taking place lately in the IAIP and that have led to greatly deteriorate the exercise of access to public information” (Grupo Promotor, 2021). Added to the appointment of commissioners linked to the President’s Office and the dismissal of several public employees within the IAIP, this decision has been valued by representatives from civil society organizations as a “dismantling” of the institution and the access to public information system (Rodríguez, 2021). By the end of the period under observation, basic information such as the purchase of vaccines during the pandemic or the data of operations and payroll of the Legislative Council is held back for five and seven years, respectively (Flores, 2021 and Avelar, 2021).

In this scenario, the freedom of expression of certain critics to the government has been significantly infringed. In July 2021, former President Antonio Saca and his former private secretary Elmer Charlaix, sentenced to several years in prison for corruption offenses, participated in a special legislative commission that evaluates the use of the President’s Office expenditure items to have bonuses paid. In the records for this item, presented by the former president and his former private secretary, members of the now defunct National Development Commission, most of them critical to the government, emerged as beneficiaries of the fees, recognized as consultants of said commission. In spite of the fact that these payments did not constitute a bonus, the following day’s pro-government newspaper “Diario El Salvador” front page included the names and pictures of Peace Accords’ signer Salvador Samayoa, columnist Sandra de Barraza and representative of Transparency International Roberto Rubio, in the list of people who received bonuses (Diario El Salvador, 2021).



## Journalism under attack

In comparison to the previous period, the second realm in the Index, Exercise of Journalism, shows a setback. Since this was an election year, the APES' Journalist Aggression Monitoring Center monitored incidents that took place during the election campaign and on Election Day. In total, APES recorded 84 aggressions –26 of which corresponded to the electoral campaign while 58 occurred on Election Day– in contrast to the 2018 and 2019 electoral processes, in which 26 and 24 cases of aggressions were correspondingly recorded (APES, 2021b). Most of these cases were linked to restrictions on the exercise of journalism, although seven instances of physical and verbal violence against journalists were also recorded (APES, 2021b).

The use of government institutions as instruments aimed at directly restraining the exercise of journalism is a new reality in El Salvador. In July 2021, the General Direction of Migration and Foreign Nationals Affairs arbitrarily expelled two foreign journalists from the digital newspaper *El Faro*, Daniel Lizárraga and Roman Gressier (Avelar, 2021). Weeks later, members of the National Civil Police arrested four journalists from newspaper *Diario El Mundo* and the television station *Telecorporación Salvadoreña* for more than an hour while they were covering the recovery of a corpse in San Salvador, in addition to damaging the equipment of one of the journalists (Villarroel and Aquino, 2021).

During the last year, the escalation in hostilities towards the work of journalists and the impunity surrounding it are to be highlighted. As of July 2021, the APES' Journalist Aggression Monitoring Center summed up 153 violations against journalists during the first half of the year. These figures evince a significant deterioration compared to 2020, when 125 were recorded during the entire year (APES, 2021a).

## The Hazards from the Exercise of Journalism

Several journalists' safety and physical integrity was threatened and even violated on several occasions during the period under observation, beyond the electoral round. Hence, the Violence and Impunity realm ranks as "high restraint" in the Index. In July 2021, unknown subjects entered the home of journalist Julia Gavarrete's, then a digital newspaper *Gato Encerrado* team member, and stole her laptop and tablet while she was covering a news story. The case was immediately reported to the Attorney General's Office and there has been no progress to date (Moreno, 2020).

Threats and aggressions to the work journalists do were not only carried out by people lurking from anonymity, but in broad daylight by government officials whose duty is precisely to protect the safety of citizens. In June 2021, Minister of Security and Justice Gustavo Villatoro made the following statements when asked about a case regarding the discovery of several corpses in the municipality of Chalchuapa:

Why have they been hounding something that we should all be united on? We have to approach the security issue, contribute or make contributions in a responsible way, not like these crime-advocating publications for people to feel anxiety and some others want to engage in activities that they are communicating. It is being managed recklessly [...] There's a limit for everything, and we are following up on many journalists who are no longer making that sickening communication, but have a clear intention of being advocates (YSKL, 2021).

The rhetoric of high-ranking officials such as Minister Villatoro has already led to cases of physical violence against journalists. The most noticeable, since it was recorded on video by the journalist victim of assault, took place a month after the minister's statements, when National Civil Police Vice-Inspector Raúl Martínez slapped journalist Jorge Beltrán, from newspaper *El Diario de Hoy*, for covering the recovery of a student's corpse (Alfaro, 2021). To date, neither Vice-Inspector Martínez nor any government institution has been held accountable for the incident. Hence, the hegemonic environment favors these events to remain in impunity (APES, 2021a).

## Harassment against Uncomfortable Media

Control over the Media is the realm that scored the highest last year when it comes to the influence of the environments. Apart from the identification of a decline in the score, the environments influence went from being "mild" (the Executive branch) and "slight" (the remaining two) to having "very strong" Executive branch's, "strong" Legislative branch's and "mild" Judicial branch's influence. Direct control over the media identified in the previous period, which consisted of the publicizing of pro-government advertising spots only in state-owned media, went on during the period under observation.

The most overt instance of control over the media is that of digital newspaper *El Faro*, whose investigative journalism has shed a light on acts of corruption during the handling of the pandemic and negotiations between the government and gangs toward having the number of homicides decrease. In September 2020, President Bukele devoted quite a few hours to ravage independent media. During the conference, the President discredited *Revista Factum* because of receiving money from Open Society Foundations and admonished *El Faro* about an ongoing money laundering investigation (Guzmán, 2020). Weeks before the incident, the President had labeled *El Faro* on his social networks as a "trash outlet" (Cáceres, 2020).

Ministry of Finance's formal notification, in which *El Faro* was informed that according to a tax audit they had committed the offense of tax evasion, came in April 2021. Weeks earlier, both the Inter-American Committee on Human Rights and the Constitutional Chamber, which were closed down months later by the new majority, established precautionary measures in favor of the digital newspaper's team of collaborators (DW, 2021).

## CONCLUSIONS

The accelerated dismantlement of the rule of law in El Salvador poses a serious danger to Salvadorans' most fundamental rights, including free speech and freedom of the press. As this report goes to press, there are no institutional safeguards protecting anti-government independent, critical voices. In fact, there are serious impacts on the exercise of journalism that have gone unpunished.

The President's Office has become hegemonic in this context. The influence of the other government bodies is determined by the agenda President Bukele and his officials are furthering, with a lack of institutional counterweights. Accordingly, civil society organizations, independent media and their members are beginning to turn to international human rights instances, given the absence of independent national instances.

Documentation and effective systematization in such a scenario is critical. Although there's record of efforts to monitor violations of human rights and free speech and freedom of the press in the country, such as the Central American University José Simeón Cañas Human Rights (Instituto de Derechos Humanos de la Universidad Centroamericana José Simeón Cañas, IDHUCA)' Human Rights Observatory and the Monitoring Center of Aggressions against Journalists of APES, challenges to inform the international community in a more fluid manner are still up.

The problem, however, is far more complex. The deepening of the institutional co-optation process and the construction of a disinformation and harassment environment from online and institutional sources will continue, as well as the lack of a multiparty party system with functional opposition parties. As long as the regime's popularity dwindles down, it is possible to anticipate more aggressive actions toward criticism and public scrutiny. The latest acts of physical aggression against journalists forerun a probably more difficult year for informing and expressing oneself freely in El Salvador.

The process of constitutional reform and the deterioration of institutions key for the development of the following electoral processes will have an impact on free speech and freedom of the press in the months to come. Likewise, citizen mobilization and emerging collective actions will further strain the relationship between the law-enforcement agents and segments of civil society. After decades of an apparently stable political system, which turned out to be unsustainable for various reasons, El Salvador is moving towards becoming the next dictatorship in Latin America in which there will be scarce room for independent voices.

## REFERENCES

- Alfaro, X. (July 7, 2021) VIDEO: Oficial de Policía golpea a periodista de El Diario de Hoy que cubría hallazgo de cuerpo de joven desaparecido (*Police officer beats El Diario de Hoy journalist who was covering the discovery of the body of a missing young man*). *El Diario de Hoy*. <https://www.elsalvador.com/noticias/nacional/el-salvador-apes-edh-oficial-pnc-agrede-a-periodista/856454/2021/>
- Anaya, E. (July 7, 2021) *Hola. Buenos días, de nuevo. Abro breve Les informo: apenas 12 minutos después de la divulgación de mi artículo en la columna semanal en EDH, la CSJ me notificó la iniciación de un procedimiento sancionatorio por "mala conducta profesional" Empieza #LaRepresiónJudicial* [Tweet]. [https://twitter.com/enrique\\_anayasv/status/1412797829983182853?s=24](https://twitter.com/enrique_anayasv/status/1412797829983182853?s=24)
- Acción Ciudadana (2021). *¿IAIP en favor del ciudadano? (Pro-citizen IAIP?)*: <https://accion-ciudadana.org/informes/Informe.-%C2%BFEI-IAIP-en-favor-del-ciudadano%3F-Accion-Ciudadana.-2021.pdf?t=1622816927>.
- Asociación de Periodistas de El Salvador (8 de julio de 2021 [a]). Mesa de Protección a Periodista condena vulneraciones a la prensa cometidas por el Estado. Link: <https://apes.org.sv/mesa-de-proteccion-a-periodista-condena-vulneraciones-a-la-prensa-cometidas-por-el-estado/>
- Asociación de Periodistas de El Salvador (1 de marzo de 2021 [b]). Sobre afectaciones a periodistas durante las elecciones 2021. <https://apes.org.sv/centro-de-monitoreo-de-agresiones-a-periodistas-durante-las-elecciones-municipales-legislativas-y-al-parlamento-centroamericano/>
- Avelar, R. (July 12, 2021). Gobierno niega permiso de trabajo a otro periodista de El Faro. *El Diario de Hoy*. <https://www.elsalvador.com/noticias/nacional/el-faro-denuncia-extranjeria-denego-permiso-periodista/858293/2021/>
- Avelar, R. (March 24, 2021). Legislative Council holds information on expenditures, purchases and paperwork for up to seven years *El Diario de Hoy*. <https://www.laprensagrafica.com/elsalvador/Asamblea-Legislativa-reserva--informacion-de-gastos-compras-y-planillas-20210824-0062.html>
- Benitez, B. (July 13, 2021). Bukele pide ocultar las declaraciones patrimoniales y propone otras 12 reformas en contra de la transparencia. *GatoEncerrado*. <https://gatoencerrado.news/2021/07/13/bukele-pide-ocultar-las-declaraciones-patrimoniales-y-propone-otras-12-reformas-en-contra-de-la-transparencia/>
- Cáceres, G. (September 14, 2020). El Faro presenta amparo Constitucional contra Hacienda por solicitud de datos no tributarios. *El Faro*. [https://elfaro.net/es/202009/el\\_salvador/24815/El-Faro-presenta-amparo-Constitucional-contr-Hacienda-por-solicitud-de-datos-no-tributarios.htm](https://elfaro.net/es/202009/el_salvador/24815/El-Faro-presenta-amparo-Constitucional-contr-Hacienda-por-solicitud-de-datos-no-tributarios.htm)
- Corrales, J. and Penfold, M. (2010). *Un dragón en el trópico*. La Hoja del Norte: 2012.
- Escobar, V. (June 7, 2021). El uso de recursos públicos aventajó a Nuevas Ideas en elecciones 2021. *GatoEncerrado*. <https://gatoencerrado.news/2021/06/07/uso-de-recursos-publicos-aventajo-a-nuevas-ideas-en-elecciones-2021/>

- Diario El Salvador [@elsalvador]. (July 23, 2021). *Esta es la portada de #DiarioElSalvador de este viernes 23 de julio del 2021. #DiarioES #DES* [Tweet]. <https://twitter.com/elsalvador/status/1418435707408814080?s=24>
- Flores, A. (August 25, 2021). Legislative Council holds information on expenditures, purchases and paperwork for up to seven years *La Prensa Grafica*. <https://www.laprensagrafica.com/elsalvador/Asamblea-Legislativa-reserva--informacion-de-gastos-compras-y-planillas-20210824-0062.html>
- Fundación Salvadoreña para el Desarrollo Económico y Social (FUSADES) (2021). *El Salvador. Political year*. [https://fusades.org/publicaciones/DEP\\_El%20Salvador.%20A%C3%B1o%20Pol%C3%ADtico%202020-2021.pdf](https://fusades.org/publicaciones/DEP_El%20Salvador.%20A%C3%B1o%20Pol%C3%ADtico%202020-2021.pdf)
- Grupo Promotor de la Ley de Acceso a la Información Pública (April 23, 2021). Incrementan ataques al derecho de acceso a la información. <https://twitter.com/grupopromotorsv/status/1385694722526691336?s=12>
- Guzmán, V. (September 25, 2020). Bukele anuncia en cadena nacional que Hacienda investiga a El Faro por lavado de dinero. *El Faro*. [https://elfaro.net/es/202009/el\\_salvador/24855/Bukele-anuncia-en-cadena-nacional-que-Hacienda-investiga-a-El-Faro-por-lavado-de-dinero.htm?st-full\\_text=all&tpl=11](https://elfaro.net/es/202009/el_salvador/24855/Bukele-anuncia-en-cadena-nacional-que-Hacienda-investiga-a-El-Faro-por-lavado-de-dinero.htm?st-full_text=all&tpl=11)
- Meléndez-Sánchez, M. (2021). Latin America Erupts: Millennial Authoritarianism in El Salvador. *Journal of Democracy*, 32(3), 19-32. <https://journalofdemocracy.org/articles/latin-america-erupts-millennial-authoritarianism-in-el-salvador/>
- Moreno, K. (July 9, 2021). Idhuca presenta aviso a Fiscalía por hurto de laptop a periodista de Gato Encerrado. *Gato Encerrado* <https://gatoencerrado.news/2020/07/09/idhuca-presenta-aviso-a-fiscalia-por-hurto-de-laptop-a-periodista-de-gatoencerrado/>
- Organization of American States (March 3, 2021). Informe Preliminar de la Misión de Observación Electoral de la OEA en El Salvador. <http://www.oas.org/eomdatabase/MoeReport.aspx?Lang=en&Id=431&MissionId=512>
- DW Newsroom (June 23, 2021). El Salvador convocado ante CIDH por medidas cautelares a El Faro. *DW*. <https://www.dw.com/es/el-salvador-convocado-ante-cidh-por-medidas-cautelares-a-el-faro/a-58009167>
- Redacción YSKL (8 de junio de 2021). ‘Todo tiene su límite’: Ministro de Seguridad sobre ‘apología del delito’. *YSKL*. <https://radioyskl.com/2021/06/08/todo-tiene-su-limite-ministro-de-seguridad-sobre-apologia-del-delito/>
- Rodríguez, M. (29 de mayo de 2021). ‘Es urgente rescatar al IAIP’, señalan expertos. *El Diario de Hoy*. <https://www.elsalvador.com/noticias/nacional/iaip-el-salvador-urgente-rescate-expertos/843489/2021/>

Villarroel, G. and Aquino, G. (August 20, 2021). PNC priva de libertad por una hora a periodistas de Diario El Mundo y TCS. *Diario El Mundo*. <https://diario.elmundo.sv/pnc-priva-de-libertad-por-una-hora-a-periodistas-de-diario-el-mundo-y-tcs/>



## EL SALVADOR

MEASURING PERIOD  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Strengths, Weaknesses, Opportunities and Threats Analysis

<b>STRENGTHS</b>	The increasing citizen mobilization and the impact of the local media in foreign media are the most visible strengths. Likewise, the fiscal reality of the country and contradictions between a national government that centralizes resources and local governments that lack funds to address immediate needs will facilitate greater citizen articulation in the short and medium term. There are emerging efforts of multi-sectoral alliances within organized civil society. Likewise, the strength of local investigative journalism is still a landmark when it comes to information and identification of acts of corruption.
<b>WEAKNESSES</b>	The dismantling of the rule of law and the lack of political opposition, which should channel pressures towards the advocacy for human rights and democracy, are the main weaknesses to be highlighted. Also, the great popularity of the regime, its disinformational environment, the instrumentalization of law enforcement forces to the detriment of human rights and due process, the growing impunity and the low democratic culture of the population are determining weaknesses.
<b>OPPORTUNITIES</b>	The outcome of the November 2020 elections in the United States and the Biden administration's focus on the fight against corruption and on the human rights and democracy agenda is the main opportunity, at least until January 2025. In that direction, bipartisan consensus on the Salvadoran situation and increased cooperation for capacity building within civil society and the media, as well as strengthening mechanisms to protect journalists and human rights defenders are other important opportunities.
<b>THREATS</b>	The passivity of the international community, mainly the majority of countries represented in the Organization of American States, and the weakening of political systems in Central America, are threats that enable institutional breakdown in El Salvador. Additionally, the potential alliances of organized crime, both domestic and transnational, with the Bukele regime may strengthen the arena for repression and the predominance of para-state armed groups.

## 2.11.3 OVERVIEW

### El Salvador

**El Salvador** obtained similar levels in both iterations of the Chapultepec Index of Freedom of Expression and the Press, remaining at the bottom spot of countries within the Partially Restriction bracket, below the overall average and with a downward trend during both periods of analysis. On the first occasion, it obtained 42.6 out of 100 points; in the second, 41.74. This occurs during the administration of President Nayib Bukele, marked by a narrative against the media and restrictive actions towards media professionals.

In Realm A, Informed Citizens Free to Express Themselves, El Salvador showed a decrease between both studies. In the first opportunity, it obtained 11 points out of a theoretical maximum of 23; in the second, 6.57, which places this country in the High Restriction bracket for this item. In the first period, there were reports of denial of access to information on the management of public funds by officials, worsened by measures to address the [COVID-19] pandemic. The decrease in the second period occurred amid a declining effectiveness of the Institute for Access to Public Information (Instituto de Acceso a la Información Pública), an entity that underwent a restructuring viewed as controversial.

In Realm B, Exercise of Journalism, El Salvador obtained 6.4 points out of 10 in the first edition of the Index, dropping to 5.43 in the second one. The restrictive actions on the media for press conferences, as well as remarks from the president towards the work of journalists described in the first period, continued with the aggravating fact of two press correspondents being evicted from the country in July 2021, among other situations unfavorable to news coverage.

In Realm C, Violence and Impunity, the figures rose partially, but the assessment of institutional actions in this item remains low, amid a climate of aggression against the press. In the first study, the value stood at 6.4, in the second, at 15.42. This hints at an increase, without it being completely translated into an improvement. In the first review, there were reports of intimidation by the president and threats by supporters of his administration against journalists; in the second, National Civil Police (Policía Nacional Civil) Deputy Inspector Raúl Martínez slapped journalist Jorge Beltrán, an incident not followed by any investigation or punishment, among others.

In Realm D, Control over the Media, El Salvador experienced a setback, dropping from the Low Restriction bracket, with 18.8 points, to 14 points, out of a theoretical maximum of 25. Digital media have been the target of investigations and, in this context, the president has described website *El Faro* as “trash media”. In addition, there continued to be complaints about discriminatory treatment in the allocation of government advertising buys.

According to the judges consulted, the executive environment was the most linked to situations unfavorable to freedom of expression. In general, this branch of government appears with an influence that varies from moderate to very strong, the latter degree in Realm C, Violence and Impunity.

Las mediciones del Índice Chapultepec de Libertad de Expresión y Prensa, manteniéndose al final de la fila de los países en la franja de Parcial Restricción, por debajo del promedio global en ambos lapsos de análisis y con tendencia hacia la baja. En la primera oportunidad, obtuvo 42,6 de 100 puntos; en la segunda, 41,74. Ocurre esto durante la administración del presidente Nayib Bukele, caracterizada por una narrativa en contra de los medios de comunicación y acciones restrictivas hacia los profesionales de empresas informativas.

En la Dimensión A, “Ciudadanía Informada y Libre de Expresarse”, El Salvador registró un descenso entre ambas mediciones. En la primera oportunidad, obtuvo 11 puntos de un máximo teórico de 23; en la segunda, 6,57, lo cual posiciona a este país en Alta Restricción en esta área. En el primer período, se reportó la negativa al acceso a la información sobre el manejo de fondos públicos por parte de las autoridades, acentuada por medidas en el marco de la pandemia. El descenso en el segundo período tiene como contexto la reducción de la efectividad del Instituto de Acceso a la Información Pública, ente que sufrió una reestructuración considerada polémica.

En la Dimensión B, “Ejercicio Periodístico”, El Salvador obtuvo 6,4 puntos de 10, en la primera edición del barómetro, registro que descendió a 5,43, en la segunda. Las acciones de restricción de medios a ruedas de prensa, así como las calificaciones del mandatario hacia el trabajo de los periodistas descritos en el primer período, continuó con el agravante de la expulsión del país de dos corresponsales de la prensa en julio de 2021, entre otras situaciones desfavorables para la cobertura informativa.

En la Dimensión C, “Violencia e Impunidad”, los números se recuperaron parcialmente, pero sigue la valoración de las acciones institucionales en ese particular, ante un clima de agresión a la prensa. En el primer barómetro, el valor se ubicó en 6,4, en el segundo, en 15,42, suponiendo un alza, sin que se traduzca del todo en una mejora. En la primera medición se reportó discurso de intimidación por parte del mandatario y amenazas de afines a su gestión hacia periodista, en el segundo, el propio subinspector de la Policía Nacional Civil, Raúl Martínez, abofeteó al periodista Jorge Beltrán, sin que se produjeran investigaciones ni castigo al respecto, entre otros hechos.

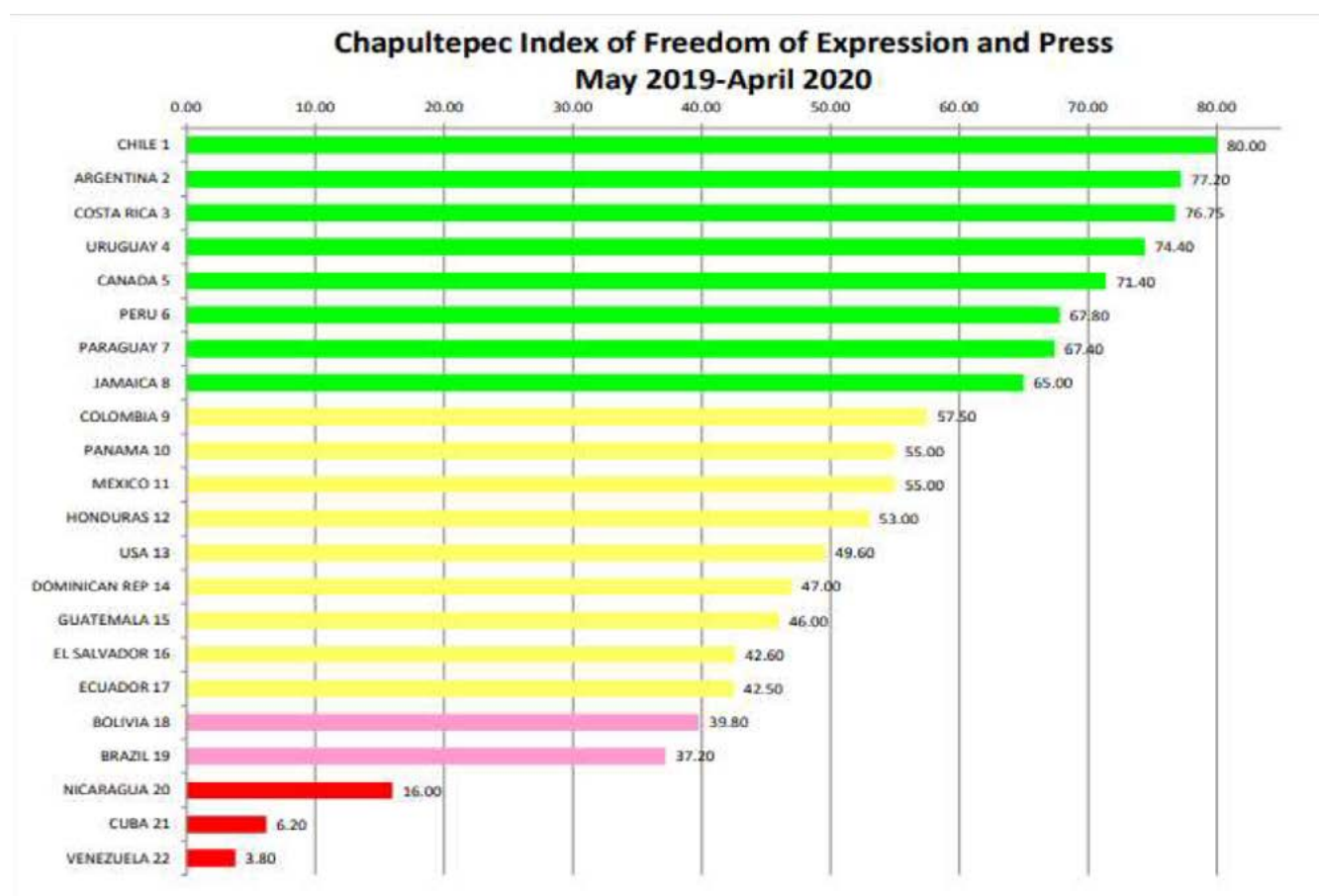
En la Dimensión D, “Control de Medios”, El Salvador evidenció un retroceso, descendiendo de una franja de baja restricción, con 18,8 puntos, a 14 puntos, de un máximo teórico de 25. Medios digitales han sido centro de investigaciones y en ese marco, el mandatario ha calificado como “medio basura” al portal digital El Faro. Adicionalmente, continuaron las denuncias sobre tratos discriminatorios en las entregas de pautas publicitarias pagadas por el Estado.

El entorno Ejecutivo fue el más vinculado con las situaciones desfavorables a la libertad de expresión, según los jueces consultados. En general este poder aparece con una influencia que varía de moderada a muy fuerte, este último grado en la Dimensión C, “Violencia e Impunidad”.

## 2.12. GUATEMALA

### 2.12.1 GUATEMALA 2019-2020

GUATEMALA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>46.0</b>
<b>REALM A: "Citizens informed and free to express themselves"</b>	<b>23</b>	<b>14.6</b>
Flow of information	11	6.6
Free Expression	12	8.0
<b>REALM B: Exercise of Journalism</b>	<b>10</b>	<b>6.2</b>
<b>REALM C: Violence and Impunity</b>	<b>42</b>	<b>8.4</b>
Protection	10	0.8
Persecution	15	3.2
Impunity	17	4.4
<b>REALM D: Control over the media</b>	<b>25</b>	<b>16.8</b>
Direct control	16	12.0
Indirect control	9	4.8



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

GUATEMALA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	4.94	3.74	5.52
REALM A: "Citizens informed and free to express themselves"	7.25	4.69	8.04
Flow of information	6.84	3.72	8.32
Free Expression	7.67	5.67	7.75
REALM B: Exercise of Journalism	2.54	1.90	2.37
REALM C: Violence and Impunity	5.46	4.66	6.01
Protection	1.60	2.07	1.43
Persecution	8.10	5.23	8.93
Impunity	6.67	6.67	7.67
REALM D: Control over the media	2.80	1.88	3.58
Direct control	1.60	1.15	2.25
Indirect control	4.00	2.61	4.92

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00



MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

## Guatemala: Restrictions on high-risk exercise of journalism

### Executive summary

The Guatemalan government persists in toughening its regressive stance on Human Rights and in its tense relationship with the press, a situation that has worsened in the context of the COVID-19 pandemic. The restrictions on the practice of journalism that both the Executive and the Legislative have put in place make work difficult, further encouraging opacity and contributing to weakening citizens' monitoring activity, as they are prevented from accessing relevant information on problems experienced by them. The lack of a protection plan for professional journalists makes them highly vulnerable.

## INTRODUCTION

The period under analysis comprises the last year of President Jimmy Morales's government of and the first months of current President Alejandro Giammattei Fialla's administration, inaugurated on January 14, 2020. The balance of Morales's term (2016-2020) is negative regarding most social indicators in the country, as well as the weakening of institutions' approach on Human Rights.

The deterioration of the democratic system began in 2014, but became more acute from 2016 onwards, as can be drawn from the 25 draft bills introduced to the Legislature with clearly regressive Human Rights elements (UDEFEQUA, 2018). Another compelling proof of this setback was the way in which the Executive, in disregard of due process, denounced the treaty between Guatemala and the United Nations, in force since 2006, which provided for the operation of the International Commission against Impunity (Comisión Internacional contra la Impunidad en Guatemala, CICIG), ceasing its activities as of September 2019.

President Morales's relationship with journalists and the media was characterized by his intolerance towards the monitoring of the press and by constant siege through smear and defamation campaigns against journalists and newsmen, Human Rights defenders, and members of civil society. The electoral season worsened the situation because freedom of expression was further compromised.

In addition to the climate of constant siege by the Executive against the press, the Supreme Electoral Court (Tribunal Supremo Electoral) attempted to set a series of restrictive

rules for media coverage of campaigns for public office, as well as the ban on cell phone use by voting poll staff. Both measures were subsequently reported and overturned.

In addition, attacks on the press increased. According to the Association of Journalists of Guatemala (Asociación de Periodistas de Guatemala, 2019) records, there were 39 instances of violations of freedom of expression during the electoral process. As for violence against its members, there is a clear thread of continuity between one term of government and the other since, although in the early days of Giammattei's government pressure and campaigns against the press decreased, the situation became complicated again, once executive orders regarding special health measures to address the COVID-19 pandemic were issued. In the first four months of the year 2020, the Journalists' Observatory of the Association of Journalists of Guatemala ([Asociación de Periodistas de Guatemala] APG, 2020) documented 28 cases of aggressions. In the first four months of the year 2020, the Journalists' Observatory of the Association of Journalists of Guatemala ([Asociación de Periodistas de Guatemala] APG, 2020) documented 28 cases of aggressions.

Another thread of continuity is the trend towards the erosion of institutions and the increase in violations of constitutional rights and guarantees, which has persisted after the current government officials took office.

## Report

Guatemala ranks 15<sup>th</sup> out of 22 countries, with 46 out of 100 points in the Freedom of Expression Index, and is rated as a country with partial restrictions on this right. Of the four realms assessed, three of them place the country as one with low restrictions (regarding informed citizens free to express themselves, exercise of journalism, as well as control over the media). However, the Index drops abruptly in the realm of violence against journalists because the situation is dire in this regard.

## The Executive restricts freedom of expression

Early on in his term, President Alejandro Giammattei had an altercation with journalist Marvin del Cid. Such was the first incident marking the relationship that he intends to build with the press. On January 20, 2019, he questioned the journalist's work for "conducting a series of investigations based on I don't know what and we ourselves consider that you are stepping out of line...I wish I knew who is telling you to inquire on us that way" (Artículo 19, 2020). The journalist had conducted research that brought to light non-transparent acts of Giammattei's election campaign.

At the inception of the pandemic, on March 14, 2020, the president publicly stated that, if the orders issued were not complied with, censorship on contents released by the media would be applied. The reason for this – he stated – would be that "the Law on Public Order



(Ley de Orden Público) says that, during any of the states of emergency, news organizations are in the duty to edit publications that could cause confusion or panic, or worsen the situation, as well as biased remarks regarding current circumstances (...) censorship could be imposed on such entities. We don't want to reach that point; I appeal to the media and the citizens to hear what the government is saying" (Denuncia Pública, 12 de abril de 2020).

The following days, on two occasions, the president made disparaging remarks on the journalists' endeavor. In one instance, while leaving the Congress of the Republic (Congreso de la República) [Legislative], he sprayed the journalists stationed there with a liquid as he said, "This is journalist repellent" (Natareno, 2020). Next, alluding to a lockdown ordered in one of the municipalities of the country, he stated, "I would like to put the media in quarantine but I cannot" (Trejo, 2020).

This relationship of affront, undermining, and persecution against journalists, especially those who probe cases in connection with the Executive and its inner circle, was rated at 8.93, that is to say, a high influence from negative institutional actions. The same happened with respect to the restrictions on journalists' work between March and April 2020 from these two succeeding presidents of the nation and those in charge of institutional communications at several government agencies who, under the guise of the pandemic, have delayed releasing information. This constitutes a clear restriction on the right of citizens to be informed and, regarding the press, a hurdle to the fulfillment of its duty. The weighting of the impact of the Executive in these realms achieved 8.32, for rating this string of discouraging institutional actions affecting information flow, and 7.75 as a negative or detrimental influence on freedom of expression.

At the municipal level, according to the APG (2020) the situation is not any better, since there are instances of censorship, restrictions, or delays in the release of information to the press on orders from mayors and municipal offices.

## **Legislative environment, with the dead weight of "the covenant of the corrupt"**

As for the Congress of the Republic, a unicameral legislative body, the 160 congresspersons of this new legislature took office on January 14, 2020, for the 2020-2024 term. This branch of government was very much questioned during the previous term (2016-2020) for aligning its interests with what in the country has dubbed "the covenant of the corrupt", that is, a ring of politicians, officials, and businessmen that surfaced in September 2017. From high places, they wield their influence to retain impunity and privileges.

The rating on this issue was unfavorable, achieving a strong influence in detriment of free expression (7.67) and in the assessment on situations regarding persecution (8.10). The reasons for this rating are, on the one hand, a series of restrictions on access to information imposed since 2019 and still effective in 2020 as part of the special safety measures in the



wake of the pandemic, and, on the other, being part of a structure that prosecutes journalists for doing their job.

It should also be clarified that, despite the lack of overt actions from the Legislative to use the media structure in order to further its political views or its public image to the detriment of plurality, its failure to pass legislation encouraging a more diverse media landscape, in a country with a high concentration of them in a few hands, should be understood as a lack of political will to democratize the media ecosystem.

The same situation occurs regarding the Internet service, since the country lacks a regulatory framework to govern its operation, infrastructure, and innovation capabilities. Service vendors are subjected to few controls and are able to operate in a market economy framework with little or no regulation. The need to reform the General Telecommunications Act (Ley General de Telecomunicaciones) or to promote discussions on a digital agenda has been proposed, but to date none of this has come to fruition.

## **The Judiciary: Slowness and lack of understanding of crimes against freedom of expression**

The outlook of the Judiciary in this country is extremely complex. Among the reasons for this, the process for appointing justices to the Supreme Court of Justice (Corte Suprema de Justicia) and judges to Courts of Appeals y (Cortes de Apelaciones), which the Congress of the Republic should have conducted in 2019, is swamped in a host of procedural irregularities, as denounced by the Office of the Special Prosecutor against Impunity (Fiscalía Especial contra la Impunidad), as well as in power struggles among judicial bodies. Due to this situation, the Constitutional Court (Corte de Constitucionalidad) suspended the appointment process and, to date, it remains unconcluded.

In this context, the judicial environment was the one that achieved lowest impact in all the realms: Informed citizens (4.69, that is, moderate influence in situations discouraging free speech); measures to promote the exercise of journalism (1.90), primarily because the Constitutional Court supported the Human Rights Ombudsman (Procurador de Derechos Humanos) when he confronted Congress for attempting at preventing journalists from accessing their sources; it was also perceived to exert a moderate influence on violence and impunity (4.66). Notwithstanding, in the sub-realm impunity, the score showed a strong negative influence (6.67), since proceedings for journalists seeking justice are extremely slow, and because, despite efforts by international organizations and the civil society to raise awareness of the importance of harsher penalties for crimes committed against freedom of expression, this has not been accomplished in the country.

The most prominent landmark case in this regard is that of community journalist Oswaldo Ical Jom, who was kidnapped and tortured in 2014 and is still waiting for justice to be served after six years. On August 29 that year, while covering a case, he was kidnapped and



dragged away by locals who locked him up in a school, threatened him, beat him, and took away his work equipment. The individuals who assaulted him were local officials at the time. They were brought to trial and, after two years and eight months, these assailants, the brothers Antonio and Diego Itzep López, were found guilty for unlawful imprisonment and threats, thereby being sentenced to a four years' term commutable to the sum<sup>1</sup> of Q7,300 each (less than US\$1,000), or Q5 a day (US\$0.65). After payment thereof, they were released. Resulting from that verdict, the Attorney General's Office (Fiscalía / Ministerio Público, MP) was bound to continue the probe, which it has actually done. The case is ready to be filed again with a relevant court. However, in order for the process to move forward, Attorney General María Consuelo Porras has to sign a document allowing her to declare extended jurisdiction and take the case to a Major Felony Court (Tribunal de Mayor Riesgo). The document has been in the Attorney General's office for two years, and not proceeded upon.

## REALM A: Informed citizens?

Guatemalan citizens, who played a prominent role during the crisis of legitimacy of the political system unleashed in 2015, have seen their monitoring and whistleblowing role diminished due to the onslaught of harassment and prosecution actions on the part of members of "the covenant of the corrupt" against rights defenders. However, the rating for citizens' access to information was 14.6 out of 23 points.

While it is true that the experts surveyed gave a positive assessment to this realm, it is important to stress that, in the country, there is a high concentration of media ownership since most outlets belong to one or two leading business conglomerates. In this regard, citizens get news from several outlets; but the media agenda reflects the same political / philosophical views, that is, certain information is restricted or placed within the conceptual constraints of the political, economic, and journalistic elites.

This situation, added to government pressure to control what is published, on the argument of the need to suppress contents in order to avoid spreading panic, significantly restricts the information received by the society. Furthermore, there are attempts at prosecuting or censoring dissident thought, such as what happened on April 1 in a television station where the president of the republic said, during an interview, that seven people "inciting sedition" on social media had been identified and would be reported to the MP, proceedings that were never conducted.

Another important aspect to bear in mind is the way in which access to public information has been restricted during the pandemic. First, no press conferences are held anymore. Instead, presidential addresses are released in pre-recorded formats, thereby preventing journalists from looking more deeply for required information. Secondly, the whistle has been blown several times on delays in the release of public information by government agencies.

<sup>1</sup> Translator's Note (TN): Q = Quetzal, the currency of Guatemala (ISO: GTQ).

This led the Human Rights Ombudsman to issue a statement, on April 10, 2020, urging institutions to comply with the deadlines set forth in the Law on Access to Public Information (Ley de Acceso a la Información Pública) (Vásquez, 2020). Finally, the information released to the media is insufficient. Since April 11, 2020, the president announced, in one of his pre-recorded addresses, that only the sex and age of people testing positive for coronavirus would thereafter be disclosed, thus omitting the release of other relevant data.

Therefore, although it is true that there is no explicit regulation banning free information flow, there are filters in place regarding content, approach, and access to public information.

## **REALM B: Restrictions on the practice of journalism**

The rating in this realm was 6.2 out of 10 points possible. Albeit not discouraging, it is noteworthy that attempts have been made to restrict journalists' ability to access information, especially on those who report news unpleasant to the president or his ministers.

Upon the inception of the health crisis, there has been constant restriction on access to information for journalists and the media, except for reporters and newsmen in government chat groups. Most frequently, it has been communications staff at the Ministry of Public Health and Social Action (Ministerio de Salud Pública y Acción Social) the ones involved in these practices or in belated release of information. Government officials have managed to gather data in all things the health crisis, yet in a slow, opaque, and non-transparent manner.

Likewise, the above Ministry issued a statement announcing that two journalists from media outlet *Vox Populi* would be criminally charged with defamation and psychological violence for publishing news on the irregular appointment of its communications officer, Ana Lucía Gudiel Zacarías. In other words, they would be filed a complaint for doing their job.

Threats, insults, and persecution against journalists have been the response from the president to those who publish information calling into question the measures taken by the Executive.

On April 2, 2020, the Legislative denied journalists entry into the press box, claiming to act in compliance with safety measures in the wake of the pandemic. However, this spurred suspicion among journalists and activists that the ban was ordered precisely when the approval of a loan worth millions earmarked for fighting COVID-19 – but that would also divert funds to the private sector – was slated for discussion.

The Human Rights Ombudsman brought an action against the Legislative because he considered that the right to freedom of information had been breached. Consequently, the Constitutional Court, the highest court in the land, found for the Ombudsman in a temporary injunction whereby Congress was ordered to guarantee access of the press to information sources.



## REALM C: Continuum of violence and impunity against journalists

This is the realm rated the lowest out of the four, 8.4 points out of 42. The low score is understandable because, in total, during 2019, the Protection Unit for Human Rights Defenders of Guatemala (Unidad de Protección a Defensores y Defensoras de Derechos Humanos de Guatemala, UDEFEGUA) reported 104 aggressions against journalists and newsmen, significantly more than the 26 on record in 2018. During the first four months of 2020, the APG (2020) totaled 28 cases of some kind of crime against them (ten instances of obstruction of sources, six of physical or material aggression, three of threats, three of intimidation, two murders, one instance of harassment, another of verbal assault, one of cyberattack, and one more of slander). From 2015 to date, the Attorney General's Office has totaled 392 cases of crimes against journalists.

One of the landmark cases, due to its recurrence, occurred on February 29 to Oscar Quintana, a correspondent for a print media company residing in the Department of Santa Rosa who was subjected to physical violence and threats by 4<sup>th</sup> Councilman of Taxisco Selvin Hernández López. The reporter had previously received threats from municipal officials. This was the second time he was subjected to this type of violence since he had previously experienced a similar situation in 2018. For this reason, he has been assigned personal security detail.

Another case worthy of special attention is the raid on and theft of material and work supplies against community journalist Carlos Ernesto Choc Chub on April 18, 2020. His is a landmark case because, in 2017, he was prosecuted along with others for his work in defense of natural resources in the area where he lives. Currently, the sentence against him for environmental research and Human Rights journalism activities has been commuted.

In addition, the murder of presenter Irma Chinchilla occurred on February 6, 2020 in the municipality of Salamá, Baja Verapaz, in the North of the country. In December 2019, she denounced that she had been the victim of a smear campaign on social media, apparently for personal reasons. Later, journalist Bryan Leonel Guerra Chegüen was the target of an attack that took his life, on February 27, 2020, in Chiquimula. The newsman had received death threats, which were reported to the local police and the Office of the Attorney General. However, he received no support or protection.

The category that measures protection was the poorest performing of the three that make up this realm (0.80 out of 10 points), since all these situations experienced by journalists occur in a context of total lack of protection by the Guatemalan State. This contradicts the commitment made by Guatemala as of 2012, in the framework of the Universal Periodic Review in Geneva, to creating a journalist protection program. To date, this has not come to fruition. After three presidential terms without progress, on 5 March 2020, Alejandro Giammattei called the leading press associations to follow up on this process. However, nothing

that had been discussed has come to pass by the end of the review period of this report. In other words, almost eight years later, Guatemala is still in failure to fulfill its commitment to protect journalism.

It is also important to note the high degree of impunity in cases of crimes against journalists, hence the rating of 4.4 out of 17 points achieved in this category. Trials linger for years, during which time reporters must continue to exercise their profession under conditions of high vulnerability. Just to cite two cases, journalists Carlos Ventura and Byron Bravo, from Quetzaltenango, have waited five years since they were assaulted by people opposing a seizure of smuggled products. Their case has not advanced within the justice system. Similarly, Oswaldo Ical Jom, from Quiché, who was illegally detained, in addition to being tortured and threatened, for several hours on October 12, 2014, has waited six years for the justice system to acknowledge the crimes and prosecute the perpetrators.

## **REALM D: Freedom of the press and little control over the media**

This category achieved the highest rating, since there is little proof of direct (12 out of 16 points) and indirect controls (4.8 out of 9 points) over the media. Instead, what was noticed was the lack of institutional or regulatory frameworks suitable both for the operation of community radio stations and for preventing the persistence of a media monopoly in the country.

The lack of legal recognition of community radio stations leaves loopholes undermining their operation. In 2012, Guatemala's Constitutional Court urged to establish institutions to this end; but no progress has been made.

In turn, more recently in 2017, the Office of the Special Rapporteur for Freedom of Expression (OSRFE) reaffirmed, in its report on this country, the need to discuss once again the criteria for allocating permission for radio frequencies in Guatemala, as well as reconfiguring the spectrum and the allocation of frequencies, and thereby breaking the existing media monopoly. There has been no progress in this regard either.

Specific proposals to encourage the establishment of public media are scarce, since there are no such media in the country.

Finally, a problem that is affecting the media in a particular way is the financial crisis that they are facing due to the spreading use of the Internet. This has caused massive layoffs among several media outlets in the capital city and has become a more complex situation during the COVID-19 pandemic. In this sense, the country's government has not made any proposals yet.

## CONCLUSIONS

Although it is true that the attacks against journalists and media have not been as overt as during the government of Jimmy Morales, the relationship of President Giammattei with them remains tense and almost non-collaborative. Regarding this issue and that of erosion on democracy, there is a thread of continuity between both governments.

The Constitutional Court and the Human Rights Ombudsman have stood up for the rights of access to public information and freedom of expression in the country. However, an authoritarian approach putting these rights in jeopardy on the part of the Executive continues to intensify. Detrimental practices of public officials regarding restrictions on access to information are only one of these authoritarian features.

Political will and a more proactive attitude are necessary on the part of the government towards compliance with these rights and debate around the media ecosystem, as well as around pluralizing and diversifying its agenda.

## REFERENCES

- Artículo 19. (2020, May 30). Elementos de Policía Nacional Civil de Guatemala intimidan a periodistas “por órdenes superiores”. *Artículo 19*. Retrieved from: <https://articulo19.org/elementos-de-policia-nacional-civil-de-guatemala-intimidan-a-periodistas-por-ordenes-superiores/>
- Asociación de Periodistas de Guatemala – APG-. (2020, May 3). Libertad de expresión en Guatemala. *Comunicarte*. Retrieved from: [https://noticiascomunicarte.blogspot.com/2020/05/libertad-de-expresion-en-guatemala.html?fbclid=IwAR2xfD5MyUT\\_WAvszcMn3SMYTRlkC\\_AyAm3IORSIYt7gBSwO3K8Ksap4eCY](https://noticiascomunicarte.blogspot.com/2020/05/libertad-de-expresion-en-guatemala.html?fbclid=IwAR2xfD5MyUT_WAvszcMn3SMYTRlkC_AyAm3IORSIYt7gBSwO3K8Ksap4eCY)
- Asociación de Periodistas de Guatemala. (2019). Informe final del Centro de Monitoreo Electoral de la Asociación de Periodistas de Guatemala.
- Denuncia Pública. (2020, April 12). Retrieved from: <https://media.sipiapa.org/adjuntos/185/documentos/001/832/0001832515.pdf>
- Del Cid, Marvin y Figueroa, S. (2020, March 25). Ministro de salud nombra de vocera a la amiga de su hija. *Vox Populi*. Retrieved from: <https://voxpathuliguate.com/2020/03/25/ministro-de-salud-nombra-de-vocera-a-la-amiga-de-su-hija/>
- Inter-American Commission on Human Rights. (2017, December 31). Country Report. Situation of Human Rights in Guatemala. Retrieved from: <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2017-en.pdf>
- La Unidad de Protección a Defensoras y Defensores de Derechos Humanos -Guatemala (UDEFEQUA). (2018). Informe sobre situación de personas, comunidades y organi-

zaciones defensoras de Derechos Humanos. Retrieved from: <http://www.udefegua.org/informes/informe-de-situaci%C3%B3n-de-personas-defensoras-de-derechos-humanos-guatemala-2018>

La Unidad de Protección a Defensoras y Defensores de Derechos Humanos -Guatemala (UDEFEGUA). (2019). Resumen del informe de situación de personas defensoras de Derechos Humanos. Retrieved from: <http://www.udefegua.org/informes/resumen-del-informe-de-situaci%C3%B3n-de-personas-defensoras-de-derechos-humanos-guatemala-2019>

Natareno, A. (2020, March 18). Alejandro Giammattei rocía con spray a periodistas al salir del Congreso (VIDEO). *Deguate.com*. Retrieved from: <https://www.deguate.com/art-man/publish/noticias-guatemala/alejandro-giammattei-rocia-con-spray-a-periodistas-al-salir-del-congreso-video.shtml>

Rivera, N. (2020, April 18). Allanan ilegalmente la casa de corresponsal de Prensa Comunitaria en El Estor y roban su equipo fotográfico y celulares. *Medium*. Retrieved from: <https://medium.com/@PrensaComunitar/allanan-casa-de-corresponsal-de-prensa-comunitaria-el-estor-y-roban-su-equipos-fotografico-y-8081fc351ae4>

Trejo, J. (2020, April 16). A la Pluma no la ataca el virus... ni una Ley mordaza. *Notas Periodísticas*. Retrieved from: <https://notasperiodisticas.com/a-la-pluma-no-la-ataca-el-virus-ni-una-ley-mordaza/>

Vásquez, E. (2020, April 10) PDH solicita mantener plazos de acceso a información pública. *elPeriódico*. Retrieved from: <https://elperiodico.com.gt/nacion/2020/04/10/pdh-solicita-mantener-plazos-de-acceso-a-informacion-publica/>

## GUATEMALA

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Although no substantive progress has been made in terms of the statutory framework, the existing one on freedom of expression and access to public information has been preserved and defended, which, in a context of authoritarian regression, can be assessed positively. The Human Rights Ombudsman and the Constitutional Court of Guatemala have defended free speech in the face of attempts by the Congress of the Republic and the Executive to curtail said right. There are journalists who, in spite of the risk at which they perform their duties, have not given in to pressure and persist in their endeavor of monitoring public officials and reporting on social issues.
<b>WEAKNESSES</b>	Guatemala is experiencing a growing wave of violence that particularly affects journalists and has worsened, initially in the wake of elections and subsequently amidst the COVID-19 pandemic. Another weakness is the climate of tension and the different attempts by the Executive to silence the work of the press, especially that of journalists who monitor the activity of senior officials. Restrictions by institutions on access to public information under the guise of the pandemic to delay or deny disclosure of information, are actions that imply an outright restriction on the right of citizens to be informed and an obstacle to the work of the press.
<b>OPPORTUNITIES</b>	The pandemic crisis and restrictions on freedom of expression and public information fuel greater citizen support for the work of the media and journalists and an overwhelming outcry from civil society so that public authorities will stop violating the aforementioned fundamental rights. Unity in the concerned professional association has gained momentum.
<b>THREATS</b>	The growing weakening of human rights institutions and the authoritarian regression that began a few years ago have been exacerbated after 2017 by the “covenant of the corrupt” – term describing a set of actions by the political elite to avoid being investigated – extending its damaging influence to all decision-making areas.

## 2.12.2 GUATEMALA 2020-2021

GUATEMALA	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>48,28</b>
REALM A: "Citizens free to express themselves"	23,00	11,00
Information flow	11,00	4,71
Free speech	12,00	6,29
REALM B: "Exercise of journalism"	10,00	4,86
REALM C: "Violence and impunity"	42,00	17,71
Protection	5,00	0,36
Persecution	7,50	2,43
Impunity	8,50	1,71
Registered violence	21,00	13,21
REALM D: Control over the media	25,00	14,71
Direct control	19,00	10,43
Indirect control	6,00	4,29

Chapultepec Index on Freedom of Expression and the Press 2021





## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>GUATEMALA</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	4,56	3,85	4,43
REALM A: "Citizens informed and free to express themselves"	3,86	2,21	2,23
REALM B: Exercise of Journalism	7,86	7,00	8,57
REALM C: Violence and Impunity	4,24	4,24	4,71
REALM D: Control over the media	2,29	1,93	2,21

Type of Influence      Points

<b>SLIGHT INFLUENCE</b>	0,1 - 2,50
<b>MODERATE INFLUENCE</b>	2,51 - 5,00
<b>STRONG INFLUENCE</b>	5,01 - 7,50
<b>VERY STRONG INFLUENCE</b>	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Guatemala: journalists and media under siege

### Executive Summary

The Guatemalan government persists in strengthening the trend towards an increasingly restricted free speech. In addition to the health emergency, both 2020 and the first months of 2021 have been scarred by the escalation of a worrisome and restrictive political situation for human rights and the rule of law. During the period under analysis, it is to underscore an escalation in aggressions at those who exercise journalism and information in the country, plus the hindrance of their work, intimidation, censorship attempts, criminalization, threats and murders of journalists.

## INTRODUCTION

The deterioration of the democratic system in Guatemala has been verified for years. Rights-harming regulatory frameworks are promoted and approved, the institutionalism of human rights and peace has been weakened, the International Committee Against Impunity (Comisión Internacional Contra la Impunidad, CICIG) was expelled from the country and there are repeated complaints against public officers from the three branches of government who have been kept in their positions despite being accused of various acts of corruption.

There is also an on-the-rise number of cases of criminalization and utilization of the justice system to put the brakes on the work of those who advocate for human rights, as well as of honest judges who have prosecuted prime matters linked to acts of corruption. Finally, the dismissal of prosecutor Juan Francisco Sandoval, who headed the Special Attorney General's Office against Impunity (Fiscalía Especial contra la Impunidad, FECI), without regard for the legal process to do so, has been strongly questioned since there are indications that it was due to the intention of slowing down important investigations against the current government officers.

The government of President Alejandro Giammattei has maintained a tense relationship with journalists and the media, especially those who are critical to his office. During the period under study, there were attempts at silencing journalists and community communicators by means of aggressions, smear campaigns, defamation and even criminal persecution.

For all these reasons, the Association of Journalists of Guatemala's Journalists' Observatory described 2020 as "a bleak year for the press". In this context, Guatemala ranks 17th out of 22 countries, with 48.28 out of 100 points in the Freedom of Expression index, much lower than the global regional average (55.61), and is a country with partial restrictions to this right. In the four realms evaluated, partial restrictions to free speech are shown. Guatemala is one of the worst scoring countries in the Central American region, only surpassed by El Salvador (41.74) and Nicaragua (17.20).

## **Executive: Contentious Message, Disqualification and Violence against the Press**

On several occasions, when the president was questioned by the Media about his handling of the health crisis, they got manifestations of intolerance, outbursts and false accusations as a reply. In the end, he chose to hide from the press and provide information only through radio and television broadcasts so as not to have to face journalistic scrutiny. In May 2021, for example, the president blamed "grupúsculos" ("little groups") and media of attacking him and "attacking the rule of law" with information that, according to him, they distorted (La Hora, May 27, 2021).

Another way of attacking the work of the press has been by means of force. Just to name one of the most serious instances, on September 11, 2020, National Civil Police (Policía Nacional Civil, PNC) officers arbitrarily arrested and assaulted journalist Sonny Figueroa, who along with Marvin de Cid had previously brought to the public several investigative pieces on the President's discretionary handling of public funds (Asociación de Periodistas de Guatemala (APG), 2020: pp. 20 to 23). Also, on November 21, while covering a citizen rally against the budget, documentary filmmaker Melissa Mencos was arbitrarily detained and photo-journalist Carlos Sebastián was injured by PNC personnel (Prensa Libre, November 24, 2020; La Hora, November 23, 2020).

There were also restrictions on access to public information as, for example, when at the end of August 2020, on the occasion of the presentation of the second report of the "President's Office Commission against Corruption", reporters were denied access to information (APG, 2020). Mayors and municipal governments were also accused of threats, physical violence, restrictions or directly blocking access to public information, prohibitions or lists of journalists allowed entry to certain public activities, among others.

All that summed up led the Executive to score 4.43 in the level of unfavorable influence, placing it in the mild influence range. However, for the level of persecution and affront against journalists, it was rated 8.57, that is, high influence from negative institutional actions. Although not as high, the violence and impunity rating (4.71) was worrisome, too. The role of the Executive branch's influence in terms of control over the media and informed citizenship and freedom of expression had a low rating (2.21 and 2.23, respectively).

## Legislative Attacks Opponents and Intimidates Journalists

Out of the three branches of government, the Legislative Environment was rated the worst with 4.56, i.e., mild influence. The most unfavorable realm, rated as highly influential, was precisely the one in connection with the exercise of journalism (7.86), followed by Violence and Impunity which rated 4.24 and Informed Citizenship and Freedom of Expression, rating 3.86. The mild influence identified by the Index has to do with the restrictions and attitudes of members of Congress at the expense of the exercise of journalism.

Chair of the Legislative branch Allan Rodríguez has shown on numerous occasions his affinity with the country's president, which even calls into question the separation that should exist between the three branches of government. In September 2020, a reporter whose name was not disclosed questioned him about their motivations to refuse to elect court members. In a blustering and arrogant manner, Rodríguez replied to her: "I believe that this type of ill-intentioned questions are the ones that make people think so, since the messages want to make it seem that we are malicious enough to delay or elongate courts election". Because of this incident, the reporter was removed from that source (APG, 2020). On another occasion, on November 28, 2020, Rodríguez blamed the media of spreading a disinformation campaign and highlighted that "we have been able to see systematic aggressions from social networks and seditious media that seek to break the constitutional order" (Congreso de la República, November 28, para. 3).

Also, journalists complained about being victims of information restrictions and smear campaigns in social networks spearheaded by certain Congresspersons whose connection to acts of corruption have been investigated by the media. Likewise, the two persons in charge of social communication by the Congress were reported in a journalistic investigation by Vox Populi and the May 2021 issue of Artículo 35 to be using public funds to orchestrate smear campaigns against Human Rights Ombudsman (procurador de los derechos humanos, PDH) Jordán Rodas and opposition Congressman Samuel Pérez (Artículo 35, May 20, 2021). This fact once again cast a shadow onto the legitimacy of communications from said entity and how reliable is the information they provide.

Lastly, the Legislative branch has nurtured legal frameworks that restrain citizens' rights, such as the questioned amendments to the Bill of Non-Governmental Organizations for Development (Decree 4-2020), which came into force on June 21, 2021, after a long period of contestations. These reforms, although presented as a way for the government to control the work of NGOs, have been questioned by various social sectors and PDH because they "include limitations to freedom of association and freedom of employment, by restricting activities and hiring of non-governmental organizations" (Perspectiva, June 21, 2021, para. 4).

When it comes to the previous monitoring period, the Legislative's lack of political will to make the media ecosystem democratic persists in a country with very high concentration,



and no progress has been made regarding the Internet service, since the companies that sell the service have few controls and the possibility of moving within the market framework with little or no regulation. Regulatory frameworks have been demanded to allow increased access to the digital world for everyone, especially in the context of the pandemic because of which thousands of people were left without communications and students without schools; however, none of the demands has paid off.

## **The Judiciary Is Part of the Strategy to Criminalize Journalists.**

The Judiciary continues to be singled out for its collusion with the *Pact of the Corrupt*<sup>1</sup>. A May 4, 2021 investigation carried out by elPeriódico determined that the election process of the country's courts has been flawed since the nominations were defined in a discretionary manner by what the media refers to as “*petit comité*” made up of government-leaning individuals. In the 2021 Index, the Judicial Environment has the best rating (3.85), which, in any case, places it in a mild influence regarding free speech and freedom of the press.

A strong influence was marked in terms of the Exercise of Journalism category, especially because there have been several reports of instances where justices collude with other role-players and comprise a network of criminalization that impacts journalists as well as journalism from departments and communities. In its 2020 report, the APG explained that “criminal law continues to be a dangerous tool used to intimidate the Media and journalists, seeking to generate a climate of anxiety for newsmen” (p.40).

The Bill on Expression of Thought states that if there are offenses against free speech, the action to take is to summon a Printing Court or Honor Courts; however, justices do not use this mechanism, but send alleged offenders directly through criminal proceedings. The most obvious case was that of indigenous communicator Anastasia Mejía, head of Xol Abaj Radio and Xol Abaj TV, who was blamed by her municipality's mayor of having partaken of a mob that burned part of the City Hall building. Mejía was doing her job, and despite there was no evidence against her, the justice of the department ordered her to stand trial charged with sedition, arson and aggravated assault. The journalist had to endure 36 days in jail.

Another flagship case involving justice is that of Ana González, a community reporter from the department of Totonicapán, whose right to freely express herself was infringed on January 13, 2021 by the Criminal Sentencing, Drug Trafficking and Environmental Crimes Court presided over by Justice Roberto Hernán Rivas Alvarado, who restricted her right to practice journalism and participate in a community radio station in that department for two years. In terms of Violence and Impunity, the judicial environment was rated as having a mild influence (4.24), while in terms of Informed Citizenship and Freedom of Expression, as well

<sup>1</sup> In Guatemala, this is the name given to the alliance between those who hold public decision-making positions and the business sector, which emerged in September 2017 and who, from their powerful positions, exert their influence to ensure impunity and privileges.

as Control Over the Media, this environment was rated as having a slight influence (2.21 and 1.93, respectively).

## **REALM A: Compromised Freedom of Expression and Enacted “Consensus”.**

The situation marked by the coronavirus pandemic has meant a setback for Guatemalan citizens in terms of their capability to monitor and report. Beyond biosecurity measures, it is a consequence of the branches of government’s threatening attitude toward citizens who, when demanding transparency or question actions reported for corruption, receive in turn intimidating and criminalizing actions, or direct physical violence. This happened on November 21 and 28, 2020, when citizens were repressed by police forces during a demonstration against the approval of a harmful annual budget. The citizens’ access to information scored 11 out of 23 points.

As noted in the APG report (2021) even though all special measures issued due to the coronavirus emergency have been lifted, the authorities continue to:

[---] “implement ruses to prevent reporters from accessing public activities, suspend press conferences or prevent questioning during them, hide officers’ work agendas or prevent those responsible for communication from answering or processing communicators’ requests for information” (p. 1).

In this context, although the information flow was valued at 4.71 and freedom of expression at 6.29 out of 11 and 12, respectively, truth is that it is becoming increasingly more complicated for journalists to carry out their work and get the population informed.

The media system in Guatemala is private, the public media –almost absent– have had little development and the community media survive on a daily basis in the face of the country’s own legal framework onslaught. This scheme of concentration of media ownership means that broadcast contents reinforce and refunctionalize the single perspective of reality. If we add to this the attempts at control by the branches of government, all the fuss made by “netcenters” –closely linked to public officers<sup>2</sup>– to intimidate and delegitimize the credibility of journalists, and the attempts at criminalization with the corresponding censorship and self-censorship they provoke, the country does not seem to have a fertile ground for freedom of expression.

<sup>2</sup> In this regard, the APG report (2021) states: “It is noteworthy that in part of the messages and publications spread in these campaigns, on social networks, those responsible used terms similar to those used by Giammattei to rant against his critics and some of the fake accounts that replicated these messages also shared information from official government channels”.



## **REALM B: Exercise of Journalism between Criminalization and Censorship.**

This realm scored 4.86 out of 10. As has been said throughout this report, there are numerous and diverse attempts at restricting the exercise of journalism. The period has been characterized by increased attacks against journalists and media employees, hampering of their work through bookings established to access certain sources or information, intimidation by means of the digital scenario for which legislation is still unclear in the country –which generates a void of registration–; attempts at censorship, criminalization, threats and murders of journalists.

The risk of being a victim of attacks or being criminalized surged for those who worked on extractive-company-related issues and the defense of the land, also for those professionals who made investigations on municipal public budgets and for female journalists. Also, the frequency of aggressions from media against female journalists escalated. Pía Flores, Kimberly López and Francelia Solano, Jody García, Carolina Gamazo, Michelle Mendoza, Sonia Pérez, Iduvina Hernández and Jovanna García, journalists from different media, reported about being victims of offensive and even threatening publications based on information or investigations they made and shared in the media profile or in their personal accounts. The users and profiles made comments in a mocking tone, at times with sexual innuendos.

According to the 2020 and 2021 APG reports, the areas where most of the attacks and harassment campaigns took place –reproducing of delegitimizing and hate speech– are the digital environment, social media and several Internet platforms. From January to March 2021 the APG Journalists' Observatory recorded ten attacks on the Internet (six defamation campaigns, two cases of deletion of journalistic material, the suspension of a feminist digital medium's account and the cloning of a nationwide newspaper's web portal) (APG, 2021: p. 13).

According to the same source, most of these aggressions originated from fake accounts. Importantly, although the number of reported cases is increasing, most of them remain unresolved. This generates wear and tear and undermines the credibility of public institutions that should safeguard the exercise of journalism.

## **REALM C: Violence Increased and Lack of Protection and Impunity Persists.**

The Violence and Impunity realm scored 17.71 points out of 42. Attacks and crimes against journalists increased during 2020 and the trend is repeated in 2021. In its last two reports the APG evidenced that 2020 was “the year in which there have been more reports on attacks against media, journalists and newpersons” (APG, 2020: p. 1); from January to December 149 registered cases were totaled (APG, 2021). The figures provided by the Attorney General's

Office for Crimes against Journalists, which reported 216 aggrieved persons in 2020, turned out to be much more discouraging.

The surge continued in the first quarter of 2021. According to the APC, from January 1-March 31, 2021, 39 attacks and restrictions of various kinds were recorded in 13 different departments, an increase of almost 100 percent when compared to the same period in 2020 (APC, 2021). It should also be noted that two journalists were murdered within the period analyzed: Mario Arturo Ortega García in November 2020 and Pedro Alfonso Guarón Hernández on July 30, 2021.

To mention cases that are serious, the criminalization of Anastasia Mejía (indicted for sedition, theft, robbery and aggravated arson) and the aggressions and attempted prosecution of journalist Sonny Figueroa (for attempted bribery) have already been mentioned. It is worth adding the criminal complaint that Miguel Martínez Morales, a former officer of Ciammattei's government and his close entourage, filed against digital medium Plaza Pública, accusing particularly journalist Pavel Vega of harassment, threats and extortion; all this because of an investigation that said media conducted on a private company both officers were related to. Martínez publicly accused the media and the journalist of having no ethics or professionalism whatsoever and stated that Plaza Pública was threatening his family. Furthermore, he tried to silence the media (APC, 2020). Despite all the data, it is remarkable that the Persecution category received a scoring of 2.43 out of 7.5, while Violence marked 13.21 out of 21 points.

The category measuring protection was the lowest scoring from the three that make up this realm (0.36 out of 5 points) as protection by the Guatemalan State remains to be null. From 2012, within the Universal Periodic Review, in Geneva, it obliged itself to launch a program for the protection of journalists. To date, neither has it been launched nor is it in the process of coming true.

Regarding impunity, the score was also very low -1.71 out of 8.5- since most of the reported cases find little institutional response, the processes are excessively long and get entangled within the bureaucracy, which generates exhaustion and undermines the credibility of the public institutions that should safeguard the exercise of journalism.

## **REALM D: Limits to the Exercise of Journalism by Critics from the Media.**

The Control over the Media realm scored 14.71 out of 25 points and of the two aspects that comprise it, direct control scored the highest (10.43 out of 19 points), while indirect control obtained 4.29 out of 6 points.

As already pointed out, one attempt at direct control over a media outlet was on Plaza Pública, and in a more systematic way it is carried out with the refusal to grant advertising

spots in those media that the government qualifies as critical of its management (Article 19, Centro Civitas and Article 35, 2021, p.35). Another form is the criminalization and criminal prosecution of community radio stations due to the lack of adequate institutional or regulatory frameworks.

In March 2021, Justice Otto Felipe Vásquez, from Sololá's Criminal Court of First Instance, made an effort to make community radio station "Juventud Xacacak" operations stop. To this end he summoned and gave notice to Julián Pac that he had to hand over his operating equipment. The legal process is currently halted, due to an injunction and a challenge against the justice.

Also in Sololá, community media outlet "Radio Victoria, La Voz de los Pueblos" exercise of journalism was likewise restricted when its reporters were not allowed to cover a hearing taking place at that department's Criminal Sentencing Court. Justice Mariana Mercedes López Cabrera barred reporters from entering the courtroom in order to record a hearing, and on the second occasion agreed to allow them to enter the courtroom, on the condition that no images would be taken or live broadcasts would be made.

## CONCLUSIONS

In the second year of Alejandro Giammattei's term, the insecurity from exercising journalism has worsened. The press and free speech have been compromised and it is clear that there are specific vulnerabilities against journalists and community communicators because of the information they possess and the possibility that this information violates the interests of powerful groups or threaten their power. The contentiousness in the President's numerous officers' version of the story has remained and probably escalated since the first year of this government's administration.

There is a surge in violence against journalists in order to silence dissident voices, especially independent journalists or those who have taken on investigations that somewhat threaten the interests of the ruling groups. There are also more instances of persecution from the government and the use of "netcenters" to vilify and attack journalists on digital media.

The unbound violence toward press workers can be direct through discrediting, threats and coercion, prohibition to access sources or information –even when it is public–; or through criminalization by relying on the justice system.

The insecurity from practicing the profession remains as there is no progress recorded in the building of a Journalist Protection Plan.

As for controls over the Media, the ongoing siege and criminalization of community radio stations and the management of government advertising as a method to stifle media who are critical and in favor of the monopoly of media outlets that subscribe to the government should be highlighted.



## REFERENCES

- Artículo 19, Centro Civitas & Artículo 35 (2021). Guatemala: Estado contra la prensa y la libertad de expresión. México. Author
- Artículo 35 (20 de mayo de 2021). La estrategia del Congreso para atacar a opositores y funcionarios. Available at: <https://articulo35.com/archivos/4761>
- Association of Journalists of Guatemala -APG- (2020). Estado de Situación de la Libertad de expresión 2020. Un año desolador para la prensa en Guatemala. Guatemala. Author.
- (2021). Estado de Situación de la Libertad de Expresión. Primer Trimestre 2021. Guatemala. Author
- Congreso de la República (28 de noviembre de 2020). Presidente del Congreso rechaza campaña de desinformación en medios de comunicación y redes sociales. Available at: [https://www.congreso.gob.gt/noticias\\_congreso/5406/2020/1](https://www.congreso.gob.gt/noticias_congreso/5406/2020/1)
- elPeriódico (4 de mayo de 2021). Los magistrados del “Pacto de Corruptos”. Available at: <https://elperiodico.com.gt/noticias/investigacion/2021/05/04/los-magistrados-del-pacto-de-corruptos0-1/>
- La Hora** (23 de noviembre de 2020). MP inicia investigación por agresiones a periodistas. Available at: <https://lahora.gt/mp-inicia-investigacion-por-agresiones-a-periodistas/> (27 de mayo de 2021) Sin dar nombres, Presidente señala a «grupúsculos» y medios que critican su gobierno. Available at: <https://lahora.gt/sin-dar-nombres-presidente-senala-a-grupusculos-y-medios-que-critican-su-gobierno/>
- Perspectiva (21 de junio de 2021). PDH acciona contra ley de ONG´s. Disponible en <https://www.perspectiva.gt/noticias/pdh-acciona-contra-ley-de-ons/>
- Prensa Libre** (24 de noviembre de 2020). Las fotos que tomó el periodista Carlos Sebastián antes de ser agredido por la policía el #21N. Available at: <https://www.prensalibre.com/guatemala/justicia/las-fotos-del-periodista-carlos-sebastian-antes-de-ser-agredido-por-la-policia-el-21n/>

## GUATEMALA

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	<p>Despite an authoritarian scenario, the country has been able to maintain the existing freedom of expression and access to public information legal framework.</p> <p>PDH, the only public institution that has not been co-opted by the Pact of the Corrupt, is still willing to advocate for the right to free speech.</p> <p>Despite the insecurity and risk in which they carry out their work, some journalists have not given in to pressure and continue with the process of auditing public officials. Regional networks have been launched to stand up for free speech and the exercise of journalism.</p>
<b>WEAKNESSES</b>	<p>Acts of violence against journalists keep on the rise.</p> <p>The growing wave of violence against female journalists and against those who practice journalism in departments and communities.</p> <p>The Executive branch's persists on a contentious attitude to silence the work of the press, especially those journalists who oversee its work.</p> <p>The alliance of the Executive, Legislative and Judicial branches is aimed at infringing upon the exercise of journalism by means of intimidation and criminalization.</p> <p>Restrictions on access to public information imply a limit on the right of citizens to be informed and an obstacle to the development of the journalists' work.</p>
<b>OPPORTUNITIES</b>	<p>Public officers' persistent contentious attitude has brought upon an attitude of freedom of expression advocacy by citizens.</p> <p>Unions show greater cohesion.</p> <p>International support for the journalists' guild is shown through the support of international networks and the financing of the empowerment of journalists.</p>
<b>THREATS</b>	<p>The weakening of human rights institutions and regression to authoritarianism are occurring by means of the Pact of the Corrupt that extends its harmful influence in all areas of decision making.</p>

## 2.12.3 OVERVIEW

### Guatemala

Guatemala's performance resembles that of some countries improving their overall results in 2020-2021 vis-à-vis 2019-2020 although they dropped in position. Indeed, the country dropped two positions (from No. 15 in 2020 to No. 17 in 2021), but rose from 46 points in 2019-2020 to 48.28 points in 2020-2021. The decline is explained by increased restrictions on Freedom of Expression, aggressions to and strained relations with journalists and the media, stemming from a growing decline of democracy in the country.

In Realm A, Informed Citizens Free to Express Themselves, there was a decline of 3.6 points from one period to the other. The hostile environment and restrictions undermining [the sub-realms of] Free Speech and Information Flow are increasing. The people have been seriously affected in their ability to express themselves. For instance, they were repressed during the protests of November 2020. With a scarce presence of state-owned media, the information disseminated responds to the editorial policies of the private outlets controlling the media ecosystem.

Realm B, Exercise of Journalism, yielded a difference of 1.34 points less between 2019-2020 and 2020-2021. As in the realm above, there is an increase in actions that undermine journalistic activity. There is greater prosecution and censorship towards journalists, especially towards female professionals, who received threats and offenses with sexual overtones (the matter against Anastasia Mejía, on counts of sedition, theft, robbery, and aggravated arson).

As for Realm C, Violence and Impunity, this is the only one showing improvement, with 9.31 points of difference between the scores obtained in 2019-2020 and 2020-2021. On record went 39 attacks and restrictions, in addition to the murder of Mario Arturo Ortega García (November 2020) and Pedro Alfonso Guarón Hernández (July 2021), among other serious cases.

Finally, Realm D, Control over the Media, also experienced a slight decrease in its results (16.8 points in 2019-2020 v. 14.71 in 2020-2021), which in turn affects the exercise of journalism and the dissemination of information to the general population. With attempts of direct control policies targeting media outlets *Plaza Pública* and Radio Victoria and indirect control by denying to buy advertising, the government restricts the exercise of journalism.

In general, the unfavorable influence of the legislative, judicial, and executive environments continues moderately with some results indicating a very strong influence of the three environments on Realm B, increasing in comparison between 2019-2020 and 2020-2021. The reasons for these results indicate that the lack of independence among the branches of government constitutes a disadvantage for the exercise of journalism. There are actions of intimidation and prosecution coming from the collusion among these three branches: from



the Executive, relations with the media are very strained, marked by a bellicose, disparaging, and violent discourse; the Legislative, on the other hand, rated as the worst of the three in the latest study, intimidates journalists and promotes restrictive laws. The Judiciary also encourages prosecuting journalists.

## 2.13. HONDURAS

### 2.13.1 HONDURAS 2019-2020

HONDURAS	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>53.0</b>
REALM A: "Citizens informed and free to express themselves"	23	13.3
Flow of information	11	5.3
Free Expression	12	8.0
REALM B: Exercise of Journalism	10	4.8
REALM C: Violence and Impunity	42	14.0
Protection	10	8.0
Persecution	15	6.0
Impunity	17	0.0
REALM D: Control over the media	25	21.0
Direct control	16	12.0
Indirect control	9	9.0

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

HONDURAS	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	3.51	2.37	3.76
REALM A: "Citizens informed and free to express themselves"	7.50	4.37	8.04
Flow of information	6.00	3.37	8.08
Free Expression	9.00	5.38	8.00
REALM B: Exercise of Journalism	5.85	2.68	3.97
REALM C: Violence and Impunity	2.33	2.33	3.00
Protection	0.00	0.00	0.00
Persecution	7.00	7.00	9.00
Impunity	0.00	0.00	0.00
REALM D: Control over the media	1.00	1.00	1.00
Direct control	1.38	1.00	1.75
Indirect control	0.00	0.00	0.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## Honduras, victim of COVID-19 and corruption

### Executive summary

Honduras continues to experience low security levels for the professional exercise of journalism nationwide. In addition, the Law for Classification of Public Documents regarding National Security and Defense (Ley para la Clasificación de Documentos Públicos relacionados con la Seguridad y Defensa Nacional), known as the “Law of Secrecy,” in force as of March 7, 2014, under the pretext of protecting State information and concealing the management of public resources in over 20 government agencies. In the framework of this COVID-19 crisis, with its first case confirmed on March 11 this year, the Honduran press has not been allowed to investigate and adequately report on millions worth of medical equipment, medicines, and mobile hospitals procurement, under suspicion of irregularities and lack of transparency following an emergency executive order and the “Law of Secrets” issued by the current administration.

## INTRODUCTION

This report has been prepared in the context of President Juan Orlando Hernández Alvarado’s second term in office, after a fiercely criticized reelection in light of the violation of some constitutional precepts, thereby stripping legitimacy of the current administration. Conditions for good journalism based on accuracy and objectivity continue to be difficult in Honduras, since the prevailing situation in the period from May 1, 2019 to April 30, 2020, has not changed in any respects.

The Law of Secrecy ruled out the categories of reserved, confidential, secret and ultra-secret information, to focus on that of classified information in favor of the Department of Defense and Security (Secretaría de Defensa y Seguridad), also governing a number of ministries and agencies in no connection with security, but actually controlling a significant portion of the government budget. This proves lack of transparency in procurement and acquisition of government goods and services (Proceso Digital, 2019).

For example, in the context of the COVID-19 pandemic, the government declared a state emergency for procurement that was not transparent and has been difficult to review, in spite of considerable doubts existing as to whether these purchases were the best and whether the prices were fair (Proceso Digital, 2020).

## Report

As for the overall rating of Honduras, in the period from May 1, 2019 to April 30, 2020, it achieved 53 points. We can point out that, in spite of a relative freedom of expression as claimed by the authorities, the truth is that there are methods of censorship curbing this constitutional right.

### **On environments: Institutional action against freedom of expression**

Citizens get news from the mainstream press, radio and television. However, due to strong pressure from the government to keep its image and credibility on the mainstream media, social media have become very belligerent and gained acceptance from a segment of the population, primarily young people who do not follow politics as usual in Honduras.

On June 25 this year, a new Criminal Code (Código Penal) entered into force, whereby the current regime added to the statutory framework harsh penalties for slander and defamation crimes, mostly directed at some journalists opposing the current administration (La Tribuna, 2020). Most notably, we find the case of journalist David Romero Elner, who uncovered an act of corruption unprecedented in the history of Honduras at the Honduran Institute of Social Health (Hondureño de Salud Social, IHSS). This left the corruption of President Hernandez's government exposed.

The Executive branch, with authority to grant and revoke media licenses, in addition to managing an advertising budget crucial for subsistence of the media in this time of crisis, significantly controls and restricts the information disseminated among citizens. In other words, a large percentage of the news is influenced by political interests.

The Legislative branch is aligned with the interests of the Executive because it is controlled by the same political party, enacting legislation that restricts freedom of the press and transparency. The National Congress [Legislative], in new Criminal Code Article 335-B, known as the "Muzzle Law", sets forth penalties for media making apology, praise, and justification for terrorism, following a series of public protests that took place in the main streets and avenues of Tegucigalpa (Proceso Digital, 2020).

Additionally, the new Criminal Code provides for punishment to journalists and media owners who commit slander, defined as wrongly attributing a crime under the knowledge of its falsehood, that is, reckless disregard for the truth. In case of defamation, the law defines it as singling out or damaging the dignity of other persons, undermining their honor. For both, long prison terms against defendants are provided for. (CPJ, 2020)

The crimes of slander and defamation, as set forth by this law, were repealed, since they were considered excessive and a restriction to freedom of expression. Notwithstanding, according to the legal procedure for a bill to enter into force, the National Congress must send

it to the Executive branch for its signing into law and this has not taken place to date. As it can be noted, there is a completely hostile environment against freedom of expression imposed by the current regime, which at all costs has sought to silence popular protests.

Furthermore, the judicial branch was appointed by a majority from the ruling party. Furthermore, at all court levels, there are judges, clerks, and administrative staff allegiant to this political establishment. Therefore, a vast majority of them act to help their fellow partisans and damage their opponents. A clear example is that involving journalist David Romero Elner who, for the crime of slander and defamation, was imposed a disproportionately harsh sentence according to many experts.

My means of that sentence to a journalist opposing the regime, a clear message was sent: Journalists must be very careful when reporting news on complaints and claims naming the current government, because those who transgress the legal order will be prosecuted to the fullest extent of the Law.

Since they were appointed by the National Congress, the justices heading the judicial branch are contaminated by politics. This makes it very difficult to rule in accordance with the Law on matters brought to them. Therefore, in general terms, the journalists' guild does not believe in the Judiciary and law enforcement.

## **REALM A: Honduran citizens free to express themselves**

Generally, Honduran citizens are informed, because, in recent years, there has been a proliferation of mass media, which promotes competition in the coverage of news events. On the other hand, some media encourage free speech by means of call-ins so that the people will give their opinion on the issues being addressed, also on social media, e.g. a text-in numbers on WhatsApp. Nevertheless, other media do not make use of this communication tool.

The extent of information and free speech often depends on the fact of whether a topic focuses on the national government, which is the source of the greatest number of problems, in view of the power and advertising budget it wields.

The assessment of the institutional action regarding "citizens free to express themselves" reaches 13.3 out of 23 maximum points. The perception is that, in Honduras, there is still a degree of freedom within acceptable ranges. There are different video, print, and digital information outlets enabling each citizen to gain a rather comprehensive perspective on issues of any nature or relevance in the nation.

However, the veracity of the information flow is notably impaired by the lack of credibility in news on the government. It has been found that certain officials try to conceal inefficiency and indecisiveness with a false image built by means of for-hire [social media] accounts and sites. On July 25, 2019, social media app Facebook closed 181 fake accounts and 1,488 pages



in Honduras. These profiles were fraudulent and devoted to commenting and sharing positive content on President Hernández. (Cuenta Corriente, 2019). In addition, on April 2, 2020, social media app Twitter deleted 3,104 accounts solely devoted to retweeting what President Hernández would write. (Radio América, 2020). These acts unmasked the lack of support for the current administration and the importance of getting news from highly reliable media.

## **REALM B: Conditions conducive to practice journalism**

The practice of journalism is regulated by the Honduran Association of Journalists (Colegio de Periodistas de Honduras), which registers, swears in, and certifies journalists who have graduated from the different universities in the country. In Honduras, there are approximately 1,600 registered journalists; but there are almost as many people qualifying as news professionals actively involved in the media, as show hosts, announcers, etc.

Journalists have to follow the editorial policy in their workplace. Therefore, there is self-censorship, given the fact that 85% of the media in Honduras have close ties to the government. The exercise of journalism scored 4.8 points out of a maximum of 10; indicating the existence of a partial restriction on the information disseminated by journalists.

Media owners, in general, have other interests and additional businesses, which binds them, in one way or another, to treat the government deferentially. Based on this fact, a “harmonious” relationship between media entrepreneurs and the government administration develops.

## **REALM C: Violence and impunity against journalists**

Honduras is a violent country. 10 years ago, the murder rate was 93.2 per 100,000 inhabitants. (BID, 2017). However, the current administration managed to lower that rate by half, investing a considerable amount of economic and human resources. This does not mean that the country has overcome the existing violence and crime environment.

Journalists have not been oblivious to this violent reality since many have been killed and most of these crimes are still unpunished, because neither those who perpetrated nor those who masterminded these murders are convicted. Statistics show that over 70 newsmen have been murdered in Honduras and the worst thing is that over 90% of the crimes are unpunished. (Once Noticias, 2018). These data mirror the score of 0 of 17 points possible in the impunity index.

On July 5, 2019, journalist Santiago Carvajal was viciously attacked by individuals whose identity or whereabouts are still unknown. Santiago was hosting a show on a local channel in Puerto Cortés and had complained on his social media accounts that he was being censored by public officials from the municipality (SIGNIS ALC, 2020). This case adds to over 70

journalists who have lost their lives in recent years, which speaks of the high risk of practicing this profession in the country.

## **REALM D: Government in control of a large section of the public opinion**

Article 72 of The Constitution of the Republic has recognized freedom of thought since 1982 as enacted in Decree 131-82: “Expression of thought shall be free, and may be expressed through any means of dissemination, without prior censorship. Those who abuse this right, and those who by direct or indirect methods restrict or limit the communication and circulation of ideas and opinions shall be liable before the law” (OBSERVACOM.org, 2014).

Honduras reached 12 out of 16 maximum points in [the sub-realm of] direct control over the media. In recent years, due to the economic crisis experienced by the country, governments then in office have used the tool of the advertising budget to control the mass media. The budget is spent on motivational, alienating campaigns exalting the president’s image and the actions of the government. Ultimately, it is a direct way to avoid criticism, disparaging messages, and attacks against the public administration.

In the case of indirect control over the media, the country achieved a 9 over 9 points possible. For many years, governments have been indirectly buying publicity slots for shows where journalists, who are largely public opinion leaders, are awarded these advertising contracts. By controlling media owners and the most influential newsmen, the government guarantees moderate governance levels. It is noteworthy that, in the last 30 years, no media outlets have ever been closed, only Globo TV, which is opposed to the regime, and whose license was suspended on grounds of not paying taxes due; but it is no secret to anyone that, in the end, this was politically motivated.

## **CONCLUSIONS**

Impunity for crimes against journalists and newsmen is a clear sign that practicing journalism in the country is a high-risk career that can be dangerous depending on the nature and editorial policy of the media and journalists. There is a stigmatization on the part of the president and the cabinet against those journalists who attack, criticize, and affect the image of the present government. In turn, [government spokespersons’] describe them in their addresses as troublemakers, social alienators, promoters of evil, and unwilling to see anything good in what [the administration] does. This stigmatization issues an indirect threat against the journalists’ guild, which, in many political, social, and protest events, has been attacked not only verbally but also physically.

In the National Congress, there is a project to control social media and chats damaging the image of the government; but it has not yet been approved by the current administra-



tion. It is a clear intention to put under surveillance and punish those who use social media to encourage opposition to this regime.

The COVID-19 emergency has been a clear example of the lack of transparency at all levels in the procurement of mobile hospitals, medical supplies and protective equipment (CNN, 2020). Nevertheless, the press has managed to investigate and condemn such actions. Government information sources and the Institute of Access to Public Information (Instituto de Acceso a la Información Pública, IAIP) have not clearly accounted for every cent of government procurement, which is a clear example of manipulation, restriction, and the lack of access to accurate and timely information.

The threats to the free press continue as next year we will witness an electoral process whose power players are the same behind the making of President Hernández Alvarado. These institutions and individuals are stakeholders in an alleged electoral fraud by means of tampering of records, electric power disruptions at the time of the vote count and a series of irregularities that spawned a serious political crisis in the country. The press should play an independent role in the face of an electoral process that will clearly benefit the ruling party.

## REFERENCES

Aguilar, V. (2018). Once periodistas destacados que fueron asesinados en Honduras. In: *Once Noticias*. Retrieved 2020, August 13 from <https://www.oncenoticias.hn/once-periodistas-destacados-fueron-asesinados-en-honduras/>.

Agurcia, M. (2018). Libertad de Expresión en la Legislación de Honduras. *Comité por la Libre Expresión (C-Libre)*. Retrieved 2020, August 13 from <http://www.clibrehonduras.com/index.php/legal/579-libertad-de-expresion-en-la-legislacion-de-honduras>.

Committee to Protect Journalists. (2020). Honduras adopta Código Penal que mantiene los 'delitos contra el honor'. In: *CPJ Committee to Protect Journalists*. Retrieved 2020, August 13 from <https://cpj.org/es/2020/06/honduras-adopta-codigo-penal-que-mantiene-los-delitos-contra-el-honor/>.

Especial Proceso Digital. (2019). Ley de Secretos, un desliz para la transparencia. In: *Proceso Digital*. Retrieved 2020, August 13 from <https://www.proceso.hn/actualidad/38-politica-nacional/ley-de-secretos-un-desliz-para-la-transparencia.html>.

Garay, C. (2019). La manipulación de un presidente impopular en redes sociales. In: *Contra corriente*. Retrieved 2020, August 13 from <https://contracorriente.red/2019/08/06/la-manipulacion-de-un-presidente-impopular-en-redes-sociales/>.

La Tribuna. (2020). Entra en Vigencia nuevo Código Penal en Honduras. *La Tribuna*. Retrieved 2020, August 13 from <https://www.latribuna.hn/2020/06/25/entra-en-vigencia-nuevo-codigo-penal-de-honduras/>.



Melgar, A. (2020). Fiscalía de Honduras investiga posible fraude en compra de hospitales móviles para atender pacientes de covid-19. In: *CNN*. Retrieved 2020, August 13 from <https://cnnespanol.cnn.com/2020/06/24/alerta-fiscalia-de-honduras-investiga-posible-fraude-en-compra-de-hospitales-moviles-para-atender-pacientes-de-covid-19/>.

OBSERVACOM.org, (2014). HONDURAS: Constitución de 1982 – Decreto 131-82. Retrieved 2020, September 18 from <https://www.observacom.org/honduras-constitucion-de-1982-decreto-131-82/>.

Plata, G. (2017). ¿Cómo Honduras redujo a la mitad su Tasa de Homicidio? *Banco Interamericano de Desarrollo*. Retrieved 2020, August 13 from <https://www.iadb.org/es/mejorandovidas/como-honduras-redujo-la-mitad-su-tasa-de-homicidio>.

Proceso Digital. (2018). “Ley Mordaza” sigue vigente en Honduras. In: *Proceso Digital*. Retrieved 2020, August 13 from <https://www.proceso.hn/politica-nacional/36-proceso-electoral/ley-mordaza-sigue-vigente-en-honduras.html>.

Proceso Digital. (2020). MP tiene varias líneas de investigación sobre compras de emergencia, entre ellas los hospitales móviles. In: *Proceso Digital*. Retrieved 2020, August 13 from <https://proceso.hn/actualidad/7-actualidad/mp-tiene-varias-lineas-de-investigacion-sobre-compras-de-emergencia-entre-ellas-los-hospitales-moviles.html>.

Radio América. (2020). Twitter elimina más de 3,000 “cuentas falsas” en favor del Gobierno de Honduras. In: *Radio América*. Retrieved 2020, August 13 from <http://www.radioamerica.hn/twitter-cuentas-honduras/>.

SIGNIS ALC. (2020). Periodistas en Honduras vivieron un año de violencia y muerte en 2019. In: *SIGNIS ALC*. Retrieved 2020, August 13 from <http://signisalc.org/noticias/comunicacion/libertad-de-expresion-2/23-01-2020/periodistas-en-honduras-vivieron-un-ao-de-violencia-y-muerte-en-2019>.

## HONDURAS

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	There are strong media with some degree of independence that have preserved a relative editorial autonomy in the face of controversial decisions, corruption, and abuse of authority by the government of the Republic. In Honduras, wrong government decisions can still be publicly questioned.
<b>WEAKNESSES</b>	With very weak institutions, branches of government docile to the Executive, and armed forces at the service of the president of the Republic, freedom of expression is limited and journalists cannot question or criticize government activities so openly.
<b>OPPORTUNITIES</b>	The great amount of mainstream and social media encourages an ideological, political, and religious plurality that allows for a relative social peace to those who question and criticize the government's activities. When the media have remained silent, citizens have taken to the streets in protest as a clear sign of their discontent with the actions of the Executive.
<b>THREATS</b>	Current legislation tends to be repressive and restrictive of freedom of expression, which is evident in draft bills such as the one potentially punishing those who take a stance contrary to the current regime on social media. The economic crisis makes government advertising increasingly necessary, which restricts the independence of most media.

## 2.13.2 HONDURAS 2020-2021

HONDURAS	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>61,47</b>
REALM A: "Citizens free to express themselves"	23,00	12,71
Information flow	11,00	5,57
Free speech	12,00	7,14
REALM B: "Exercise of journalism"	10,00	6,86
REALM C: "Violence and impunity"	42,00	24,76
Protection	5,00	2,36
Persecution	7,50	4,79
Impunity	8,50	2,93
Registered violence	21,00	14,68
REALM D: Control over the media	25,00	17,14
Direct control	19,00	11,71
Indirect control	6,00	5,43

**Chapultepec Index on Freedom of Expression and the Press 2021**





## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>HONDURAS</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	2,35	1,81	2,54
REALM A: "Citizens informed and free to express themselves"	3,64	1,71	2,45
REALM B: Exercise of Journalism	4,00	3,29	4,71
REALM C: Violence and Impunity	0,95	1,24	1,71
REALM D: Control over the media	0,79	1,00	1,29

Type of Influence	Points
SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Honduras: a hard place for the exercise of journalism

### Executive Summary

When it comes to free speech in Honduras, the prospect is not too different from what happened in 2020, since similar conditions remain for the professional practice of journalism. All this is worsened by the COVID-19 pandemic that poses a serious risk for most of the newsmen in the country. Although two people are in prison for the Mobile Hospitals scandal, and one faces indictment abroad, the secrecy and corruption in and mismanagement of the pandemic –specifically in the vaccination process– affected the exercise of freedom of expression.

## INTRODUCTION

Currently, the situation for the exercise of quality and objective journalism in Honduras continues to be troublesome, since the climate throughout the period surveyed shows no variation with respect to better living conditions for media employees, who are immersed in the country's general economic crisis.

Corruption continues to affect the fight against the COVID-19 pandemic, since the purchase of seven costly mobile hospitals have not served the purposes which they were acquired for (DW Spanish, 2021). On the other hand, the purchase of vaccines for Hondurans has not been effective, prices and terms of their millionaire contracts have not been disclosed.

The media, most of them economically affected by the pandemic, have not provided their news staff with biosecurity Personal Protective Devices (PPD) such as masks, antibacterial gel, face covering, so journalists are at a high risk of becoming infected with COVID.

## Results Analysis

As for Honduras' overall ranking, it scored 61.47 points, well above the 55.61 index global scoring. One factor to highlight [One noteworthy fact] regarding a greater perception of freedom of expression is the importance of social media in citizens' communication. This represents an opportunity to express opinions on socially, politically, and economically relevant issues; were this new instrument not to exist, we would continue to be subject to what is reported by mainstream media.



The decrease in violence, crime, and impunity rates against journalists matches the decrease in the rates of violence per 100,000 inhabitants in Honduras.

The number of homicide victims declined 14.1% (576 fewer victims) in 2020 as compared to 2019. The homicide rate in 2020 was 37.6 homicides per 100 thousand population, the lowest in the last decade (the rate is down by more than half compared to the rate in 2013). (UNDP, 2020)

Since we are approaching the end of President Juan Orlando Hernández's term, the control over the media has been declining, to such an extent that there are already TV and radio stations and printed press that candidly criticize decisions from the government. For example, the handling of the pandemic has been erratic and very poorly managed.

## **The Branches of Government Are Trying to Manipulate the Exercise of Journalism**

The Legislative environment scored 2.35 points in relation to situations unfavorable to freedom of expression. The National Congress has not held any sessions during last and the ongoing year. It is the only Congress in Latin America where no floor sessions are being held. Therefore, press coverage of legislative sessions and incidents has been extremely cumbersome and restricted. Congresspersons themselves are complaining that the ruling party is passing laws at will.

Recently, the National Congress enacted that the information about the contract for the purchase of vaccines from pharmaceutical company Pfizer should be secret. This has been considered as a total setback, because even though Pfizer requests confidentiality on the formulas it uses and their pricing, it was not necessary to mandate total secrecy for the whole contract and what had been signed.

The Legislative engaged in an embarrassing dispute with the Institute of Access to Public Information (Instituto de Acceso a la Información Pública, IAIP), since IAIP ruled that it was not correct to withhold every detail of the contract. In Honduras it is unknown the pricing requirements the government is meeting to purchase the COVID-19 vaccine. Most of the population have doubts that these operations as a whole are being carried out in the best and most correct of ways.

## **Executive branch**

In Honduras, according to law, among the President's powers under the National Telecommunications Committee (Comisión Nacional de Telecomunicaciones, CONATEL), the President's Office is entitled to authorize or overrule licenses for operations and maintenance of radio frequencies. If a broadcasting station not aligned with the government makes the slightest error or omission within its administrative responsibilities, its license will be immediately revoked –in recent years, such thing happened to opposition-leaning Radio Globo.



The allocation of sizable advertising funds from the government and the ruling party force most of the media to cover all the Presidential House's activities, regardless of their importance, because in times of economic hardship like these the media must ensure their sustainability and survival.

The government did not engage in talks with any sector when discussing the 2022 Income and Expenditures Budget, which rose to over HNL 20 million compared to the ongoing year's budget. This represents a detrimental burden to the country and for anyone who wins the upcoming elections, despite suggestions and recommendations made by the civil society (La Prensa, 2021).

## The Judiciary

The U.S. Department of State released the Engel's List, which notes that 21 Honduran politicians were involved in corruption offenses (La Prensa, 2021). The Judiciary's attitude toward corruption has not been decisive, there is a climate of secrecy and leniency with many involved in scandals such as Arca Abierta (Open Treasure Chest) and Pandora. Several of the defendants have already been freed.

The Judicial branch, as well as the Legislative, has heard court cases at its premises not very often. The plenary meetings of justices from the Supreme Court of Justice are almost inaccessible, which makes press coverage a real problem. Although it is true that the officials from the Judiciary have appointed spokespersons in different courts, such as the Anti-Corruption Court and the Courts of Appeal, they only report what the justices are interested in, not the proceedings of a trial or information that is of interest to the press.

In the case of trials with considerable media coverage, some of the defendants have already been acquitted by the new Criminal Code; however, the justices do not explain the consequences of their rulings. As a token example, there are those involved in the Pandora case. We see how this makes us imagine that the new Criminal Code is favoring offenders.

## REALM A: Freedom of The Press in Honduras Is Obstructed by Lack of Transparency, and Secrecy

We have mentioned above the case of current Juan Orlando Hernandez's administration's Secrecy Law, which barred more than 20 Offices of the Secretary of State and government agencies from providing any information on bids, administrative proceedings, and budget management in their organizations. It is evidence of the government's lack of transparency. Access to public information is extremely limited, there is a Public Information Institute [Instituto de Información Pública] that is a "white elephant", it is not overseen, and it does not have the coercive power needed to contain all the information about institutions; it limits itself to only collect the information issued by them, omitting to verify if it is legitimate.



Under the Secrecy Law, the information they handle is withheld for ten years; when that period has expired, any process against any government officer who has committed any irregularity before the law reaches its statute of limitations under the Law. The current administration runs disproportionate advertising campaigns on mainstream media extolling the presidential figure. Citizens are not given the opportunity to express themselves against irregular acts committed during this administration. This alienating advertising is intended to overshadow and silence the media regarding the allegations of corruption that have surfaced.

The programming offer from the official government broadcast media outlet does not allow citizens the opportunity to express themselves. It was recently found out that one of the present administration's tactics was to create social media accounts, mainly in Facebook, logically with the purpose of favoring the government in matters of public interest. This army of people who support the current administration overshadows any negative anti-government comments and highlights the works of public interest promoted by the President's Office.

## **REALM B: The System Seeks to Damage the Image of Journalists**

The use of economic resources for advertising purposes granted to several journalists in the current administration, involving them to alleged acts of corruption, was reported maliciously and perversely in an official letter from the Attorney General's Office –based on fabricated documentary proof– and by people who support President Juan Orlando Hernández. The list was widely disseminated without fact-checking names or figures and whether the advertising was in fact legal or illegal, but as a result there was a public “lynching” against the journalists who were listed (En Alta Voz, 2021)

During the President's appearances in public, opposition-leaning journalists were granted restricted access because it was taken for granted that they would ask questions to those within the governmental sphere they would not be comfortable with. The President has limited himself to mandatory transmission addresses on national broadcast media, in which only the government's truth is expressed regarding very sensitive topics such as vaccination and the COVID-19 pandemic.

## **REALM C: The Exercise of Journalism Continues to Be Dangerous in Honduras.**

There is an extremely ineffective safeguard mechanism, similar to the one that took care of ill-fated environmentalist Bertha Cáceres who, in spite of having been granted protection measures, could not save her life from a criminal attack. On August 4 this year, the Honduran Bar Association (Colegio de Abogados de Honduras) requested its withdrawal from the

State's protection mechanism, considering it inefficient because of the high levels of violence that plague the country.

Impunity of serious offenses against journalists and media employees still reaches 91.1%, trials remain dormant in courts and those guilty are still at large. For example, the murder of journalist Luis Almendares, who blew the whistle on the Honduran police's corruption and violence. Two armed men shot him dead in his beloved Comayagua, but as of yet no one is indicted for his case despite the fact that there were witnesses in the event (RSF, 2020).

The National Autonomous University of Honduras' National Violence Observatory (Observatorio Nacional de la Violencia de la Universidad Nacional Autónoma de Honduras) called this May 27, 2021 on an investigation so that the violent deaths of 90 journalists and media professionals murdered between 2005 and 2020 would not go unpunished. A significant 91.1% of the homicides against journalists and communicators were committed by using fire-arms, most of them men (Presencia Universitaria, 2021).

## **REALM D: Social Media Take on Mainstream Media**

The government's lavish campaign that publicizes the President's achievements is a way to exert control over the media that are widely opposed to the regime. In addition to getting on constant mandatory addresses on broadcast radio and television, which have come back in reason of the increased COVID-19 cases, the government's advertising campaign on mainstream media outlets buys it some public peace.

The media, which are in an unprecedented crisis stemming from natural disasters Eta and Iota, plus the crisis that COVID-19 is leaving behind, have no choice but to broadcast the news, radio and television mandatory addresses, and anything that favors the current government.

Recently, a media alliance was created –mostly comprised of entities not belonging to the Media Outlet Association (Asociación de Medios de Comunicación, AMC), which has created much controversy among businesses. Apparently, it is a political move from the President against the Televisión group, which used to have the monopoly of government and private advertising.

## **CONCLUSIONS**

To a great extent, free speech in Honduras will be determined by the upcoming general elections winner. President Juan Orlando Hernandez established the Secrecy Law, which from every point of view is restrictive of freedom of the press; the next President of the republic is expected to repeal a law that is so questioned abroad.

Another pending issue for the next period under survey is the prosecution of those who have committed murders against journalists, since according to the national press 91% of





these serious offenses remain unpunished. Court rulings and investigations continue to be slow, very secretive, and relying on a criminal code that favors offenders and those who commit the crime by reducing penalties.

In Honduras, there are no restrictions on the use of the Internet as there are in other countries. Any citizen with access to a search engine can find any newspaper in the world, and can also criticize or endorse the government authorities' decisions through social media. Some media outlets have call-in shows that allow criticizing the government's decision making in its face, which gives an impression of freedom of expression.

Because of the malicious way the National Congress members hold their sessions by using online meeting tools (Zoom), the media cannot appropriately provide every detail of what is being brought to discussion. Representatives have approved debt, budgets, and ratified executive orders omitting prior debate, and timely information on the implications of such decisions is not provided.

In the Judiciary, impunity against many murdered media employees remains. It is never known who did it, by whom they were masterminded. The President has decided to communicate with his people through long and tedious mandatory addresses on broadcast radio and TV, in which basically the Head of State is shown in a flattering light and most of the times says the same message over and over.

On the other hand, in Honduras, studying the career of journalism in public or private universities is not a prerequisite; anyone can host a radio or television show if so determined by the media outlet's owner; foul language is not censored, the whistle can be blown on any government officer without proof, or any authorities can be even slandered.

## REFERENCES

- Diario La Prensa (2021). Hospitales Móviles: Juez manda a la cárcel a Marco Bográn. Document available online: <https://www.laprensa.hn/honduras/1455684-410/hospitales-moviles-honduras-marco-bogran-axel-lopez-coronavirus-covid-saludinvest-h>. Date retrieved: September 13, 2021.
- Diario La Prensa (2021). *Lista Engel salpica a 21 políticos hondureños*. Document available online: <https://www.laprensa.hn/honduras/1474881-410/corrupcion-honduras-pol%C3%ADticos-hondure%C3%B1os-lista-engel-eeuu-diputados>. Date retrieved: September 13, 2021.
- González, M.. (202). *Investigan fraude en compra de hospitales móviles*. Document available online: <https://www.dw.com/es/honduras-investigan-fraude-en-compra-de-hospitales-m%C3%B3viles/a-57191206>. Date retrieved: September 17, 2021.
- Mejía, A. (2021). *Congreso Nacional estaría convocando a sesión virtual tras 44 días sin actividad*. Document available online: <https://www.elheraldo.hn/pais/1454441-466/congreso-nacional-convocatoria-sesion-virtual-honduras-2021>. Date retrieved: September 17, 2021.

En Alta Voz (2021). *Revelan nombres de periodistas pagados por el gobierno*. Document available online: <https://enaltavoz.com/revelan-nombres-de-periodistas-pagados-por-el-gobierno-de-honduras/>. Date retrieved: September 18, 2021.

UNDP (2020). *Análisis sobre la situación de la violencia y seguridad ciudadana en Honduras durante 2020*. Document available online: <https://www.hn.undp.org/content/honduras/es/home/presscenter/articles/2021/analisis-multidimensional-de-la-seguridad-ciudadana-en-honduras-.html>. Date retrieved: September 18, 2021.

Presencia Universitaria (2021). ONV-UNAH demanda justicia por crímenes contra profesionales de la comunicación. Document available online: <https://presencia.unah.edu.hn/noticias/onv-unah-demanda-justicia-por-crimenes-contra-profesionales-de-la-comunicacion/>. Date retrieved: September 26, 2021.

## HONDURAS

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	The great number of media outlets with requirements similar to those of the 1980s [are evidence of the freedom of expression that we still enjoy. In the last decade, media outlets have proliferated, allowing us to express our thought and opinion to a great extent within a plenty of radio, press and television formats.
<b>WEAKNESSES</b>	The weak institutional framework to regulate the power of the Head of State over the media and freedom of expression. Poorly cultured and educated citizens can be easily manipulated by alienating advertising, and this encourages the distortion of truth by despotic and authoritarian governments. All this is added to the country's economic situation, in which citizens would rather beg than take courageous action to face a government.
<b>OPPORTUNITIES</b>	Internal and general elections are always an opportunity to change the existing political class and switch to a scenario that will possibly not encourage corruption and impunity. This grants] broader freedom for the people to express themselves and greater freedom for the media not to censor themselves. With the election of a new, more democratic National Congress, and the political forces that have emerged, the new Legislature is expected to eliminate legal distortions such as the Secrecy Law (Ley de Secretos) that will not let public information be fully disclosed in the media.
<b>THREATS</b>	In representation of President Joe Biden, new Assistant Secretary [Under Secretary] of State for Western Hemisphere Affairs Ricardo Zúñiga considered the fight against corruption and impunity as a top priority for the government, as well as preventing the organized crime's money from reaching political campaigns. Other threats are power centralized in democratic institutions affects many societies, such as those in Central America, and a current regime that strives for staying in power at all costs, supported by groups upholding the status quo.

## 2.13.3 OVERVIEW

### Honduras

**Honduras** was among the countries of the region regarding which the perception of Freedom of Expression and the Press has slightly improved. Going up one spot (No. 12 in 2019-2020 and No. 11 in 2020-2021), it increased 8.47 points from one period to the other. Therefore, it remains in the group of countries placing low restriction to free speech. With high crime rates against journalists and the so-called Secrecy Law (Ley de Secretos), the country's situation remained similar in both study periods.

Realm A, Informed Citizen Freedom to Express Themselves, and Realm D were the only ones that showed a decrease in their scores. In this case, only a few tenths (0.59 points). The uncertainty of the electoral process affected the information flow to and free speech of citizens. Restrictions on access to information remain and citizens are not allowed to express themselves freely against irregular acts of [government agencies]. In addition, the government deploys social media strategies favoring the official narrative.

Realm B, Exercise of Journalism, and Realm C were the ones that improved in their results, which helped the country rise in the [overall] ranking. However, strategies to prosecute journalists and restrict their access to press conferences persist, especially targeting those who are not aligned with the government.

Likewise, Realm C, Violence and Impunity, increased considerably between 2019-2020 and 2020-2021 (10.76 points), as the exercise of journalism is dangerous in Honduras. Most of the attacks against journalists have not been prosecuted and go unpunished, which is evidence of a high level of impunity.

Finally, Realm D, Control over the Media, had a drop of 3.86 points between one iteration of the study and the next, showing an increase in direct and indirect control over the media through advertising. This translates into media outlets in crisis being compelled to aligning with government's official editorial stance, or otherwise disappearing.

Although the unfavorable influence of the different [institutional] environments decreased from one study period to the other in general, it is worth noting that there was a slight increase in the influence of the judicial and executive environments on the practice of journalism, albeit to a moderate extent to date. The executive environment showed the greatest influence on three of the four realms, followed by the legislative environment, which had the greatest influence on Realm A. The recent controversy involving the Institute for Access to Public Information (Instituto de Acceso a la Información Pública), stemming from an executive order ruling secret the information on the procurement contract for COVID-19 vaccines, has encouraged control over the media based on the nation's legal framework. do un peldaño (puesto 12 en el 2019-2020 y el 11 en el 2020-2021), aumentó 8,47 puntos de un



período a otro. Manteniéndose así en el grupo de países con baja restricción a la Libertad de Expresión. Con altos índices de inseguridad para los periodistas y la denominada Ley de Secretos, la situación del país se mantuvo similar en ambos períodos de estudio.

La Dimensión A: “Ciudadanía informada y libre de expresarse”, junto con la Dimensión D, fueron las únicas que evidenciaron disminución en sus puntajes. En este caso solo algunas décimas (0,59 puntos). La incertidumbre ante el proceso electoral afectó el flujo de información y la libre expresión de la ciudadanía. Se mantienen las limitaciones al acceso a la información y no se permite a la ciudadanía expresarse libremente contra actos irregulares de los organismos. Además, el Estado maneja estrategias en redes sociales que favorecen el discurso oficial.

La Dimensión B: “Ejercicio del Periodismo” junto con la Dimensión C fueron las que mejoraron en sus resultados, lo que ayudó a que el país subiera en el ranking. Sin embargo, persisten las estrategias para criminalizar a los periodistas y restringir su acceso a ruedas de prensa, especialmente a aquellos no afectos a las líneas del gobierno.

Igualmente, la Dimensión C: “Violencia e Impunidad” aumentó considerablemente entre el 2019-2020 y el 2020-2021 (en 10,76 puntos) siendo peligroso el ejercicio del periodismo en Honduras. La mayoría de los ataques contra periodistas continúan sin procesos ni sanciones evidenciando un alto nivel de impunidad.

Finalmente, la Dimensión D: “Control de Medios”, tuvo una caída de -3,86 puntos entre un ejercicio y el siguiente, evidenciando el aumento en el control directo e indirecto sobre los medios a través de la publicidad lo que hace que, medios de comunicación sumidos en crisis, deban seguir la línea editorial oficial del Estado, so pena de desaparecer.

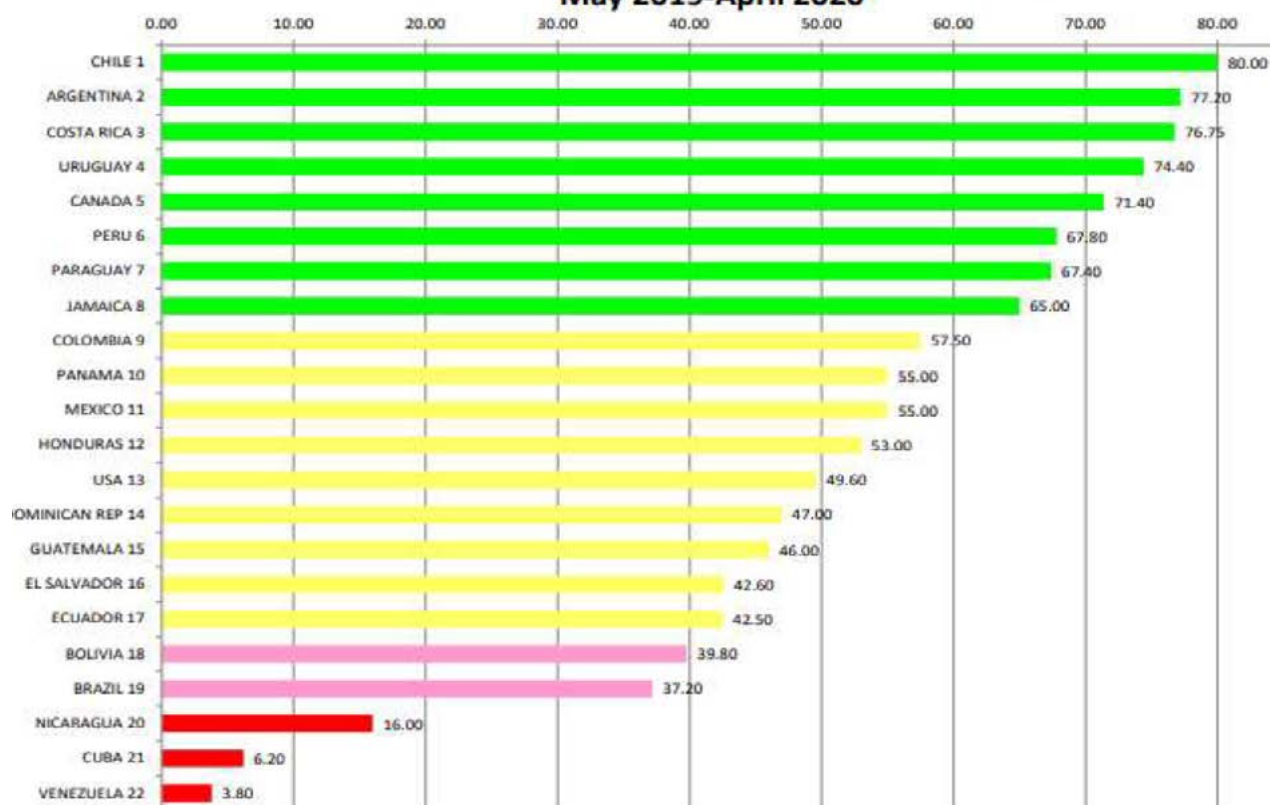
Si bien, en general la influencia desfavorable de los distintos entornos disminuyó de un período de estudio al otro, vale la pena visualizar que hubo un ligero aumento en la influencia de los entornos Judicial y Ejecutivo en cuanto al ejercicio del periodismo, aunque manteniéndose todavía en un grado moderado. El entorno Ejecutivo fue quien mostró mayor influencia en 3 de las 4 dimensiones, seguida por el entorno Legislativo que influyó con mayor grado en la Dimensión A. El reciente enfrentamiento contra el Instituto de Acceso a la Información Pública a raíz del decreto de establecer la información sobre el contrato de compra de vacunas contra la Covid 19 como información secreta, ha fomentado el control sobre los medios desde el mismo marco jurídico.

## 2.14. JAMAICA

### 2.14.1 JAMAICA 2019-2020

JAMAICA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>65.0</b>
REALM A: "Citizens informed and free to express themselves"	23	15.6
Flow of information	11	6.8
Free Expression	12	8.8
REALM B: Exercise of Journalism	10	8.8
REALM C: Violence and Impunity	42	16.4
Protection	10	0.0
Persecution	15	13.6
Impunity	17	2.8
REALM D: Control over the media	25	24.2
Direct control	16	15.2
Indirect control	9	9.0

Chapultepec Index of Freedom of Expression and Press  
May 2019-April 2020





## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

JAMAICA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	1.79	1.60	2.21
REALM A: "Citizens informed and free to express themselves"	3.95	3.38	4.88
Flow of information	4.40	3.93	5.10
Free Expression	3.50	2.83	4.67
REALM B: Exercise of Journalism	1.60	1.87	2.27
REALM C: Violence and Impunity	1.58	1.38	1.58
Protection	4.25	3.63	2.25
Persecution	1.00	1.00	2.50
Impunity	0.00	0.00	0.00
REALM D: Control over the media	1.00	1.00	1.00
Direct control	1.00	1.00	1.50
Indirect control	0.00	0.00	0.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERÍODO DE MEDICIÓN. MAYO 2019 – ABRIL 2020

## Jamaica: Vigilant in Retaining High Level of Freedom

### Executive summary

Jamaica is ranked among the highest levels of the Chapultepec Free Speech & Press Index, scoring 65 points. The media have been free for several years, despite the occasional indications of efforts by the Executive branch to impose restrictions on access to some information. These are rejected strongly by the journalists' organisation and media companies, giving the country a high level of freedom of expression.

## INTRODUCTION

The study period covers the administration of the Jamaica Labour Party that retained office in 2016, and which saw Andrew Holness continuing as prime minister with executive authority. Elections in Jamaica have been generally free and fair, with questions mainly about administrative efficiency rather than attempts at fraud. The press remains generally free and freedom of expression, as guaranteed in the Constitution, is respected by the authorities, media owners and journalists. There are no systemic or institutional impediments on the media or on freedom of expression.

The media benefit from access to information legislation that allows requests for information to be considered. However, media houses speak often about the length of time it takes between a request for information and the granting of access. In the period under review the government withdrew a plan to increase from 20 to 70 years the period for which cabinet documents would be banned from public access. Data Protection legislation was attacked by media houses and the journalists' organisation as a threat to freedom of expression.

Journalists continue to be free of physical attacks, arrests, and are open to court action relating to defamation legislation. However, the country suffers from a high rate of violent crime, with a murder rate of 47/100,000. The media and journalists are no longer subject to criminal defamation. Most complaints concern the regularity of access to officials, and the length of time it takes for responses to requests under the country's access to information legislation.

The print, online and broadcast media are owned privately, except for the government's information arm. Broadcast media regulation is by the Broadcasting Commission whose

primary role is to monitor and regulate the broadcast media, evaluate licence applications, monitor the operations of licensees, receive and investigate complaints and advise government of policy.

The country's central bank reports that the economy slowed in 2019, with growth of 0.9% following expansion of 1.9% in 2019. Inflation was 6.2% in 2019, with unemployment at 7.2pc. The estimated expansion for 2019 largely reflected a faster pace of growth in manufacturing and tourism, the impact of which was partly offset by declines in mining and construction.

Growth in manufacturing was buoyed by a rise in food production and a significant increase in petroleum refining activities. The island's utilities are generally reliable, troubled by occasional blackouts caused by power plant failures and the downing of transmission lines. However, the supply of water is irregular in many parts of the island between May and October. Public transportation is delivered by a mix of private and public entities. Life expectancy is 73.7 years with 72.1 years for males and 75.4 years for females.

## Report

### Environments: Freedom of Expression is Untrammelled

With 65 points out of a maximum possible of 100, Jamaica represents a high level of press freedom and freedom of expression. This is significantly the result of rare interventions by the executive branch, and none by the judicial and legislative branches in matters relative to freedom of expression. Freedom of expression is a right that is written into the country's constitution.

Freedom of expression is also protected by an active and vigilant media industry and the journalists' association that address any indications of unwarranted intervention by the judicial, legislative and executive branches. It was a strong and immediate response by the media that forced the government in 2019 into withdrawing its proposal to extend deny of access to cabinet documents from 20 years to 70 years.

Media houses and journalists' association also reacted negatively to the legislature's inclusion of journalism content in new data protection laws. It was regarded the by the media and journalists as an impediment to the work of journalists, particularly for the protection of sources of information.

The Data Protection Legislation was a matter of significant discussion in the period under review. It empowers the head of a data protection agency to demand information from data sources including journalists and provides guidelines on how personal data should be collected, processed, stored, used and disclosed in physical or electronic form.

The federation of media companies - the MAJ - said while it supports the right to data privacy, it advocated changes up to and including complete exemption of media from the

legislation based on press freedom principles. It said the legislation allows confidential sources to be exposed, the confiscation of journalistic records, potentially compromising investigative projects, revealing sources and/or putting journalists in danger.

The Press Association said a virtual fiefdom created by the data protection authority in decision-making means that tremendous power lies in the hands of a single individual. It suggested the government should revise the legislation. The government said it would address the concerns raised about the legislation locally and internationally.

## **REALM A: Jamaica is a well informed and open society**

Jamaicans have open access to all media and are kept well informed by the content of the print, online and broadcast media. The island has 36 radio stations, some of which broadcast nationally while others serve specific communities. There are seven television stations, three of which broadcast free to air, while the others deliver content through cable. The island has three daily newspapers - two morning and one afternoon - and several community publications. All the media have digital platforms that carry repurposed or frequently updated information. The media are privately owned, except for the government's information arm.

The news content of media is balanced, with little indication of party political preferences. Opinions are delivered through editorials and signed columns in print and online platforms. In addition to the delivery of news content, radio allows several talk shows in which people can express themselves with impunity on a range of current matters.

Freedom of expression is constrained only by the defamation legislation that allows media houses and journalists to be taken before the court. Recent changes in legislation have removed the penalty of criminal defamation, but media companies and journalists can be subject to severe financial penalties if the defamation laws are violated.

## **REALM B: The exercise of journalism is free**

With a score of 8.8 points out of 10, the exercise of journalism in Jamaica freely done in an environment in which privately owned media operate as competitive commercial entities. The print, online and broadcast media are marginally affected by influences from the legislative, judicial and executive branches. The public has a voice in the media through correspondence with editors, and through radio talk shows.

Access to information legislation allows the media and journalists, and people in general, to make requests for information. The media and journalists say while the provisions allow access, there are occasions when there is a delay in the approval of the request. Media houses and journalists have also expressed concern about aspects of the Data Protection legislation and argued for the exclusion of journalism content from the legislation. The media and journalists argued that the law was dangerous to the pursuit of freedom of expression as

it empowers the data protection agency to demand information from data sources including journalists. These efforts were not successful as the government argued that the legislation supports the fundamental right of every citizen to have their privacy protected.

Media houses, journalists and journalists' organisations have moved quickly to address any indications of a threat to the freedom of the press and freedom of expression. This was indicated through a strong negative reaction to a government attempt to extend from 20 years to 70 years to period during which access to cabinet documents is denied. "The period of secrecy asked for is extortionate and bears little relationship to the principle of access to information and freedom of information which are enshrined in our laws, indeed in our Constitution," the Press Association of Jamaica said. The government withdrew the proposal.

## **REALM C: Violence against journalists is rare**

As reflected in the scores, there are no legislative, judicial or executive actions that allow or treat with impunity any acts of violence against journalists. Jamaica suffers from a high rate of violent crime, with a murder rate of 47/100,000. However, despite this, there have been no violent acts committed against journalists in connection with their work in the period under review. There has been no indication of systemic or institutionalised violence against the media or against journalists. The Press Association of Jamaica that represents the interests of journalists says there have been no reports by journalists of threats of violence as a consequence of their work. There is no overt harassment of journalists or pressure on media houses that suggests violence, and which could condition the content they produce.

There have also been no attacks on the physical infrastructure of media houses. Occasional executive criticism of the media and the work of journalists has not led to legislative or judicial action that could encourage violent action against the media in the island's often highly party political atmosphere. These criticisms are addressed through engagement between the executive, media houses and the journalists' organisation.

The federation of media companies - Media Association Jamaica - is vigilant in the protection of journalists from acts of violence. It says it has a duty as citizens "to ensure that we hold to account those who have the ability to create the environment" in which violence could be perpetrated on journalists and the media. "Jamaica is indeed one of the safest places to practise journalism," says the Press Association that represents the interests of journalists, and which is vigilant in highlighting any indications of threats to journalists and to press freedom.

## **REALM D: Media significantly free of official control**

As reflected in the score, the media operate with a high level of freedom in the period under review. The island's media - 36 radio stations, seven television stations, three daily



newspapers and several community and parochial media - are privately owned and are free of official control. The government's news agency is the only state-directed medium, providing print, online and broadcast content.

Journalists do not require official licencing, so there is no body that controls the approval of who can be hired by the media. Independence from official control is guarded by the media companies' federation - the Media Association Jamaica - and by the Press Association of Jamaica that represents the interests of journalists. The Broadcasting Commission regulates the broadcast media, evaluates license applications, monitors the operations of licensees, receives and investigates complaints and advises government of policy.

The media are constrained by defamation legislation that penalises publishers, broadcasters and journalists from relaying content that falsely or without reason damages reputations or exposes people to embarrassment. Defamation is no longer a criminal offence, and media and journalists guilty of this are required to pay financial damages. During the period under review, media have operated in the main with respect for the legislation.

## CONCLUSIONS

As reflected in the score, Jamaica's media have remained essentially free in the period under review. The media are mainly unaffected by actions of the Legislative, Executive and Judicial branches. Media houses and journalists have been vigilant in protecting this freedom and have contested two instances of legislative action that they claim would affect press freedom. One was a plan to extend the period from 20 years to 70 years in which there could be access to cabinet documents. The pressure from media led the government to withdraw the proposal.

The media also requested changes to aspects of the Data Protection legislation, based on concerns that journalism content should be excluded as the law was dangerous to the pursuit of freedom of expression as it empowers the data protection agency to demand information from data sources including journalists. This aspect was not changed, and the legislation was passed. However, the government has offered to re-examine the law, considering the concerns if media.

The executive, legislative and judicial branches do not have control over the editorial policies of the media houses and cannot determine these policies. One media entity that is government-owned is the state news agency Jamaica Information Service that is not a commercial venture.

Journalists are not the subject of violence related to their work, and there is no overt harassment of journalists or pressure on media houses that will condition the content they produce. Media are required to work within the confines of defamation legislation that levies financial damages on offending broadcasters, publishers and journalists. There have been no instances of systemic or institutional pressure on the media in the period under review.





## REFERENCES

- Bank of Jamaica. (2020). Annual Report 2019. Retrieved from [http://www.boj.org.jm/uploads/pdf/boj\\_annual/boj\\_annual\\_2019.pdf](http://www.boj.org.jm/uploads/pdf/boj_annual/boj_annual_2019.pdf)
- Clarke, P. (2019). Gov't Backtracks On Blocking Access To Cabinet Documents For 70 Years. *The Gleaner*. Retrieved from <http://jamaica-gleaner.com/article/lead-stories/20191004/govt-backtracks-blocking-access-cabinet-documents-70-years>
- JAMAICA (CONSTITUTION) ORDER IN COUNCIL (1962). Retrieved from <https://moj.gov.jm/sites/default/files/laws/Ja%20%28Constitution%29%20Order%20in%20Council%201962.pdf>
- Gordon, A. (2019). MAJ ALIGNS WITH PAJ ON MESSAGE TO PM. *Press Association of Jamaica*. Retrieved from <http://pressassociationjamaica.org/maj-aligns-with-paj-on-message-to-pm/>
- Lewis, E. (2018). Could Jamaica's Data Protection Act shield politicians from journalistic scrutiny? *GlobalVoices*. Retrieved from <https://globalvoices.org/2018/06/12/could-jamaicas-data-protection-act-shield-politicians-from-journalistic-scrutiny/>
- Radio Jamaica News. (2019). Dismay at government's bid to extend time bar on public access to Cabinet documents. *Radio Jamaica News*. Retrieved from <http://radiojamaicanewsonline.com/local/dismay-at-governments-bid-to-extend-time-bar-on-public-access-to-cabinet-documents>
- Radio Jamaica News. (2019). Opinion journalism does not exist in Jamaica, says media boss. *Radio Jamaica News*. Retrieved from <http://radiojamaicanewsonline.com/local/opinion-journalism-does-not-exist-in-jamaica-says-media-boss>
- The Gleaner. (2019). Guard Press Freedom, Media Advocates Warn. *The Gleaner*. Retrieved from <https://www.jamaica-gleaner.com/article/news/20190503/guard-press-freedom-media-advocates-warn>
- The Gleaner. (2020). Samuda Says Press Freedom Concerns Will Be Addressed 'In Due Course'. *The Gleaner*. Retrieved from <http://jamaica-gleaner.com/article/lead-stories/20200422/samuda-says-press-freedom-concerns-will-be-addressed-due-course>
- Wilson, N. (2019). 'Withdraw It' - Gov't Told To Rethink 50-Year Increase In Period Of Exemption From Public Access To Cabinet Documents. *The Gleaner*. Retrieved from <http://jamaica-gleaner.com/article/lead-stories/20191003/withdraw-it-govt-told-rethink-50-year-increase-period-exemption-public>
- World Population Review. (2020). Murder Rate By Country 2020. Retrieved from <https://world-populationreview.com/country-rankings/murder-rate-by-country>

## JAMAICA

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Freedom of expression is protected by an active and vigilant media industry and the journalists' association that address any indications of unwarranted intervention by the judicial, legislative and executive branches. These organisations protect the freedom of expression that is a right that is written into the country's constitution. These organisations also react quickly to any appearance of interventions by the executive branch.
<b>WEAKNESSES</b>	There are few weaknesses that allow the realisation of threats to freedom of expression. This is a right written into the country's constitution that has become a part of the country's media culture. As was indicated with its attitude to aspects of the government's data protection legislations, the country's media vigilantly react to any apparent weaknesses.
<b>OPPORTUNITIES</b>	There are few opportunities for threats to freedom of expression. The country's media culture leads to the immediate disclosure of such threats by the executive, judicial and legislative branches. Media groups react to the appearance of any likely threats to freedom of expression, as happened in the period under review with the introduction of data protection legislation.
<b>THREATS</b>	Threats to freedom of expression are rare, and are countered by a vibrant media lobby. In the period under review, the executive branch was forced to withdraw a proposal to extend denial of access to cabinet documents from 20 years to 70 years. Media houses and the journalists' association also reacted negatively to the legislature's inclusion of journalism content in new data protection laws, as this was an impediment to the work of journalists.

## 2.14.2 JAMAICA 2020-2021

JAMAICA	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>78,36</b>
<b>REALM A: "Citizens free to express themselves"</b>	<b>23,00</b>	<b>18,57</b>
Information flow	11,00	8,57
Free speech	12,00	10,00
<b>REALM B: "Exercise of journalism"</b>	<b>10,00</b>	<b>8,86</b>
<b>REALM C: "Violence and impunity"</b>	<b>42,00</b>	<b>28,93</b>
Protection	5,00	1,29
Persecution	7,50	5,14
Impunity	8,50	1,50
Registered violence	21,00	21,00
<b>REALM D: Control over the media</b>	<b>25,00</b>	<b>22,00</b>
Direct control	19,00	16,86
Indirect control	6,00	5,14

**Chapultepec Index on Freedom of Expression and the Press 2021**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>JAMAICA</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	0,38	0,27	1,17
REALM A: "Citizens informed and free to express themselves"	0,57	0,50	0,93
REALM B: Exercise of Journalism	0,14	0,14	1,29
REALM C: Violence and Impunity	0,67	0,29	1,19
REALM D: Control over the media	0,14	0,14	1,29

Type of Influence	Points
SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## **Jamaica: freedom of expression, press thriving**

### **Executive Summary**

Jamaica has continued to score highly on the Chapultepec Index for Freedom of the Press and Freedom of Expression, achieving 78.36 points, and marking a respectable improvement on its 65 score on last year's Index. This reflects the country's long spell of freedom of the press, sporadically interrupted by minor incidents that have been speedily extinguished by a robust response from the news media.

## **INTRODUCTION**

The period under review covers the Administration of the Jamaica Labour Party (JLP), led by Prime Minister Andrew Holness, that came to power in 2016 and was re-elected to office in 2020. After many years of fraudulent elections, Jamaica has been enjoying free and fair voting, notably since 2002. The country has a free press under the rubric of freedom of expression which is guaranteed in the Constitution and continues to be respected across the spectrum. There are no systemic or institutional impediments on the media or on freedom of expression.

Under Jamaica's Access to Information legislation enacted in 2002, the media has generally wide access to government information. However, requests from the media for information from State agencies can take a long time to be granted. It is to be noted that the Ministry of Information this year committed to responding more speedily to these requests, as well as other changes in the law.

Last year, the government introduced measures to restrict freedom of movement, in order to contain the spread of the COVID-19 disease. The press was among the institutions restricted from free movement. Whether it was deliberate or an oversight by the Government, the Press Association of Jamaica and media houses protested and the decision was quickly reversed.

Access to government officials increased exponentially during this period, possibly because of the weekly press briefings to update the country on the COVID-19 pandemic and its effects on Jamaica. Journalists took advantage of the opportunity to seek other information while the government officials were accessible.

There were no physical attacks or arrests of journalists, and there was a marked drop in defamation suits. However, journalists continue to be concerned about the high crime rate – murder being 47/100,000 - which largely makes some areas of the country difficult for journalists to carry out their work.

The print, online and broadcast media are owned privately, with the exception of the State-owned Jamaica Information Service. The broadcast media is regulated by the Broadcasting Commission whose primary role is to monitor and regulate the broadcast media, evaluate licence applications, monitor the operations of licensees, receive and investigate complaints and provide the government with policy advice.

## Highlights

Jamaica is a small English-speaking island in the Northern Caribbean, with a population of 2.9 million people and a per capita income of US\$4,650. In January 2021, there were 1,194,800 employed persons, a fall of 74,300, or 5.9% when compared to January 2020. The unemployment rate was 8.9 per cent, 1.5 percentage points higher than the rate in January 2020. This was partly attributable to the adverse impact of the COVID-19 pandemic on the economy.

It is noteworthy that while joblessness among males and females increased, the impact was worse on females in the labour force, with a loss of 40,200 (6.9%) to 538,600 females in January 2021.

The main source of revenue for Jamaica is services which account for 70% of Gross Domestic Product (GDP). The primary sources of foreign exchange are tourism, remittances and bauxite/alumina, all of which suffered big hits from the pandemic.

## Report

### Environments:

### Freedom of Expression on healthy trajectory

With 78.36 points out of a possible total of 100, Jamaica enjoyed an impressive level of press freedom and freedom of expression during the period under review. This was largely reflective of the scant interventions by the executive branch, and none by the judicial and legislative branches in matters related to freedom of expression which is entrenched in the country's Constitution.

Freedom of expression is also fiercely guarded by a watchful media industry and the journalists' association against any indications of unwarranted intervention by the judicial, legislative and executive branches. This is backed up by a generally supportive public.



Robust and rapid response by the media forced the government in 2020 to include the press among entities exempted from freedom of movement restrictions related to the COVID-19 pandemic. Media houses, the Media Association Jamaica representing owners and publishers and the Press Association of Jamaica representing journalists, strongly demanded that the media be removed from the entities which were being deprived of freedom of movement, ostensibly to reduce the spread of the novel coronavirus, on what the government declared to be No-Movement days.

## **REALM A: Jamaica is a well informed and open society**

Jamaicans have open access to all media and are kept well informed by the content of the print, online and broadcast media. The island has 36 radio stations, some of which broadcast nationally while others serve specific audiences. There are seven television stations, three of which broadcast free to air, while the others deliver content through cable channels. The public has wide access to hundreds of cable channels, the Internet and social media. The island has three daily newspapers - two morning and one afternoon - and several community publications. All the media have digital platforms that carry repurposed or frequently updated information. The media are privately owned, except for the government's information arm.

The news content of media is balanced, with little indication of party political preferences and no endorsement of political parties. Opinions are delivered through editorials and signed columns in print and online platforms. In addition to the delivery of news content, there are several talk shows in which people can express themselves with impunity on a range of current matters.

Freedom of expression is constrained only by the defamation legislation that allows media houses and journalists to be taken before the court. Recent changes in legislation have removed the penalty of criminal defamation, but media companies and journalists can be subject to severe financial penalties if the defamation laws are violated.

## **REALM B: The exercise of journalism is unencumbered**

With a score of 8.86 points out of 10, the exercise of journalism in Jamaica is freely done in an environment in which privately owned media operate as competitive commercial entities. The print, online and broadcast media are marginally affected by influences from the legislative, judicial and executive branches. The public has a voice in the media through correspondence with editors, and through radio talk shows.

Access to information legislation allows the media and journalists, and people in general, to make requests for information. The media and journalists say while the provisions allow access, there is too often a delay in the approval of the request. It is to be noted that the gov-



ernment has promised changes to the Access to Information legislation to speed up delivery of information, among other improvements.

## **REALM C: Violence against journalists is rare**

As reflected in the scores, there are no legislative, judicial or executive actions that allow or treat with impunity any acts of violence against journalists. Jamaica suffers from a high rate of violent crime, with a murder rate of 47/100,000. However, despite this, there have been no violent acts committed against journalists in connection with their work in the period under review. There has been no indication of systemic or institutionalised violence against the media or against journalists. The Press Association of Jamaica that represents the interests of journalists says there have been no reports by journalists of threats of violence as a consequence of their work. There is no overt harassment of journalists or pressure on media houses that suggests violence, and which could condition the content they produce.

There have also been no attacks on the physical infrastructure of media houses. Occasional executive criticism of the media and the work of journalists has not led to legislative or judicial action that could encourage violent action against the media in the island's often highly party political atmosphere. These criticisms are addressed through engagement between the executive, media houses and the journalists' organisation.

According to the president of the Press Association of Jamaica, George Davis: "There are several impediments in the environment that the Press Association of Jamaica moved swiftly to remove. I must say that, for the most part, the government has been cooperative; they are listening. And most of the time when we appeal to them for the removal of those obstacles, they often oblige.

"That is very important because many of our counterparts in other parts of the world see the impediments and ask for them to be removed and their pleas fall on deaf ears. Thankfully we have a government that is listening... and that bodes well for journalism in Jamaica."

The federation of media companies - Media Association Jamaica - is vigilant in the protection of journalists from acts of violence. It says it has a duty as citizens to ensure that we hold to account those who have the ability to create the environment in which violence could be perpetrated on journalists and the media.

For the Government's part, the Junior Minister for Information, Nesta Morgan said: "The Government, civil society and the media have partnered over the years to ensure that we have freedom of the press and that members of the media, and journalists, are able to carry out their work without restrictions so that we can ensure that our democracy remains strong.

"The fact of the matter is that there have been occasions where challenges have come forward but the good thing about our relationship with the leadership of the media is that we are able to have conversations and we are able to resolve any concerns they may have."



## REALM D: Media significantly free of official control

As reflected in the score of 22 out of 25, the media operated with a high level of freedom in the period under review. The island's media - 36 radio stations, seven television stations, three daily newspapers and several community and parochial media - are privately owned and are free of official control. The government's news agency is the only state- directed medium, providing print, online and broadcast content.

Journalists do not require official licensing, so there is no agency that controls the approval of who can be hired by the media. Independence from official control is guarded by the media companies' federation - the Media Association Jamaica - and by the Press Association of Jamaica that represents the interests of journalists. The Broadcasting Commission regulates the broadcast media, evaluates license applications, monitors the operations of licensees, receives and investigates complaints and provides the government with policy advice.

The media are constrained by defamation legislation that penalises publishers, broadcasters and journalists from relaying content that falsely or without reason damages reputations or exposes people to embarrassment. Defamation is no longer a criminal offence, and media and journalists guilty of this are required to pay financial damages. During the period under review, media have operated in the main with respect for the legislation, resulting in fewer lawsuits and a smaller number of complaints to media houses, according to Khara East, a leading defamation lawyer who works for the Jamaica Observer.

The environment for freedom of the press and freedom of expression in Jamaica has remained stable over a long period, certainly over the last decade. Individual criticisms of the press have never amounted to anything of substance and so not regarded as a threat. There is no immediate indication that this environment will change any time soon. However, the Press Association of Jamaica says it will seek to get freedom of the press enshrined in the Constitution as a separate right from the broader right of freedom of expression.

## CONCLUSION

As reflected in the score, Jamaica's media have remained essentially free in the period under review. The media are mainly unaffected by actions of the Legislative, Executive and Judicial branches. Media houses and journalists have been vigilant in protecting this freedom and have contested one instance of executive action that they claim would affect press freedom. This was a move which excluded the media from entities allowed freedom of movement on "No-Movement days" meant to help reduce the spread of COVID-19 disease. Quick and robust response from the media led the government to correct what might have been an oversight.

The media are free of official control, being privately owned and competitive businesses. The executive, legislative and judicial branches do not have control over the editorial policies of the media houses and cannot determine these policies. One media entity that is government-owned is the state news agency Jamaica Information Service.

Journalists are not the subject of violence related to their work, and there is no overt harassment of journalists or pressure on media houses that will condition the content they produce. Media are required to work within the confines of defamation legislation that levies financial damages on offending broadcasters, publishers and journalists. There have been no instances of systemic or institutional pressure on the media in the period under review.

## REFERENCES

- Trading Economics (2021). Jamaica GDP per capita 2021. Retrieved from <http://www.trading-economics.com>
- What is the main source of revenue for Jamaica (2021) Statistical Institute of Jamaica. Retrieved from <https://www.economy.com>
- George Davis (2021). Position of pride April 22, 2021 Jamaica Observer. Retrieved from <https://www.jamaicaobserver.com>
- Nesta Morgan (2021). Position of Pride 22.4.21. Retrieved from <https://www.jamaicaobserver.com>
- George Davis (2021). PAJ to press for constitutional recognition of press freedom January 31, 2021. Retrieved from <https://jamaica-gleaner.com>
- JAMAICA (CONSTITUTION) ORDER IN COUNCIL (1962). Retrieved from <https://moj.gov.jm/sites/default/files/laws/Ja%20%28Constitution%29%20Order%20in%20Council%201962.pdf>
- World Population Review. (2020). Murder Rate By Country 2020. <https://worldpopulationreview.com/country-rankings/murder-rate-by-country>

## JAMAICA

PERIOD SURVEYED

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Strengths, Weaknesses, Opportunities, Threats

<b>STRENGTHS</b>	The Jamaican Constitution guarantees freedom of expression and of the press, and Governments over the years have largely abided by its provisions. This environment seems likely to continue, with no immediate threats on the horizon. Jamaica is considered one of the most secure nations for journalists.
<b>WEAKNESSES</b>	Individual members of government criticize the press frequently but that is their right under the Constitution.
<b>OPPORTUNITIES</b>	The Government has established a reliable weekly press briefing at which members of the media can raise any complaints they have and seek information on a wide range of issues. With the onset of the COVID-19 pandemic, media briefings have increased, allowing greater access to government officials.
<b>THREATS</b>	COVID-19 restrictions could adversely impact freedom of movement of journalists.

## 2.14.3 OVERVIEW

### Jamaica

**Jamaica** has significantly improved its position in the Index, remaining in the range of low restriction to Freedom of Expression and the Press, moving from No. 8 with 65 points in the 2019-2020 edition to No. 3 with 78.36 points in the 2020-2021 study. These results reflect a very favorable climate for free speech and the exercise of journalism in the country, being considered a country placing low restriction.

Realm A, Informed Citizens Free to Express Themselves, improved 2.97 points for the 2020-2021 study. With people expressing themselves freely under guarantees for access to information, full exercise of freedom of expression is evident on the island. The news provided by the media is balanced. Additionally, editorial opinions and authored columns are respected. Most of the media are privately owned and the only notable limitation to freedom of expression is the codification of defamation as a speech crime.

Realm B, Exercise of Journalism, yielded similar results in both 2019-2020 and 2020-2021, 8.8 points out of a maximum of 10 for that realm. In Jamaica, journalists can work freely, also access public information as their requests are responded to in a timely manner. Journalists are not required to have an official license to practice their activity.

Regarding Realm C, Violence and Impunity, there is no evidence of specific instances of violence against journalists and the media in general, nor are there records of harassment or threats or attacks on media infrastructure. From one study period to the other, the quantitative difference in score was 12.53.

Finally, from the results obtained for Realm D, Control over the Media, in both periods, it is inferred that the media on this island nation are free from government management, being most held by private capitals. In general, the perception regarding freedom of expression and the press on the island is considered favorable, and without major ups and downs.

As for the degrees of unfavorable influence of the different environments, these decreased from one study period to the other. On few occasions, the Executive stepped in matters relating to free speech, while the Judicial and Legislative did not interfere. In general, the influence was slight, which shows the guaranteed exercise of freedom of expression in the country.

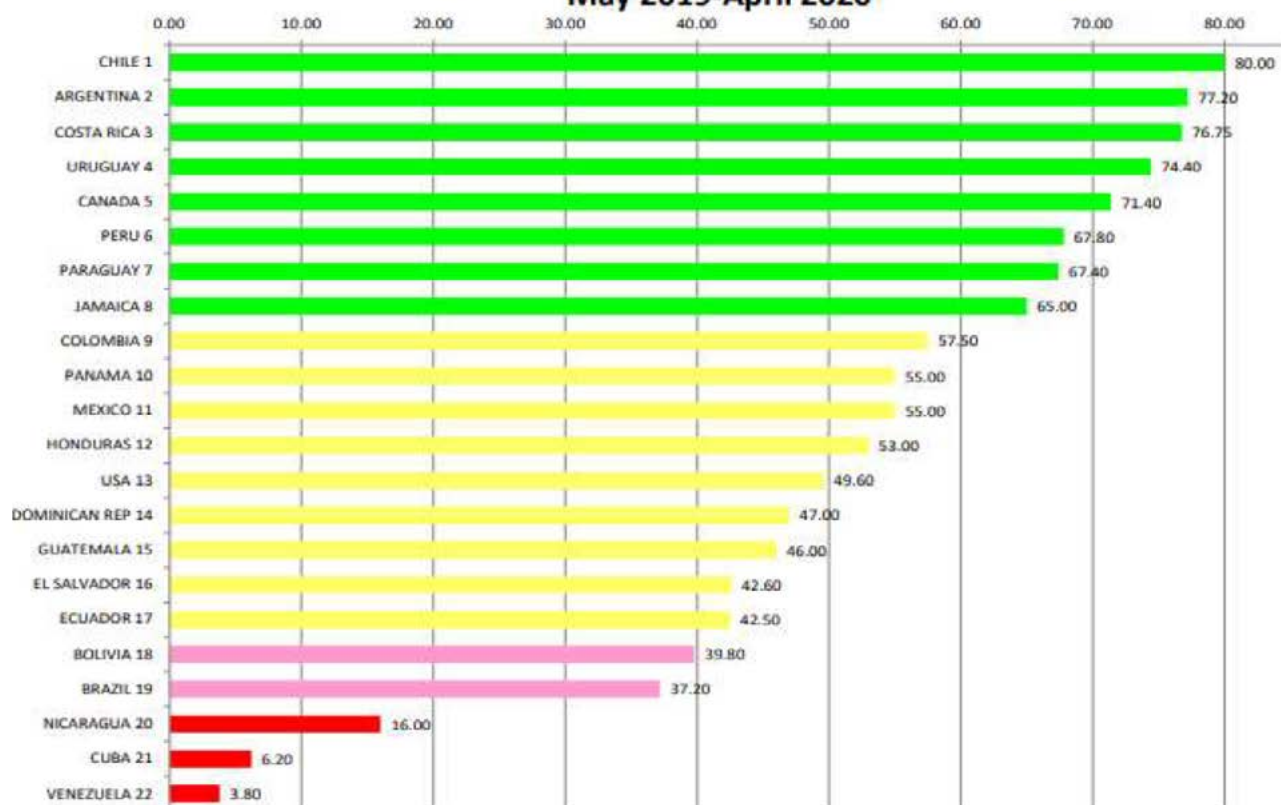


## 2.15. MEXICO

### 2.15.1 MEXICO 2019-2020

MEXICO	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>55.0</b>
<b>REALM A: "Citizens informed and free to express themselves"</b>	<b>23</b>	<b>13.4</b>
Flow of information	11	5.4
Free Expression	12	8.0
<b>REALM B: Exercise of Journalism</b>	<b>10</b>	<b>7.8</b>
<b>REALM C: Violence and Impunity</b>	<b>42</b>	<b>12.0</b>
Protection	10	6.4
Persecution	15	0.0
Impunity	17	5.6
<b>REALM D: Control over the media</b>	<b>25</b>	<b>21.8</b>
Direct control	16	12.8
Indirect control	9	9.0

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

MEXICO	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	2.99	2.87	4.65
REALM A: "Citizens informed and free to express themselves"	2.93	2.88	5.61
Flow of information	2.75	3.08	6.27
Free Expression	3.11	2.67	4.94
REALM B: Exercise of Journalism	1.93	1.73	2.73
REALM C: Violence and Impunity	4.40	4.23	5.87
Protection	5.00	5.00	4.50
Persecution	3.20	2.70	8.10
Impunity	5.00	5.00	5.00
REALM D: Control over the media	1.00	1.00	2.21
Direct control	1.50	1.42	4.42
Indirect control	0.00	0.00	0.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

## Mexico: Half-Exercised Free Expression in a Context of Generalized Crisis

### Executive Summary

Mexico, with 55 points out of 100, is in position No. 11 among 22 countries of the Americas included in the Chapultepec Index of Freedom of Expression and the Press. The outlook faced by the country in terms of freedom of expression during the period covered by this study, which goes from April 2019 to May 2000, is one of setbacks. Although it cannot be claimed that free speech is muzzled, some institutional actions of the Mexican government tend to condition it with adverse consequences for media organizations, journalists, and the society in general. President Andrés Manuel López Obrador has marked the news agenda of the media with a heightened prominence. In his addresses, he has stigmatized and disparaged them. The actions of the Legislative and the Judiciary have been rather ommissive than diligent, and distinctively aligned with the Executive.

## INTRODUCTION

The report on Mexico is contained below. It is structured based on the four realms of this Index, and has, as its starting point, the assessment conducted in this regard by the panel of journalists and experts in this field called by the organizers, thereby underscoring the analysis of its results within the Mexican context, from April 2019 to May 2020.

During this period, the economic and social outlook for Mexico has been negative. In April 2019, the International Monetary Fund (IMF) estimated that, in 2019 and 2020, Mexico's Gross Domestic Product (GDP) would grow 1.6% and 1.9%, respectively, compared to 2% in 2018, in light of the uncertainty of national and foreign investors stemming from the policies of the Andrés Manuel López Obrador (AMLO) government (Hernández, 2019). Three months later, this international organization lowered that forecast from 1.6% for 2019 to 0.9%. Added to that scenario, in August 2019, the National Council for the Evaluation of Social Development Policy (Consejo Nacional de Evaluación de la Política de Desarrollo Social, CONEVAL), in the study *10 Years of Poverty Indicators in Mexico (10 años de Medición de Pobreza en México)*, reported that there were 52.4 million Mexicans in poverty situation nationwide, a figure equivalent to 41.9% of the population (Redacción Animal Político, 2020a).

In March of this year, the Organization for Economic Cooperation and Development (OECD) rated Mexico as having the worst economic performance of the G-20 countries, when

its GDP decreased 0.1% at the end of 2019, compared to a 2.1% growth in 2018 (Villanueva, D. 2020).

For its part, the National Institute of Statistics and Geography (Instituto Nacional de Estadística y Geografía, INEGI), revealed that the Coronavirus left 12 million Mexicans unemployed in April (Notimex, 2020b). In May, the Economic Commission for Latin America and the Caribbean (ECLAC) reported that the country would have a 4.8% increase in extreme poverty levels, compared to 2019 (Redacción, 2020).

In 2019, regarding crime rates, 34,582 premeditated murders went on record, the highest in the last 20 years (Nájar, 2020). That year, 73.9% of the population aged over 18 considered that living in their city was unsafe (INEGI, 2019).

In this context of generalized crisis, the media and journalists carry out their activities in a climate of tension caused by the president's stance, as he recurrently stigmatizes and discredits them because they are critical of his policies, attitude, and performance. In addition, journalists continue to be the target of aggressions, threats, and murders that seriously undermine freedom of expression, with a government that acts halfheartedly in terms of protection, amidst systemic institutional impunity. On the other hand, to the economic crisis that the country is experiencing should be added federal budget cuts in government advertising, which has negatively affected those media outlets not favored by the administration.

## Analysis of results

With 55 points out of 100, Mexico holds position No. 11 among the 22 countries of the Americas included in the research on the influence of institutional actions of the three branches of government on the exercise of freedom of expression. Based on the results of the survey to journalists and experts, Mexico is recognized for being a country in which there is a relatively favorable climate for the exercise of freedom of expression, but under conditions that have negatively influenced it. Actions of the Executive prevail, which instead of consolidating such right, have triggered negative effects against it, without exempting the Legislative and Judiciary from responsibility for their omission.

This is the environment in which the greatest effects against the exercise of freedom of expression in Mexico occur. These negative consequences are the result of the authoritarian and deaf ways that have marked government communications. The communication policy of the AMLO administration has been outstanding for discretionary allocation of public resources in government advertising expenditures, on an ideological pattern identifying the president's friends and foes. This is coupled with corresponding actions in favor and against the media and journalists, in a context of crisis of government communication interspersed with flows of inaccurate informa-



tion, fake news, and polarization. Mexico is undergoing a crisis resulting from public policies in economic, political, and social matters that has been worsened by the Coronavirus (SARS-CoV-2) pandemic, in an environment of poverty and crime among the society in general and for journalists in particular.

## Executive

The Executive is the lowest rated by the experts surveyed as moderately influential in average, at 4.65 points, in situations discouraging free speech, well above those achieved by the other two branches of government. The points scored in this environment reveal that it exerts a strong negative influence on the exercise of freedom of expression in the country. The realm worst assessed by the experts was C, relating to violence and impunity, particularly in the sub-realm regarding persecution of journalists, with an influence on discouraging situations at 8.1 points, considered very strong. Similarly, but with a lower score, is the influence of this environment on Realm A regarding information flow and free speech, with an unfavorable rate at 5.61 points, considered to be a strong influence.

The analysis of the results of Realm A, regarding informed citizens free to express themselves, is framed in the communication strategy that started being pursued on December 3, 2018, two days before AMLO took office as president of the republic. That day, the *mañaneras* [morning addresses] were established as the main political communication tool of the new government. Every day from Monday to Saturday, from 7:00 a.m. to 9:00 a.m., the president offers a press conference with national coverage on public and private radio and television, online news sites, and those of the federal government itself.

This strategy has been the object of criticism because it does not respond to fulfilling the duty of transparency and accountability, but rather to effectively spreading propaganda, with inconsistencies in the information provided, which causes the president to say falsehoods (Nájar, 2019). This was fact-checked by a study indicating that “practically 6 out of every 10 verifiable assertions stated by the president, in the months of December 2018 to September 2019, are either a lie or a half-truth. (Guerrero, D. 2019). Likewise, this communication model has been used by the president to confront the national and international media, stigmatizing and disparaging them (Infobae, 2020c). The negative consequences for citizens are recognized in the setting of the news agenda by the Executive, in the low-quality information communicated, as well as in the climate of polarization being created between the government and the press, between its Fourth Transformation (Cuarta Transformación, 4T) project and its critics on mainstream and social media.

Immediately after winning the elections, in his capacity as president-elect, he had seven confrontations with the press (Yáñez, 2018). During 2019, he kept this confrontational stance, calling it “fifi” (bourgeois, pretentious) and “conservative” press. On April 22, 2020, the Pres-





ident said that this country “does not have a professional, independent and ethical journalism”; that the media coverage of the 4T is “disproportionately negative”. He discredited the journalistic work of the newspapers *El Universal*, and *Reforma*, which have been distinctly critical of the government. Additionally, citing journalists by their full names, he criticized them since, according to him, they only dedicate themselves to lying on their job (Redacción Animal Político, 2020a). In May, in the midst of the Coronavirus pandemic, AMLO accused *The New York Times*, *The Washington Post*, *The Financial Times* and Spain’s *El País* (*The Country*) of lying and breaching ethics in their coverage of Mexico regarding the management of the COVID-19 pandemic by the government (Arista, L. 2020). Faced with this situation of stigmatization of the press, several civil society organizations, scholars, and intellectuals have questioned the president’s actions, considering them an attack on freedom of information and the citizens’ right to know, thereby creating a climate of polarization that, instead of fostering democratic dialogue, impoverishes, intimidates, and threatens it.

On the other hand, among direct actions by the Executive evidencing collusion with media moguls, the case of Ricardo Salinas Pliego, owner of *TV Azteca*, the second largest broadcast television network in the country – who has been awarded no-bid contracts from the government and is a recipient of government advertising from the federal budget – stands out. A week after the declaration of nationwide health emergency, the owner of said TV network publicly defied official orders on the suspension of economic activities as a mitigating measure regarding the Coronavirus pandemic. (La Redacción, 2020). The attitude of this businessman was confirmed on April 17 by Javier Alatorre, an evening news anchor in the above television station, who called on the population to disobey the prevention and care measures adopted by Hugo López Gatell, Undersecretary of Prevention and Health Promotion. The newsperson called the government official a liar and urged viewers to disregard him. (Redacción / Sin Embargo, 2020). The seriousness of this call for contempt of authority was not an object of any penalty by the federal government. Instead, the president justified the journalist by saying that this friend of his was wrong, that he is a good person, that he made a mistake as we all do, and that “there should be no political lynching on someone who does not share our point of view” (Infobae, 2020b). Finally, he recommended that there be “no sanctions... albeit an excess, an irresponsibility, so that the right to self-expression, the right to freedom of expression, can be safeguarded” (Redacción, 2020a).

With respect to the worst ratings achieved by this environment, corresponding to Realm C of violence and impunity, particularly persecution of journalists, at 8.1 points, the federal government exerts a very strong degree of influence in situations unfavorable to freedom of expression. Specifically, its Department of the Interior (Secretaría de Gobernación, SEGOB) in charge of the protection mechanism for journalists, and the Special Prosecutor’s Office for Crimes against Freedom of Expression (Fiscalía Especial para la Atención de Delitos cometidos contra la Libertad de Expresión, FEADLE) of the Attorney General’s Office (Fiscalía General de la República), by closing of



this report, had demonstrated their institutional inability. To date, these offices fail to protect from and address aggressions, threats, and murders perpetrated against the members of this profession.

## Legislative

Based on the results of the study, the influence of the legislative environment in situations unfavorable to free speech is moderate, with almost three points (2.99). The actions of the legislative branch have mostly been lip service in nature. During the period under analysis, no initiatives for draft bills aimed at updating and improving the current regulatory provisions on freedom of expression were found. However, the experts' ratings on this environment highlight Realm C, relating to violence and impunity against journalists, as the most omitted. The lack of institutional responsibility of this branch of government is noted in the issues of protection of journalists (6.4 points) and impunity (5.6 points).

Among the few positions emanating from this environment, regarding the case of *TV Azteca's* contempt, it is worth noting that of a senator from the Movement for National Regeneration (Movimiento para la Regeneración Nacional, Morena), the president's party. Specifically, he requested that the Federal Institute of Telecommunications (Instituto Federal de Telecomunicaciones, IFT) revoke the network's broadcast license, thereby rendering it ineffective.

On the other hand, this branch of government has been the object of complaints by such representative civil society organizations as Article 19, Medios Libres (Free Media), FUNDAR Centro de Análisis e Investigación (FUNDAR Center for Analysis and Research), and the Mexican Association for the Right to Information (Asociación Mexicana de Derecho a la Información, AMEDI), among others, in demand to revise and update the General Law on Media of 2018 (Ley General de Comunicación Social de 2018). These organizations describe the above law as discretionary, far removed from the democratic principles of transparency, plurality of information, and citizens' right to know.

Faced with the background of impunity for murders of journalists, National Action Party (Partido Acción Nacional, PAN) Senator Marco Antonio Gama Basarte, presented a draft decree amending the Organic Law of the Attorney General's Office (Ley Orgánica de la Fiscalía General de la República), to create the Specialized Prosecutor's Office for Journalists and Human Rights Defenders into an autonomous entity. This proposal has been circulated among various committees (Infobae, 2020 a), but it has not been addressed upon completion of this study.

## Judiciary

The experts surveyed in this study perceived a lesser influence from the judicial environment at 2,87 points, twelve tenths of a point below the legislative environment (2,99 points). With a moderate degree of negative influence, this environment does increase its impact on Realms C and A. Realm C, regarding violence and impunity, achieved 4,23 points with a strong showing in the sub-realms on protection of journalists and actions against impunity, at 5 points each. Regarding Realm A of actions encouraging an informed citizenry and the exercise of free speech, it is important to note that the actions encouraging information flow stood out with 3,08 points.

Regarding Realm A, the most relevant case during the period of this study is related to the right to hearings. This right was constitutionally enshrined in the telecommunications and broadcasting reform of June 2013, a reform that mandated the Legislative to draft a new statute in this area, which was enacted and published in 2014. This Law provided for the framework of the right to hearings, as well as the functions, authority, and responsibilities of the Hearings Advocates (*Defensores de las Audiencias*). However, in 2017, the Senate of the Republic approved a counter-reform to this law, which left hearings unprotected. Faced with this action by the legislative branch, the Mexican Association of Hearing Advocates' Offices (*Asociación Mexicana de Defensorías de las Audiencias*) filed for injunction relief. On May 19, 2020, the Federal Judiciary conclusively ruled the unconstitutionality of the amendment to Article 256 of the Law (AMEDI, 2020). This decision from the Judiciary was widely welcomed because it also reinstated the IFT's authority to issue guidelines on this matter. Such guidelines are still pending to date, although it is publicly acknowledged that this will be conducted within a framework of legal certainty.

However, based on the experts' remarks on Realm C, regarding protection of journalists, persecution and impunity, the situation from previous years has not changed, but worsened instead, due to the increase in the number of murders of journalists. In 2019, ten homicides went on record and, during the first five months of 2020, two more were added. (Arista, 2020). In total, 12 murders of journalists have been reported from January 2019 to May 2020. Institutional impunity in this area has made this country one of the most dangerous in the world for this activity.

## REALM A: Citizenship and freedom of expression

The actions of the Mexican State aimed at encouraging the flow of plural, timely, and accurate information with regard to free speech and the right of citizens to information for the period covered by this research, have been marked by the departure from the sense of public responsibility of government bodies in the field of freedom of expression, respect for the rights of citizens to information, and the sense of dem-

ocratic communication conducive to pluralistic dialogue, tolerance of criticism, and consensus building. This is confirmed by the results of the survey conducted among experts in the field of freedom of expression and the journalists inquired for this study. Out of a maximum 23 points of this realm, the rating was 13.4.

The sub-realm corresponding to actions encouraging plural and diverse free speech in the media was rated by the experts surveyed at 5.4 points out of a maximum 11.

The above results clearly point to the actions of the Executive as those that have mostly affected the informational dynamics in a negative direction nationwide, without exempting the other two branches of government from responsibility by omission.

The results of the survey to experts on the actions of Mexico's branches of government in the field of free speech averaged 8 points out of a maximum of 12. These results are objectively supported, precisely, on the ongoing debate and polarization in social media, in publications critical of the Mexican branches of government by columnists, scholars, intellectuals, and journalists on the media, as well as in citizen organization in order to demonstrate in the public arena in demand of respect for their fundamental rights.

The actions of the Legislative and the Judiciary were marginal to those of the Executive. Up to this point, the Judiciary has a backlog of cases (injunctions and litigations) regarding decisions of the Executive challenging constitutional and statutory provisions. For its part, the Legislative, practically posing no challenge, has remained aligned with the actions and policies of the federal government.

## **REALM B: Conditions for the professional exercise of journalists**

The experts surveyed rated Realm B on actions aimed at guaranteeing respect for the professional exercise of journalists, their freedom of information, and the dignity of their professional activity through regulatory provisions in favor of their work and social responsibility, with 7.8 points out of a maximum of 10.

In the period covered by this study, the working conditions of journalists have been affected by several factors, among which is president AMLO's decision to implement austerity in media spending. This decision by the Executive triggers negative consequences for the media and, therefore, for its workers. Faced with this measure by the federal government, several outlets downsized (by means of layoffs) to face a difficult scenario in terms of their advertising sales income from government agencies. According to figures from the Department of Civil Service Media System, in 2019, 5.21 billion Mexican pesos (\$244,964,000) were budgeted for government advertising,

of which 3.24 billion pesos (\$152,515,000) were spent that fiscal year. In other words, there was a discretionary under-expenditure of over 2 billion pesos (\$92,449,000). The list of media that received the highest allocations that year for this item is practically the same benefited in previous six-year presidential terms: *Televisa*, *TV Azteca*, *La Jornada* (*The Daily*), *Grupo Fórmula*, *El Universal*, and *Excélsior* (Artículo 19, 2020), with serious repercussions on other media which, in lack of public income, have had to downsize their payroll and dismiss staff.

On April 17, 2019, the agreement establishing the media policy of the federal government was published in the Official Daily of the Federation (*Diario Oficial de la Federación*, DOF). This agreement was presented by the president, who emphasized that this policy adhered to the criteria of austerity, that public resources would not be used to reward or punish any media, and that it would not be “a mechanism of coercion, of punishment”. For his part, the president’s communications coordinator said that he would “never issue any news directive to the media”; that no journalist would be reprimanded in the exercise of his profession; but “on the contrary, any kind of coercion or pressure on journalists is forbidden”; media would be selected according to objective criteria, to avoid “favoring or vetoing any media outlet for political reasons or for personal affinity or aversion”, and that it was forbidden to make government advertising to pressure, punish, reward, privilege, or coerce newsmen. In addition, he said that the objective of the media policy “ranges from guaranteeing the full exercise of freedom of expression, making government action transparent, empowering citizens, and promoting the democratization of the Mexican media ecosystem, to documenting the impact of public policies on the transformation of the national reality (Notimex, 2019), (Damián, F. & Venegas, D., 2019). These statements, however, are far from corresponding with the facts.

For the organization Article 19, the official discourse downplays “the absence of clear rules for the allocation and distribution of government advertising, because even with the Media Policy published on April 17, 2019, schemes and wrongful practices such as concentrated and discretionary budget allocation and uneven share persist”. This organization, along with FUNDAR, demanded that the General Law on Media of 2018 be repealed, in order to put an end to loopholes and wrongful practices, which have historically contributed to the violation of freedom of expression and the right to information (Artículo 19, 2020).

Regarding the salary conditions of the country’s journalists, which have historically been on the decline, Mexico has been considered one of the lowest-paying countries for newsmen. In January 2020, the minimum wage had an overall increase of 20%, going from 102.68 to 123.22 pesos a day, the equivalent of just over six dollars. With this overall increase, journalists had the best salary among the 59 professions, trades, and special jobs reviewed by the federal government. Their salary will reach 275.90 pesos per day, which means that



it will be above the established minimum (Infobae, 2020a), a wage equivalent to US\$13.50, which represents approximately US\$390.00 per month. Even with this increase, journalists' compensation remains well below international standards.

While this increase is significant for journalists, the situation caused by the SARS-CoV-2 Coronavirus has had a negative impact on their working environments. In Mexico, some media have informed their journalists that, in reason of the pandemic, their salaries would be adjusted. In an extreme case, this implies a cut of down to 55% (La Jornada, 2020). According to the Fernando Mora Gómez Foundation, layoffs have increased. The number of workers dismissed in recent months is between 5,000 and 10,000. Additionally, in two years, according to data from the INEGI, the number may reach almost 20,000 (Reyes, A. Etcetera, 2019).

A dismissal that caused significant effects on the media was the removal from *Noticieros Televisa* (Televisa News) of anchorman Carlos Loret de Mola, who worked for 18 years in that company. His journalistic work has been marked by criticism of AMLO's government, with whom he has had confrontations on several occasions. His retirement from this corporation was in reason of news and opinion pieces that made it clear that his informative work was not to the President's liking. This situation forced the president's communications coordinator to publicly deny the government's involvement in this decision. (Ramírez, F., 2019).

However, the case that sent shock waves through a section of the information apparatus of the federal government was the labor and institutional crisis at the Mexican State News Agency (Agencia de Noticias del Estado Mexicano, NOTIMEX), under the direction of journalist Sanjuana Martínez. The labor crisis began in February 2019, less than a month after the arrival of the new director, in the wake of the strike of those staff members affiliated to the Unified Guild of NOTIMEX Workers (Sindicato Único de Trabajadores de Notimex, SUT-NOTIMEX). The strike was not acknowledged by the director, so she formed another professional team to carry on with the agency's activities. According to this union, between April and November 2019, 142 dismissals were accounted for, on the pretext of acting upon the federal government's austerity policy. Currently, the organization has been filed over 60 lawsuits for unlawful dismissal, plus that of 20 correspondents who are abroad (El punto crítico, June 24, 2020). For its part, the new union committee assured that, early in this administration, NOTIMEX had a 320-strong workforce and, by the month of July, 169 staff serving at the pleasure of the director's office, as well as unionized and non-unionized personnel had been dismissed; among them, 83 were fired between May 15 and June 30 resulting from the President's austerity memorandum (Aguilar, Y. 2019). Some of these workers expressed that they had been mistreated and humiliated by the director through abuse of power, manipulation, cronyism, and influence peddling (Díaz, A. 2019).

The crisis worsened on May 12, 2020, when Article 19 reported that NOTIMEX was fueling smear campaigns on social media against journalists and former workers, in addition to workplace harassment and the dismissal of staff who refused to join a



ring of trolls, headed by the director. The complaint was based on a joint investigation between *Aristegui Noticias* and Western Higher Studies Institute of Technology (Instituto Tecnológico y de Estudios Superiores de Occidente, ITESO) social media analysis lab SignaLab (La Octava, 2020). Faced with this conflict, President AMLO said that he would not engage in its resolution, and that the legal and arbitration bodies would be in charge of settling the dispute (LatinUs, 2020). Until May 31, Director Sanjuana Martínez continued to head the Mexican State News Agency.

## REALM C: Violence and Impunity

Regarding actions to protect journalists, the situation dating back from previous years has not changed, but has worsened due to the increase in the number of journalists murdered. This fact reflects on the assessment made by the experts surveyed on this realm. Out of a maximum of 42 points, the score was 12.

From April 2019 to May 2020, 12 homicides of journalists have been on record in Mexico.

Regarding the protection of journalists sub-realm, the experts rated this line 6.4 out of 10; persecution of journalists, had a score of zero out of 15, while in impunity the assessment was 5.6 out of 17

The organization Article 19, in its report “Dissonance: Voices in Dispute”, highlights that murders are the most serious form of attack against journalists in Mexico (Article 19, 2020). It put on record 609 cases of attacks against reporters and the media, the highest number in the last decade. In 2019, a greater number of attacks against the mass media were identified, which means an 11% increase compared to the previous year. The data indicates that, between January 1 and December 31, 2019, one journalist was attacked every 15 hours.

The report lists 10 murders of journalists in 2019. Regarding the perpetrators, the organization denounces that government officials continue to be the ones that perform most of the attacks with 256, followed by unknown attackers (151), individuals (131), organized crime (49), and political parties (13).

Covering corruption and politics poses the highest risk, as this accounts for 339 of the documented aggressions, followed by covering security and justice (133), social movements (62), human rights (51), the private sector (17), land and territory issues (7). Roughly, one of every four attacks (27%) was directed against women.

The document points out “one factor that drove the increase of attacks in Mexico City was the stigmatization of the press by the State. There were multiple attacks on journalists who covered the president’s morning press conferences or who published articles critical of the Executive’s activity [...]. The president’s belligerent morn-





ing speeches, in which he has labeled various media outlets as ‘adversaries’, are later replicated by political leaders at the local level as well as on social media, where smear campaigns against reporters, who are described as ‘*chayoteros*’ (literally, chayote squash street vendors, meaning those who receive bribes from officials to report at convenience) or ‘sellouts’, are common”.

The report criticizes that AMLO “has decided to neutralise or nullify anyone who questions his discourse,” and questions the control and polarization recorded over the past year. “Thus, the attacks on the press and civil society launched from the presidential chair in the form of stigma are intended, like any other attack, to turn the messenger into the message”. On the other hand, in the report, “it is evident that judicial authorities and the judiciary maintain patterns of impunity in which justice continues to be confused with vengeance,” despite a government “that came to power with the promise that censorship and attacks against the media had ended” (Animal Político, 2020b).

For its part, the FEADLE, created in 2012 as the authority responsible for directing, coordinating, and supervising investigations and, if necessary, prosecuting crimes committed against those who exercise journalistic activities, or those committed in reason of the exercise of the right to information, had achieved only 18 convictions as of March 2020, according to its own records. However, in January, based on data from *El Financiero*, this agency had only achieved four convictions out of 803 previous investigations, which is equivalent to a 0.4% efficiency. This represents 99.6% of backlog investigations for unsolved attacks against journalists (Ortega, E. 2020).

In August 2019, the Mexico Office of the United Nations High Commissioner for Human Rights (UNHCHR) prepared a diagnosis on the functioning of the Mechanism to Protect Human Rights Defenders and Journalists and issued 104 recommendations for improvement. It found that the mechanism would be unsustainable by 2024 if the authorities do not address the root causes of violence against reporters and activists (Del Pozo M. 2019). In January 2020, the SEGOB reported that, stemming from the diagnosis commissioned to the OHCHR, the mechanism to protect underwent organizational restructuring with the objective of comprehensively ensuring the protection of defenders and journalists. For her part, Josefina Galván, Commissioner of the National Institute of Transparency, Access to Information and Protection of Personal Data (Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales, INAI), stressed that, according to the last report published by the Department of the Interior regarding this protection mechanism, as of March 2019, there were a total of 1,162 beneficiaries, including 492 journalists and 717 human rights defenders. However, the president of the Mechanism to Protect Human Rights Defenders and Journalists’ Federal Consultative Council (Consejo Consultivo Federal) warned that, if no budget allocation is made for this mechanism, as of September, it



might cease to provide security to all beneficiaries. He underscored that, in the midst of this pandemic, threats against journalists and activists continue, and consequently they are requesting that the mechanism be reinforced (Aguilar, 2020).

## **REALM D: Control over the media**

In this realm, Mexico was rated at 21.8 points out of a possible 25. The most important action of the Executive was the order issued on April 22, 2020, which came into effect on May 15, 2020, regarding the devolution of State airtime allotment to national broadcast radio and television. This presidential action was highly criticized by the National Electoral Institute (National Electoral Institute, INE), civil society organizations, intellectuals, and scholars, mainly. Under this executive order, Mexican broadcasting companies will have more airtime for sales of advertising slots, to the detriment of the official communications to which State and law in educational, civic, cultural, public health, and general interest information binds government institutions as part of Mexicans' rights.

Among the main misgivings regarding this executive order is that expressed by the Mexican Association for the Right to Information (Asociación Mexicana de Derecho a la Información), which underscores that such airtime does not belong to "the administration in office, but to the State; the relinquishment of government airtime would compromise media campaigns and the society's right to know about the legislative and judicial branches, as well as autonomous agencies (AMEDI, 2020).

A week later, on April 30, the INE filed a constitutional injunction with the Supreme Court of Justice of the Nation (Suprema Corte de Justicia de la Nación, SCJN) to challenge the executive order. This dispute poses "the trespassing of powers vested in the Institute as the sole authority in the administration of official airtime that corresponds to the State in radio and television, pursuant to its own ends and to the exercise of national political parties' rights. The INE, upon considering that the entry into force of the challenged executive order is a "serious" issue, requested that the SCJN rule suspending the entry into force of the presidential order while the controversy is settled. This filing was rejected by a justice to the court. (Belmont J.A. 2020). This executive order, in addition to violating the duties and obligations of the public media and trespassing the powers of the electoral authority, acquires a political nature in the face of the 2020-2021 electoral cycle.

## **CONCLUSIONS**

The Mexican State, through its three branches of government, has an outstanding debt with the society regarding freedom of expression. As shown in the quantitative assessment conducted by the journalists and experts surveyed in this study, it is



the Executive power that carries the greatest weight of influence in perpetuating the current state of affairs, a situation confirmed in the specific status analysis presented in this report.

Although Mexico does not experience the systemic repression typical of a dictatorship on those who exercise their right to express themselves publicly on different media and communication platforms, the open hostility of the Executive towards those who critically exercise this right, its persistent disqualification of any hint of criticism, its control of the media agenda, and its manifest unwillingness to listen to any voice other than the one conveying its vision of the country and the content of its decisions, compromise the very meaning of freedom of expression proper to a democratic regime, that is, the social control of the government exercised by a robust public opinion and informed and participating citizens.

President Andrés Manuel López Obrador, politically formed in the party that ruled the country for over 70 years until 2000, obtained an overwhelming victory in the 2018 elections. His popularity afforded the party founded by him, MORENA, a majority in Congress in a maneuver, questioned as unconstitutional, of alliances with smaller satellite parties.

In this state of affairs, the Congress has not taken any initiative in favor of freedom of expression and its related right to information. On the contrary, in a regressive reform, it amended the law on broadcasting and telecommunications to the detriment of audiences, a decision that was the object of an injunction filed with the Judiciary. The executive order last April whereby the State relinquished using constitutionally provided airtime from radio and television licensees for public communications and electoral campaigns of the different parties, confirms the little appreciation of the Executive for an informed citizenry. This is an executive order also in court litigation for alleged unconstitutionality, a claim brought precisely by the Mexican State electoral body.

Harassment of critical expression on the part of the president correlates with the unsafe conditions experienced by Mexican journalists, most crudely evident in the murder of journalists: 12, from April 2019 to May 2020 (the period of this study) and 134 from the year 2000 to date. This figure places Mexico as one of the riskiest countries in the world for the exercise of this freedom, without adding all the other violent forms of suppression (forced disappearances, threats, extortion, etc.). It is true that the Mexican State cannot be held directly responsible for each and every one of the crimes committed against those who practice journalism – although undoubtedly not just a few political actors are found among those allegedly responsible. However, here is a prevailing impunity and lack of appropriate protection resulting from the ineffectiveness of law enforcement and prosecutorial entities.



The low level of compensation for newsmen and the conditions of labor instability and insufficient professionalization for them complete this picture, in a context of critical economic decline stemming from public policies and the emergence of the COVID-19 pandemic.

## REFERENCES

- Aguilar, K. (2020, May 25). Mecanismo de protección a activistas y periodistas podría dejar de funcionar en septiembre, advierten. *24 horas*. Retrieved from: <https://www.24-horas.mx/2020/05/25/mecanismo-de-proteccion-a-activistas-y-periodistas-podria-dejar-de-funcionar-en-septiembre-advierten/>
- Aguilar, Y. (2019, October 17). Sindicato de Notimex denuncia amenazas y violaciones a contratos. *El Universal*. Retrieved from: <https://www.eluniversal.com.mx/cultura/sindicato-de-notimex-denuncia-amenazas-trabajadores-por-parte-de-la-empresa-y-violaciones-su>
- Amedi. (2020, April 3). Nuevo decretazo y retroceso: condonación de tiempo fiscal a radiodifusores privados es un atentado al derecho a la información. *Amedi*. Retrieved from: <https://www.amedi.org.mx/nuevo-decretazo-y-retroceso-condonacion-de-tiempos-fiscales-a-radiodifusores-privados-es-un-atentado-al-derecho-a-saber-de-la-sociedad/>
- Amedi. (2020, May 26). La Asociación Mexicana de Defensorías de las Audiencias gana amparo en favor de radioescuchas y televidentes. *Amedi*. Retrieved from: <https://www.amedi.org.mx/la-asociacion-mexicana-de-defensorias-de-las-audiencias-gana-amparo-en-favor-de-radioescuchas-y-televidentes/>
- Arista, L. (2020, May 15). Ahora AMLO acusa a la prensa internacional de “mentir” y de “no tener ética”. *Expansión Política*. Retrieved from: <https://politica.expansion.mx/presidencia/2020/05/15/ahora-amlo-acusa-a-la-prensa-internacional-de-mentir-y-de-no-tener-etica>
- Article 19. (2020, July 2). Primer año de gobierno AMLO: el gasto en publicidad oficial a la baja, pero persisten las malas prácticas. *Artículo 19*. Retrieved from <https://articulo19.org/primer-ano-de-gobierno-de-amlo-el-gasto-en-publicidad-oficial-a-la-baja-pero-persisten-las-malas-practicas/>
- Belmont, J. (2020, May 11). Ministro rechaza suspender reducción de tiempos fiscales a concesionarios. *Milenio*. Retrieved from <https://www.milenio.com/politica/scjn-ministro-niega-suspender-tiempos-radio-tv>

- Castillo, G. (2020, March 29). La fiscalía para periodistas logró 18 condenas en 4 años. *La Jornada*. Retrieved from <https://www.jornada.com.mx/ultimas/politica/2020/03/29/la-fiscalia-para-periodistas-logro-18-condenas-en-4-anos-187.html>
- Damián, F. y Venegas, D. (2019, April 17). Publican en el DOF política de Comunicación Social del gobierno de AMLO. *Milenio*. Retrieved from <https://www.milenio.com/politica/publican-dof-politica-comunicacion-social-gobierno-amlo>
- Del Pozo, M. (2019, August 21). ONU advierte que para 2024 será insostenible mecanismo de protección a periodistas. *Milenio*. Retrieved from <https://www.milenio.com/politica/onu-advierte-2024-insostenible-mecanismo-proteccion-periodistas>
- Díaz, A. (2019, November 12). Conflictos laborales “desmantelan” la agencia Notimex. *El Universal*. Retrieved from <https://www.eluniversal.com.mx/cultura/conflictos-laborales-desmantelan-la-agencia-notimex>
- Díaz, A. (2019, November 12). Conflictos laborales “desmantelan” la agencia Notimex. *El Universal*. Retrieved from <https://www.eluniversal.com.mx/cultura/conflictos-laborales-desmantelan-la-agencia-notimex>
- Guerrero, D. (2019, November 11). 10 meses de «Las Mañaneras» de AMLO: 56% es Falso o Engañoso. *Verificado*. Retrieved from <https://verificado.com.mx/10-meses-mananeras-amlo/>
- Hernández, L. (2019, April 9). FMI reduce sus estimados para México por falta de certidumbre. *El Financiero*. Retrieved from <https://www.elfinanciero.com.mx/economia/fmi-recorta-pronostico-de-crecimiento-para-mexico-en-2019-y-2020>
- Infobae. (2020a, January 2). Estos son los aumentos salariales para 2020. *Infobae*. Retrieved from <https://www.infobae.com/america/mexico/2020/01/02/estos-son-los-aumentos-salariales-para-2020/>
- Infobae. (2020b, April 18). Se equivocó mi amigo Javier Alatorre”: López Obrador respondió a llamado de TV Azteca para desobedecer a López-Gatell”. *Infobae*. Retrieved from <https://www.infobae.com/america/mexico/2020/04/18/se-equivoco-mi-amigo-javier-alatorre-lopez-obrador-respondio-a-llamado-de-tv-azteca-para-desobedecer-a-lopez-gatell/>
- Infobae. (2020, May 4). “Un espectáculo sin ningún valor”, la crítica a las “mañaneras” de López Obrador. *Infobae*. Retrieved from <https://www.infobae.com/america/mexico/2020/05/05/un-espectaculo-sin-ningun-valor-la-critica-a-las-mananeras-de-lopez-obrador/>
- Instituto Nacional de Estadística, Geografía e Informática (INEGI). (2019, July 17). ENCUESTA NACIONAL DE SEGURIDAD PÚBLICA URBANA (JUNIO 2019). Retrieved from [https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2019/ensu/ensu2019\\_07.pdf](https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2019/ensu/ensu2019_07.pdf)



- La Jornada. (2020, April 17). Ajustan sueldos en varios medios nacionales. La Jornada. Retrieved from <https://www.jornada.com.mx/ultimas/politica/2020/04/17/ajustan-sueldos-en-varios-medios-nacionales-3430.html>
- La octava. (2020, May 12). Artículo 19 denuncia acoso a periodistas desde Notimex y pide suspensión de Sanjuana Martínez. La Octava. Retrieved from <https://www.laoctava.com/nacional/articulo-19-denuncia-acoso-a-periodistas-desde-notimex-y-pide-suspension-de-sanjuana-martinez>
- La Redacción. (2020, March 25). En México no moriremos de Covid-19, sino de hambre: Salinas Pliego. *La Jornada*. Retrieved from <https://www.jornada.com.mx/ultimas/economia/2020/03/25/en-mexico-no-moiremos-de-covid-19-sino-de-hambre-salinas-pliego-2724.html>
- LatinUs. (2020, May 22). “Le creo a todos, ¿para qué me voy a meter yo?”, dice AMLO sobre caso Notimex. *Latinus*. Retrieved from <https://latinus.us/2020/05/22/para-que-me-voy-meter-amlo-caso-notimex-sanjuana/>
- Naciones Unidas México. (2019, August 26). Presenta ONU- DH diagnóstico sobre el Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas. *Onu*. Retrieved from <https://www.onu.org.mx/presenta-onu-dh-diagnostico-sobre-el-mecanismo-de-proteccion->
- Nájar, A. (2019, January 31). Las “mañaneras” de AMLO: cómo son las tempraneras conferencias con las que López Obrador marca la agenda política de México. *BBC*. Retrieved from <https://www.bbc.com/mundo/noticias-america-latina-47066862>
- Nájar, A. (2020, January 21). Violencia en México: el récord de homicidios en 2019 durante el primer año de gobierno de AMLO. *BBC*. Retrieved from <https://www.bbc.com/mundo/noticias-america-latina-51186916>
- Notimex. (2019, April 17). AMLO presenta la política de comunicación social de su gobierno. *El Economista*. Retrieved from <https://www.eleconomista.com.mx/politica/AMLO-presenta-la-politica-de-comunicacion-social-de-su-gobierno--20190417-0036.html>
- Notimex. (2020a, April 8). Pide senador de Morena revocar concesión a Azteca Uno. *20 minutos*. Retrieved from <https://www.20minutos.com.mx/noticia/853334/0/pide-senador-de-morena-revocar-concesion-a-azteca-uno/>
- Notimex. (2020b, June 2). Coronavirus deja sin empleo a 12 millones de mexicanos: Inegi. *Forbes México*. Retrieved from <https://www.forbes.com.mx/noticias-coronavirus-dejan-sin-empleo-a-12-millones-mexicanos-inegi/>
- Ortega, E. (2020, 3 de enero). Fiscalía especial para periodistas, sin resolver 99.6% de los casos *El Financiero*. Retrieved from <https://www.elfinanciero.com.mx/nacional/fiscalia-especial-para-periodistas-sin-resolver-99-6-de-los-casos>



- Ramírez, F. (2019, August 27) ¿Y las razones de la salida de Loret de Mola de Televisa? *Merca 2.0*. Retrieved from <https://www.merca20.com/y-las-razones-de-la-salida-de-loret-de-mola-de-televisa/>
- Redacción. (2020a, April 20). Recomienda AMLO a Gobernación no sancionar a medios, aunque cometan excesos. *Proyecto puente*. Retrieved from <https://proyectopuente.com.mx/2020/04/20/recomienda-amlo-a-gobernacion-no-sancionar-a-medios-aunque-cometan-excesos/>
- Redacción. (2020b, May 12). México sería el país con el mayor impacto en pobreza extrema en 2020 por COVID-19: Cepal. *El Financiero*. Retrieved from <https://www.elfinanciero.com.mx/economia/mexico-seria-el-pais-con-el-mayor-impacto-en-pobreza-extrema-en-2020-por-covid-19-cepal>
- Redacción AN / LP. (2020, May 7). INE promueve controversia constitucional contra decreto de AMLO que reduce tiempos oficiales en radio y TV. *Aristegui Noticias*. Retrieved from <https://aristeguinoicias.com/0705/mexico/ine-promueve-controversia-constitucional-contra-decreto-de-amlo-que-reduce-tiempos-oficiales-en-radio-y-tv/>
- Redacción Animal Político. (2020a, April 22). Nunca la prensa le había pegado tanto a un gobierno: AMLO dice que no hay periodismo independiente. *Animal Político*. Retrieved from <https://www.animalpolitico.com/2020/04/amlo-no-hay-periodistas-independientes-critica-prensa/>
- Redacción Animal Político. (2020b, May 26). 2019 registró el mayor número de ataques contra periodistas de la última década: Artículo 19. *Animal Político*. Retrieved from <https://www.animalpolitico.com/2020/05/2019-mayor-numero-ataques-periodistas-decada-articulo-19/>
- Redacción / Sin Embargo. (2020, April 18). AMLO: “Se equivocó mi amigo Javier Alatorre. No está bien llamar a no hacerle caso a López-Gatell”. *sinembargo.mx*. Retrieved from <https://www.sinembargo.mx/18-04-2020/3770210>
- Ramírez, F. (2019, August 27). ¿Y las razones de la salida de Loret de Mola de Televisa? *Merca 2.0*. Retrieved from <https://www.merca20.com/y-las-razones-de-la-salida-de-loret-de-mola-de-televisa/>
- Reyes, A. (2019, July 8). Despidos en medios en la 4T. *Etcétera*. Retrieved from <https://www.etcetera.com.mx/opinion/despidos-medios-4t-publicos/>
- Urrutia, A y Jiménez, N. (2020, April 22). AMLO: en México no hay periodismo profesional. *La Jornada*. Retrieved from <https://www.jornada.com.mx/ultimas/politica/2020/04/22/amlo-en-mexico-no-hay-periodismo-profesional-5335.html>

Villanueva, D. (2020, March 2). México, con el peor crecimiento de 2019: OCDE. *La Jornada*. Retrieved from <https://www.jornada.com.mx/ultimas/economia/2020/03/12/mexico-con-el-peor-crecimiento-de-2019-ocde-4981.html>

Yañez, B. (2018, October 28). Siete episodios en los que AMLO se confrontó con la prensa. *Expansión Política*. Retrieved from <https://politica.expansion.mx/presidencia/2018/10/28/siete-episodios-en-los-que-amlo-se-confronto-con-la-prensa>

## MEXICO

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	In spite of the climate of stigmatization and disqualification on the news and opinion output from some media, and the negative consequences of the policy of budget cuts in government advertising by the President Andrés Manuel López Obrador administration, plural spaces of information and opinion contributing to the consolidation of public debate, assessment, and analysis of the situation experienced by the country still prevail in Mexico.
<b>WEAKNESSES</b>	A historical weakness is the precarious conditions for the work of journalists. This professional class, with few exceptions, does not earn decent salaries and benefits under the law. This has a negative impact on the quality of news production, a situation that has forced some of them to perform other activities to generate income and meet their basic needs.
<b>OPPORTUNITIES</b>	The work of Civil Society Organizations (CSOs) committed to defending and respecting free speech is a fundamental activity that gives visibility to the serious problems and enormous challenges facing the country and the Mexican State in the field of freedom of expression. The critical work of CSOs has played a major role in society, as they monitor and blow the whistle on irregularities, unlawful acts, and the violation of the rights of journalists, the media, and society as a whole with regard to freedom of expression and the right to information in Mexico.
<b>THREATS</b>	One of the most evident and long-standing threats over the last 20 years in the country is represented by the actions of attacks on, threats to, and assassination of journalists. This hostile and dangerous environment for the exercise of journalism has negative repercussions, because it instills fear, self-censorship, and silence. On the other hand, the political behavior of the Executive, in the form of harassment and disqualification towards some media and journalists critical of its administration, seriously undermines the democratic principles of freedom of expression in the country.

## 2.15.2 MEXICO 2020-2021

MEXICO	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>49,21</b>
REALM A: "Citizens free to express themselves"	23,00	11,57
Information flow	11,00	5,29
Free speech	12,00	6,29
REALM B: "Exercise of journalism"	10,00	6,86
REALM C: "Violence and impunity"	42,00	11,35
Protection	5,00	2,86
Persecution	7,50	2,43
Impunity	8,50	3,07
Registered violence	21,00	2,99
REALM D: Control over the media	25,00	19,43
Direct control	19,00	14,57
Indirect control	6,00	4,86

Chapultepec Index on Freedom of Expression and the Press 2021



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

MEXICO	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	1,68	1,78	3,20
REALM A: "Citizens informed and free to express themselves"	2,57	2,46	3,36
REALM B: Exercise of Journalism	1,43	1,71	3,43
REALM C: Violence and Impunity	1,81	2,24	4,71
REALM D: Control over the media	0,93	0,71	1,29

Type of Influence	Points
SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Mexico: an enormous debt with freedom of expression

### Executive Summary

In terms of freedom of expression, Mexico ranks 16<sup>th</sup> among the 22 countries in the Americas under review by the Chapultepec Index study. The nation displays a total score of 49.21 points out of a total of 100. During the period surveyed, covering between July 31, 2020 and August 1<sup>st</sup>, 2021, violence against journalists exacerbated, this led the perception that there is an unfavorable climate for the exercise of freedom of expression in the country. Like previous years, from the Executive, Legislative and Judicial environments, the Mexican Government institutions moderately influence over the promotion of actions intended to improve and strengthen the legal frameworks, public policies, and the general conditions that allow citizens to fully exercise their right to information and express their ideas and opinions. However, the high crime rates in the country continue to undermine the exercise of journalism and some actions by the Executive show a negative impact over the exercise of freedom of expression by journalists and other relevant political actors.

## INTRODUCTION

This release includes information related to the realms analyzed by the Chapultepec Index: Freedom of expression and access to information, the exercise of journalism and situations of violence against journalists, and direct or indirect control by government agencies over national media. Some general context information corresponding to the period covered by the report is presented as follows:

The year 2021 was marked by the health and economic crisis resulting from the COVID-19 pandemic. This year, the crisis began to recede and, by the end of the first semester, the 13 million jobs lost in 2020 had been recovered almost entirely. However, more than half of them belong to the informal labor sector according to data from the National Self-Employment and Employment Survey (Encuesta Nacional de Ocupación y Empleo) carried out by the National Institute of Statistics and Geography (Instituto Nacional de Estadística y Geografía, INEGI) (INEGI, 2021a).



In the political field, on June 6, 2021, the largest national mid-term elections were held, resulting in the rearrangement of the political forces in the Federal Congress. “Morena”, the party of President Andrés Manuel López Obrador, lost its supermajority in the House of Representatives, but preserved the absolute majority. This allows him to get approval for the budgets for the second half of the six-year term, but forces him to negotiate with other allies and opposition parties to gain support for constitutional amendments. On the other hand, Morena won 11 of the 15 state governorships that were up for grabs this year in the country (Núñez 2021a and 2021b).

In addition to the uncertainty caused by the pandemic and the climate of political commotion associated with the electoral period, crime rates, the killing of journalists, and the high percentages of impunity continue being issues of a context that, directly and indirectly, impact negatively over the exercise of freedom of expression by Mexican newsmen. The government has done little to improve the regulatory frameworks, public policies, and the general conditions that allow prompt access to justice, the protection and guarantee of the right to information, and the freedom of expression of the general public, and journalists, in particular.

## Results Analysis

It is estimated that freedom of expression and the press can be partially exercised in Mexico according to the Chapultepec Index’s annual evaluation. The country ranked 16<sup>th</sup> out of the 22 countries in the Americas that were reviewed, with 49.21 points out of a total of 100. The worst evaluated item was Violence and Impunity, yet, it can be considered that there is a mildly favorable climate for the exercise of freedom of expression in the country. The data underscores that some actions and omissions by entities part of the Executive, Legislative, and Judicial environments exert negative effects on the full exercise of freedom of expression and other rights such as freedom of the press and information.

## Executive Environment

With an average score of 3.20 out of 10 points, the experts inquired agree that the degree of influence of the executive environment in situations unfavorable to freedom of expression is moderate. Of the three branches of the government, this is the worst rated in the realms reviewed by the Chapultepec Index: Realm A: Citizens Free to Express Themselves, 3.36 points; realm B: Exercise of Journalism, 3.43 points; realm C: Violence and Impunity, 4.71; and realm D: Control over the Media, 1.29 points, the last being the only aspect for which the unfavorable influence is regarded as mild.

The results corresponding to realms A and B regarding freedom of expression and the exercise of journalism are mainly due to the fact that, during his morning press conferences, President Andrés Manuel López Obrador discredits and stigmatizes the media, journalists,



politicians, and other civil society stakeholders who openly criticize the government's decisions or take it to task for its omissions. He calls them "conservatives", "puppets", "hypocrites" and "two-face" (Ureste, 2021). The organization Article 19 (2021a, p. 44) has reported that press conferences, "as opposed to improving the exercise of the collective right to inform and receive information", have become platforms to "teach a lesson" to journalists, media, and other critical individuals, as President's slurs result in targeting and personalized attacks in social media against newsmen by president's supporters.

Adding to the above, on June 30, 2021, the weekly segment "Who is Who in Lies" ("Quién es quien en las mentiras") was included in presidential press conferences. During this segment, press releases, opinion columns, and messages posted in social media criticizing the government are exposed and disqualified. Such action triggered the publication of a joint press release comprising 20 local and international organizations – among them, the Inter American Press Association (Sociedad Interamericana de Prensa, IAPA), and the Inter-American Commission on Human Rights (IACHR) – warning that this sort of practices represent a new "offensive by the president on his strategy for confrontation and search for enemies". It also warns that it threatens "freedom of the press, media plurality" and "critical and informed public debate" (Marcial, 2021; Infobae, 2021).

Several journalists and activists have pointed out that the aforementioned segment is a mistake because it manipulates public opinion, criticizes, and labels as lies both, news from the media and columnists' opinions (De La Rosa, 2021). The slurs and stigmatization against government critics displays little tolerance to criticism and exerts negative effects against the exercise of journalism.

The public policy implemented by previous administrations on the discretionary allocation of budgets for official advertising – overlooking clear rules and criteria – continues to be in effect. The reduction of 80% of spending in this area is positive; but its discretionary allocation produces its "concentration" in a "few media outlets". Of the 457 outlets that received resources for official advertising in 2020, only 10 received more than 52% of the budget, with Televisa, TV Azteca and *La Jornada* newspaper taking the first three top places in the list. Less than half of the public money for that sector went to 447 media outlets, "which translates into an inequitable and unequal distribution" Fundar (2021). In addition, as IAPA pointed out, last year, the allocation of government advertising has also shown trends toward benefiting media organizations aligned with the government's agenda.

The lowest score obtained by the Executive environment is in realm C, on violence and impunity; with 4.71 points, the influence of this environment is deemed strong in situations unfavorable to freedom of expression. The Executive has not contributed to improving the Mechanism for the Protection of Human Rights Advocates and Journalists (Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas), which reports to the Secretariat for Home Affairs (Secretaría de Gobernación, SEGOB). Responsiveness from

the Special Prosecutor's Office on Crimes against Freedom of Expression (Fiscalía Especial para la Atención de Delitos cometidos contra la Libertad de Expresión, FEADLE), and from the Attorney General's Office (Fiscalía General de la República, FGR), have not improved either as they do not diligently investigate the murders of journalists and other crimes against the journalists' duties. This keeps the level of impunity at 98%, according to the organization Article 19 (2021a). In this area, the judicial environment is not exempted from responsibility, as mentioned below.

Finally, citizens' right to be better informed has been impaired because no effective actions have been taken to resolve the labor conflict of Notimex, the Mexican Government news agency, where a group of workers decided to go on strike in June 2020. In October 2020, Article 19, in association with media monitoring initiative, SignaLab, from the Institute of Technology and Higher Education of the West (Instituto Tecnológico y de Estudios Superiores de Occidente, ITESO), and Aristegui Noticias, revealed that the director of Notimex, journalist Sanjuana Martínez, had used material, human, and financial resources to attack journalists and former contributors for the government agency whom she accuses of corruption. The workers filed formal complaints at the Secretariat of the Civil Service (Secretaría de la Función Pública) against Martínez and other directors for abuse of authority and workplace harassment (La Jornada, 2021; ARTÍCULO 19, 2020). The conflict continues upon closing of this report.

## Legislative Environment

With an overall average of 1.68 points, the results indicate that the influence of the legislative environment over situations unfavorable to freedom of expression is small, as it can be noticed that, at Federal Congress level, there was only one action that had an impact over issues of freedom of expression and the right to information. At local legislative level, two new draft bills that could encourage the exercise of freedom of expression and journalism were introduced.

At federal level, on November 26, 2020, the House of Representatives approved a ruling that repealed the Law on Printing Offenses (Ley sobre Delitos de Imprenta), in force since 1917. However, the legislative process to complete its repeal is still underway, since the Senate was shifted to work on the new legal framework that will regulate Articles 6 and 7 of the Mexican Constitution. Based on that abolished law, officials as well as political stakeholders from the private sector have censored some publications by journalists and academics, and even have filed lawsuits for "moral damage" against Carmen Aristegui, in 2014, and Sergio Aguayo, in 2017. Upon closing of this report, the introduction and discussion of a draft bill was still pending. It is hoped that the rights to freedom of expression and information, right to rebut, and other rights consolidating the public debate of ideas will be recognized and expanded.

At local level, in April 2021, the Congress of the State of Mexico, the state with the most media and journalists after Mexico City, passed the Law for the Comprehensive Protection of Journalists and Human Rights Advocates of the State of Mexico (Ley para la Protección Integral de Periodistas y Personas Defensoras de los Derechos Humanos del Estado de México). This statute recognizes that the exercise of journalism must be protected by the authorities representing the state and its municipalities. It also creates the Mechanism for the Comprehensive Protection of Journalists and Human Rights Advocates (Mecanismo de Protección Integral de Periodistas y Personas Defensoras de los Derechos Humanos) in the state, indicating that said mechanism must seek coordination with its counterparts at federal and municipal levels to guarantee the life and personal safety of persons at risk as result of their work as journalists or human rights advocates (Victoria, 2021).

The new law also creates the Specialized Prosecutor's Office for Crimes against Freedom of Expression, Journalists, and Human Rights Advocates (Fiscalía Especializada para la Atención de los Delitos cometidos contra la Libertad de Expresión, Periodistas y Personas Defensoras de Derechos Humanos) in the State of Mexico, and makes amendments to the Criminal Code of the State of Mexico (Código Penal del Estado de México) in relation to crimes against freedom of expression, for which it sets forth 15-25-year prison terms for anyone who murders a journalist or a human rights advocate. It also penalizes attacks against journalists by public servants with prison terms ranging from two to nine years and the prohibition from working in public service for 9 years. Some journalists consider that the new legal framework will allow investigating and punishing actions by individuals who attack journalists or attempt to restrict their freedom of expression (Hernández, 2021a; Victoria, 2021).

In December 2020, the Law on Professional Secrecy and Conscience Provision for the Exercise of Journalism in Mexico City (Ley del Secreto Profesional y Cláusula de Conciencia para el Ejercicio Periodístico de la Ciudad de México) entered into force in Mexico City. The law establishes that the media are required to publish a code of ethics that includes principles of social responsibility, public participation, and plurality of ideas. Moreover, its Article 6 establishes the conscience provision which states that journalists and other collaborators to media outlets may refuse to prepare or author news pieces contrary to their ideological, ethical, or conscience principles. It also requires that the media establish a consensual editorial code of practice, which seeks that the press in Mexico City defines and makes editorial policies transparent (Hernández, 2020).

Journalists and experts consulted by the IAPA regard as mild the influence levels of the legislative environment over situations unfavorable to freedom of expression. For realm A, Citizens Free to Express Themselves, it scored 2.57 points, while in the other three realms the scores show a slight influence. In realm B, Exercise of Journalism, it attained 1.43 points; in realm C, Violence and Impunity, the score is 1.81; and in Realm D, Control over the Media, it attained 1.29 points.



There is lack of greater commitment by the institutional stakeholders in the legislative environment at federal and state levels, as no concrete actions are being encouraged to improve the situation of freedom of expression and the right to information in the country. The poor results in the administration of justice and the high levels of impunity prevail. Therefore, it can be concluded that omission and indifference have prevailed in this environment.

## Judicial Environment

With respect to the judicial environment, the experts inquired notice the level of influence on situations unfavorable to freedom of expression being mild or low, giving an overall score of 1.78 out of 10 points. Among the four realms reviewed, realm A regarding actions encouraging a well-informed society and the exercise of freedom of expression, is believed to have been the realm with low impact during the period reviewed as it reached 2.46 points, the highest score; while in realm B, regarding the exercise of journalism, it scored 1.71 points; in realm C, violence and impunity, 23.24 points were assigned; and finally in realm D, assessing the extent of influence on control over the media, it scored 0.71 points.

In the judicial environment, several concrete actions specifically pertaining to realms B and C stand out. On the one hand, on June 15, 2021, a federal judge in the State of Chihuahua issued a conviction sentence against Hugo Amed Schultz Alcaraz, former mayor of the township of Chínipas in Chihuahua, for his involvement in the murder of Mexican journalist Miroslava Breach Velducea, on March 23, 2017. The former public official admitted his involvement in the crime and negotiated the reduction of his sentence to eight years in prison after he was arrested in December 2020.

On the other hand, on Thursday, June 17, 2021, the FGR succeeded in getting a federal judge to sentence Juan Francisco Picos, a.k.a “El Quillo”, to 32 years. “El Quillo”, a hitman from the Sinaloa Cartel, was charged for being a co-perpetrator in the assassination of journalist Javier Valdez on May 15, 2017. This sentence adds to that of March 2020 against Heriberto Picos, sentenced to 14 years and 8 months for the same crime. During the trial, the FEADLE and the FGR were able to prove that the homicide was related to Valdez’s professional occupation (Forbes, 2021a).

Although both convictions can be regarded as positive in a country where impunity related to the assassination of journalists reaches 98%, other events point out that conspiracy and corruption prevail in the judicial environment. Proof of this was the injunction ordered by the Third District Court in the State of Quintana Roo in favor of businessman Kamel Nacif Borge, to defeat an ongoing arrest warrant for the crime of torture committed against journalist Lydia Cacho Ribeiro in 2005.

Another relevant development occurred on September 8, 2021, prior to the completion of this report. The First Chamber of the Supreme Court of Justice of the Nation (Suprema Corte de Justicia de la Nación, SCJN) unanimously approved the project that granted injunc-





tion to Article 19 and ruled the General Law on Communication (Ley General de Comunicación Social) unconstitutional, approved by the Federal Congress in April 2018. This, despite the fact that many civil society groups, gathered around the “Medios Libres” (Free Media) partnership, warned that it infringed the Constitution and that it “legalized wrongful practices” regarding the allocation of government advertising.

Finally, in terms of impunity, according to data from the Global Impunity Index 2020 (GII 2020), Mexico appears in the 60<sup>th</sup> place among 69 countries reviewed. The index specifically assesses the structure of systems of justice and their ability to guarantee access to justice. Mexico’s index reached 49.67 points: 10 points higher than the global average of 39.9 points. Some of the findings in the report indicate that, in Mexico, “not enough capacities are being generated” to guarantee security and access to justice for the majority of Mexicans and, on the other hand, the existing capacities “are functioning poorly” or inappropriately, which results in “new cycles of impunity” (Le Clercq, 2021).

## REALM A

Journalists and experts on freedom of expression who were surveyed allocated this realm 11.57 points out of 23. This indicates that experts consider that the actions by the Mexican Government have been insufficient to consolidate the mechanisms, public policies, and legal framework that guarantee its citizens access to plural and timely information on public issues relevant to their community life.

In the sub-realms Information Flow and Freedom of Expression, it can be perceived that inability to connect and access Internet in the country remains a pending task. Although Internet access has been considered a human right by the UN since 2011, neither the Executive nor the Legislative have encouraged decisive measures to improve their performance in this regard.

Although President López Obrador promised in 2019 that he would connect all towns in the country through Internet by deploying 50,000 kilometers of fiber optic owned by the Federal Electricity Commission (Comisión Federal de Electricidad, CFE) and its subsidiary CFE Telecomunicaciones e Internet para Todos (CFE-TIT), he has postponed his proposed goal three times. Some specialists have pointed out that the president’s promise is to provide infrastructure to ensure total Internet coverage in the country, which does not guarantee that service providers may be willing to invest in areas with low density of population (Forbes, 2020; Gutiérrez, 2021; El CEO, 2021).

On another issue associated to information flow and citizens’ right to information, throughout 2020 and until June 11, 2021, the Mexican government held daily evening press conferences to inform on the status of the COVID-19 pandemic, and to guide the people on the measures they should take to fight the virus. These conferences, presented by officials of the Ministry of Health, provided technical and scientific information through broadcasts





retransmitted by dozens of Mexican media outlets. However, as audience interest waned, and health issues started being politicized, the government cancelled these press conferences, thus indirectly affecting citizens' rights to access official information on the pandemic through easily accessible media like television, at a moment when the vaccination plan is still underway.

Finally, this realm indicates that misinformation also affects negatively citizens' right to access reliable information on political and health issues during the pandemic in Mexico. It is noteworthy that, according to Reuters' Digital News Report on Mexico carried out by Gutiérrez-Rentería (2021), the political polarization between the government and opposition groups reduced citizens' trust in the media and official sources. Sixty-nine percent of Mexicans said they had seen false or misleading information about the coronavirus, and 52% about politics. In both issues, Mexico was the only country that worsened its score compared to other nations in the region.

## REALM B

In this realm on actions intended to guarantee respect for the professional exercise of journalism, the experts allocated the Mexican Government 6.86 points out of a total of 10.

During the period covered by this study, journalists' working conditions were mainly affected by three factors: First, the health risk conditions stemming from the circumstances during a year marked by the COVID-19 pandemic. Most reporters had to adapt and face the risks that involved taking to the streets and other public spaces to cover and keep people informed. Since the pandemic began and until the beginning of September 2021, 120 journalists have died, according to data from the Press Emblem Campaign (PEC) published by *El Universal* newspaper (2021).

Secondly, the economic crisis resulting from the pandemic and the decrease of revenue generated by the media from advertising exacerbated the crisis of news organizations, leading to dozens of journalists being dismissed or their salaries being cut. According to anonymous statements published by Deutsche Welle (2021), journalists' salaries recovered in some cases throughout 2021; most of them had their workload doubled or their full pay was contingent on requirements regarding reporting to office for work, otherwise a percentage of their monthly salary would continue to be deducted.

Third and last, the political-electoral context meant greater risks when covering political campaigns.

The precarious conditions and absence of protection suffered by journalists are historical in Mexico. However, the financial crisis in the media has deepened because – in many cases – their survival is subject to the advertising contracts they secure from the public sector, being the federal government one of its major clients. Due to the austerity measures

implemented since 2019 and the drop in resources allocated to government advertising, a number of media outlets have reduced their workplaces to keep operating.

## REALM C

Violence and the killing of journalists and newsmen continued and worsened. Conditions for their protection have not improved and the government has not promoted actions to reduce levels of impunity. Due to the above, this realm was assessed with 11.35 out of 42 points. In the sub-realm related to the protection of journalists, a score of 2.86 out of 5 was allocated, while regarding prosecution of individuals who attack journalists, the score was 2.43 out of 7.5. Meanwhile, the actions against impunity obtained 3.07 points out of 8.5. Finally, the sub-realm that reviews the influence of the three environments to end violence against journalists was assigned 2.99 points out of 21.

Between August 2020 and July 2021, twelve journalists were murdered in different locations in Mexico. Ricardo Domínguez López, Benjamín Morales Hernández, and Jesús Alfonso Piñuelas, in Sonora; Abraham Mendoza, in Michoacán; Saúl Tijerina Rentería, in Coahuila; Gustavo Sánchez Cabrera, in Oaxaca; Jaime Daniel Castaño, in Zacatecas; Israel Vázquez, in Guanajuato; Arturo Alba Medina, in Chihuahua; Julio Valdivia Rodríguez, in Veracruz; Pablo Morrugares, in Guerrero; and Felipe Enrique García García, in the State of Mexico.

Since between May and July 2021 six journalists were murdered in Mexico, the country was once again rated as the most dangerous to exercise journalism in the Americas, according to the organization Reporters Without Borders (Reporters sans frontières, RSF). In March 2021, journalists Jorge Molontzín Central and Pablo Felipe Romero Chávez were reported missing in Sonora. Both work for local media outlets.

The most dangerous state in the country for the exercise of journalism during the period studied was Sonora. Three journalists were murdered and two more disappeared in that region. However, according to Article 19 (2021b), violence against the press is generalized since, during the first semester of 2021, 362 attacks against media and journalists went on record in practically all states, being Mexico City, with 64 attacks, the location with the highest number of aggressions against journalists. Tamaulipas and Quintana Roo, with 23 reported attacks, ranked second and third respectively, while Puebla, with 22; and Guerrero, with 21, also topped the list.

Article 19 (2021b) underscores that threats against the media and journalists were primarily perpetrated by Government agents, essentially by municipal and government law enforcement, who committed 134 attacks, 37.33% of the total number. It also states that the electoral atmosphere increased the risk for journalists' coverage; in fact, 56 attacks were committed by members of political parties. It also underscores the "sustained increase" of attacks against the press on the Internet, in the form of cyber-attacks against the media and

through smear and intimidation campaigns against journalists. Also, the organization documented that 120 attacks were directed against female journalists.

In addition to the attacks suffered by press workers, at the end of 2020, the SEGOB acknowledged that 396 journalists had been displaced from their hometowns after receiving death threats (Animal Político, 2020).

According to information from the SEGOB on this matter, from the start of the administration of Andrés Manuel López Obrador in December 2018 until July 2021, 68 activists and 21 journalists have been murdered, out of those, seven newsmen and two human rights advocates were benefited by the Law for the Protection for Human Rights Advocates and Journalists (Aristegui Noticias, 2021).

By the end of July 2021, the federal mechanism for the protection of journalists and human rights advocates benefited 1,478 people, among those, 481 were journalists. Other “factors of impunity” on the violence against journalism are the prevailing nonexistent coordination between the Executive Commission on Victims (Comisión Ejecutiva de Atención a Víctimas) and the FEADLE, the lack of human resources to follow up on investigations of the attacks against freedom of expression, and the killing of journalists. For 2021, the FEADLE has planned to operate solely on 15 million pesos while having only 22 prosecutors and 15 investigation police officers to address this serious problem (Hernández, 2021b).

## REALM D

In this area, Mexico was rated with 19.43 points out of a total of 25. When assessing the sub-realm of direct control over the media, the experts allocated 14.57 out of 19 points. In the area of indirect control, they gave a rating of 4.86 out of a possible 6 points.

Another remarkable action in the legislative environment that violates freedom of expression, Mexicans privacy, and indirectly impacts negatively over control and surveillance of digital communication platforms used by citizens, relates to the amendments approved in April 2021 to the Federal Telecommunications and Broadcasting Law (Ley Federal de Telecomunicaciones y Radiodifusión, LFTR). This resulted in the creation of the National Registry of Mobile Phone Users (Padrón Nacional de Usuarios de Telefonía Móvil, PANAUT). This program seeks to require that mobile phone users join a mandatory registration of SIM cards and their biometric data, which implies a risk to their security as it aims at exerting control and surveillance over users. Therefore, this measure has been regarded as a violation of human rights by the UN (Cortés, 2021).

This action, along with publicly available evidence that, in 2019 and 2020, the FGR acquired and used a program developed by Neolinx – a company located in Mexico that allegedly was one of the main providers of cyber espionage during the administration of Enrique Peña Nieto – to massively monitor Internet users, prompted the organization Freedom

House to place Mexico as a country with a “partly free” online environment in its 2021 annual report. The study mentions that the PANAUT and the use of other digital media surveillance tools – by both federal government agencies and some local governments – have “heightened potential for self-censorship and politicized content removals” in the digital environment. (R3D, 2021).

## CONCLUSIONS

The evaluation by experts and journalists over freedom of expression, the review carried out by the Chapultepec Index, and the context information presented and documented in this report show that the institutions of the executive, legislative and judicial environments still pose enormous challenges and pending tasks to guarantee the full exercise of freedom of expression and access to information by citizens. The administrative entities of the Mexican Government, as a whole, have not undertaken concrete and coordinated actions to guarantee security and protection to journalists and reporters during professional practice, and whose work is essential to strengthen democratic standards in Mexico.

Specific data on threats, attacks and violent deaths of journalists have once again placed Mexico as one of the most dangerous countries in the world for the exercise of journalism. However, officials act slowly, or in some cases fail to act effectively on this issues. The mechanism in charge of offering protection to reporters at risk still does not provide the desired results.

In the executive environment, it has been notorious that the morning press conferences of President Andrés Manuel López Obrador have a negative influence due to stigmatization and discrediting of journalists and other individuals critical of the government, affecting, and in some cases, directly restricting the full exercise of freedom of expression of those who dissent from the president’s policies and ideas. Since freedom of expression is linked to the exercise of other rights such as access to information and the voicing of opinions in the public forum, any action that inhibits its full exercise should be viewed with concern.

In the legislative environment, the passing of some local statutes stands out as they seek to increase protection for journalists at risk. Nevertheless, at the federal level, the discussion and enactment of the Law on Printing Offenses and the introduction of a new draft General Law on Communication in the Senate are still pending issues.

In the judicial environment, several reports underscore that the Mexican justice system still functions selectively and slowly, since high levels of impunity prevail and investigations stagnate in cases related to the murder of journalists and human rights advocates.

In terms of freedom of expression, the Mexican Government has an enormous debt with society in general, and with the press in particular, since it is evident that the actions taken by the three branches of the government have been insufficient and, in some cases, inappro-

priate. From the IAPA, we stress on the need to act decisively and show genuine political will to promote regulatory and institutional changes that ensure a cease of the attacks against journalists and freedom of expression in Mexico, as they should also promote and consolidate public policies that guarantee security to all citizens, especially those whose main labor is to deliver news to society.

## REFERENCES

- Animal Político (2020). El 2020, año con el mayor número de homicidios contra periodistas de la última década. <https://www.animalpolitico.com/2020/11/homicidios-periodistas-2020/>
- Aristegui Noticias (2021). Durante la administración de AMLO, 68 activistas y 43 periodistas han sido asesinados: Segob. <https://aristeguinoticias.com/1207/mexico/durante-la-administracion-de-amlo-68-activistas-y-43-periodistas-han-sido-asesinados-segob/>
- Artículo 19 (2020). Directivas de NOTIMEX privan de la libertad y confiscan celular de periodista. <https://articulo19.org/directivas-de-notimex-privan-de-la-libertad-y-confiscan-celular-de-periodista/>
- Artículo 19 (2021a). *Distorsión: el discurso contra la realidad*. <https://articulo19.org/distorsion/>
- Artículo 19 (2021b). Primer semestre de 2021: la violencia contra la prensa prevalece, al igual que la inacción del Estado. <https://articulo19.org/informe-semestral-2021/>
- Cortes, V. (2021). El padrón de telefonía vulnerará la libertad de expresión y la privacidad de las personas en México. Animal Político. <https://www.animalpolitico.com/altoparlante/padron-de-telefonía-vulnerara-la-libertad-de-expresion-y-la-privacidad-de-las-personas-en-mexico/>
- CPJ (2021). Condenan a exalcalde por su participación en el asesinato de la periodista mexicana Miroslava Breach. <https://cpj.org/es/2021/06/condenan-a-exalcalde-por-su-participacion-en-el-asesinato-de-la-periodista-mexicana-miroslava-breach/>
- De La Rosa, Y. (2021) El 'Quién es quién en las mentiras' de AMLO puede afectar el debate libre: CIDH. Forbes. <https://www.forbes.com.mx/el-quien-es-quien-en-las-mentiras-de-amlo-puede-afectar-el-debate-libre-cidh/>
- Deutsche Welle (2021). Periodistas en México, de la violencia criminal a la precariedad laboral. <https://www.dw.com/es/periodistas-en-m%C3%A9xico-de-la-violencia-criminal-a-la-precariedad-laboral/a-57539837>
- Díaz, G. L. (2021). Lydia Cacho solicita a la SCJN atraer su caso de tortura. *Proceso*. <https://www.proceso.com.mx/nacional/2021/9/14/lydia-cacho-solicita-la-scjn-atraer-su-caso-de-tortura-271914.html>

- EL CEO (2021). Internet para todos, la promesa de AMLO sin garantía de acceso. <https://elceo.com/politica/internet-para-todos-la-promesa-de-amlo-sin-garantia-de-acceso-incidencia-economica-o-habilidades-digitales/>
- Forbes (2020). AMLO promete duplicar en 2021 la cobertura de internet en el país. <https://www.forbes.com.mx/politica-amlo-duplicar-2021-cobertura-internet/>
- Forbes (2021). Condenan a 32 años de cárcel al asesino del periodista Javier Valdez. <https://www.forbes.com.mx/condenan-a-32-anos-de-carcel-al-asesino-del-periodista-javier-valdez/>
- Forbes (2021b). Las claves de la trascendental pero polémica reforma judicial de México. <https://www.forbes.com.mx/politica-claves-trascendental-polemica-reforma-judicial-mexico/>
- Fundar (2021). Las tendencias de la Publicidad Oficial en el segundo año de AMLO: disminución del gasto, concentración y “gasto decembrino”. <https://fundar.org.mx/publicidad-oficial-2020/>
- Cutiérrez-Rentería (2021). Digital News Report 2021. Instituto Reuters, Universidad de Oxford. <https://reutersinstitute.politics.ox.ac.uk/es/digital-news-report/2021/mexico>
- Cutiérrez, A. L. (2021). Balance de conectividad de AMLO evidencia ausencia de estrategia digital: analistas. *El Financiero*: <https://www.elfinanciero.com.mx/economia/2021/09/01/balance-de-conectividad-de-amlo-evidencia-ausencia-de-estrategia-digital-analistas/>
- Hernández, L. R. (2020). Código ético obligatorio para la prensa en la CDMX ayudará a su credibilidad. Julio Astillero. <https://julioastillero.com/codigo-etico-obligatorio-para-la-prensa-en-la-cdmx-ayudara-a-su-credibilidad-autor-rogelio-hernandez-lopez/>
- Hernández, L. R. (2021a). Periodistas mexiquenses podrían tener la mejor ley estatal. *Eje Central*. <https://www.ejecentral.com.mx/miradas-de-reportero-periodistas-mexiquenses-podrian-tener-la-mejor-ley-estatal/>
- Hernández, L. R. (2021b). Desbordada la protección federal a periodistas. Y el Senado frenó la ley. *Eje Central*. <https://www.ejecentral.com.mx/miradas-de-reportero-desbordada-la-proteccion-federal-a-periodistas-y-el-senado-freno-la-ley/>
- INEGI (2021a). Encuesta Nacional de Ocupación y Empleo. <https://www.inegi.org.mx/app/saladeprensa/noticia.html?id=6762>
- INEGI (2021b). En México hay 84.1 millones de usuarios de internet y 88.2 millones de usuarios de teléfonos celulares: ENDUTIH 2020. [https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2021/OtrTemEcon/ENDUTIH\\_2020.pdf](https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2021/OtrTemEcon/ENDUTIH_2020.pdf)



- Infobae (2021). La SIP rechazó el “Quién es quién en las mentiras de la semana” lanzado por AMLO. <https://www.infobae.com/america/mexico/2021/07/03/la-sip-rechazo-el-quien-es-quien-en-las-mentiras-de-la-semana-lanzado-por-amlo/>
- La Jornada (2021). Exige Notimex aplicación del Estado de derecho tras un año de huelga. <https://www.jornada.com.mx/notas/2021/06/08/politica/exige-notimex-aplicacion-del-estado-de-derecho-tras-un-ano-de-huelga/>
- Le Clercq, J. A. (2021). México en la medición de la impunidad del Índice Global de Impunidad 2020. <https://theglobalamericans.org/2021/01/mexico-en-la-medicion-de-la-impunidad-del-indice-global-de-impunidad-2020/>
- Marcial P. D. (2021). La ofensiva de López Obrador contra la prensa enciende las alarmas de los organismos internacionales. *El País*. <https://elpais.com/mexico/2021-07-07/la-ofensiva-de-lopez-obrador-contra-la-prensa-enciende-las-alarmas-de-los-organismos-internacionales-empobrece-la-democracia.html>
- Núñez, E. (2021a). El reacomodo. *Aristegui Noticias*. <https://aristeguinoticias.com/1306/opinion/el-reacomodo/>
- Núñez, E. (2021b). Gubernaturas, alternancias y ¿alternativas? *Píe de Página*. <https://piedepagina.mx/gubernaturas-alternancias-y-alternativas/>
- R3D (2021). México es un país con un Internet parcialmente libre, señala Freedom of the Net 2021. <https://r3d.mx/2021/09/22/mexico-es-un-pais-con-un-internet-parcialmente-libre-senala-freedom-of-the-net-2021/>
- Ureste, M. (2021). Mañaneras de AMLO, un escenario para estigmatizar a la prensa: Artículo 19. *Animal Político*: <https://www.animalpolitico.com/2021/03/mananeras-amlo-escenario-estigmatizar-prensa-articulo-19/> }
- Victoria E. (2021). Aprueban Ley para la Protección Integral de Periodistas y Personas Defensoras de los Derechos Humanos del Estado de México. *El Financiero*. <https://www.elfinanciero.com.mx/estados/2021/04/20/aprueban-ley-para-la-proteccion-integral-de-periodistas-y-personas-defensoras-de-los-derechos-humanos-del-estado-de-mexico/>

## MEXICO

MEASUREMENT PERIOD

JULY 31, 2020 - AUGUST 1<sup>ST</sup>, 2021

### SWOT Analysis

<b>STRENGTHS</b>	The approval and implementation of laws in two Mexican jurisdictions (State of Mexico and Mexico City) that in the mid and long term could expand and strengthen protection for journalists at risk. The succeeding reforms to the judiciary system seeking to fight corruption, nepotism, impunity, and sexual harassment inside the institutions responsible for the administration of justice in the country. This new regulation establishes the creation of a Federal Training School of the Judiciary (Escuela Federal de Formación Judicial) and will implement a judicial career through competitive examinations.
<b>WEAKNESSES</b>	Mexico appears in the 60th position among 69 countries reviewed by the Global Impunity Index 2020 (GII, 2020) because the country's judicial environment structures are weak and do not guarantee security and access to justice for most Mexicans. The discussion and passing of the Law on Printing Offenses (Ley sobre Delitos de Imprenta), in force since 1917, remains a pending issue at the Senate, as well as introduction of a draft General Law on Social Communication (Ley General de Comunicación Social), which has been used to legalize discretion on matters related to the allocation of official advertising by government institutions.
<b>OPPORTUNITIES</b>	The progressive implementation of the aforementioned reforms in the judicial system. The Executive's promise to allow 50 thousand kilometers of fiber optic network to allow connecting "the whole national territory" using Internet by 2023. Such action could provide infrastructure to marginalized and rural areas while guaranteeing full coverage in the country. This would expand and improve information flow and open the possibility for a greater number of people to access public and private services available via the Internet.
<b>THREATS</b>	There exist: a spiral of violence against and a lack of personal safety for journalists and reporters, mainly at local level; also, the high levels of impunity on cases of journalists murdered due to the lack of reinforcement of the Special Prosecutor's Office for Crimes against Freedom of Expression (Fiscalía Especial para la Atención de Delitos cometidos contra la Libertad de Expresión, FEADLE), and the absence of protection laws and mechanisms for journalists in most of the country's states; the infringement of freedom of expression and Mexicans' privacy resulting from the approval of amendments to the Federal Law of Telecommunications and Broadcasting (Ley Federal de Telecomunicaciones y Radiodifusión, LFTR), establishing the creation of the National Registry of Mobile Phone Users (Padrón Nacional de Usuarios de Telefonía Móvil, PANAUT).

## 2.15.3 OVERVIEW

### Mexico

**Mexico** suffered an upsurge in violence against journalists, thereby descending from the 11<sup>th</sup> position in the first edition of the Chapultepec Index, with 55 points, down to No. 16, with 49.21 points and more than six integers below the global average of 55.61 points in the second iteration of the study. The general context includes a narrative against critical media by the government of Andrés Manuel López Obrador.

In Realm A, Informed Citizens Free to Express Themselves, the Aztec nation dropped from 13.4 to 11.57 out of a possible 25 points. Difficulties accessing quality internet service continue to be at the forefront of Mexico's public opinion; additionally, misinformation and/or disinformation in the news and online ecosystem has generated distrust among Mexicans, producing a loss of credibility towards sources and media outlets.

In Realm B, Exercise of Journalism, Mexico also experienced a decrease in the second edition of the Index, from 7.8 to 6.86 points out of a theoretical maximum of 10. Health conditions in the face of the [COVID-19] pandemic were not optimal to guarantee news coverage. Consequently, 120 journalists died, in addition to the critical working conditions affecting the sector.

Realm C, Violence and Impunity, is the lowest scoring for Mexico, the nation most affected by murders of media workers in the hemisphere. By comparing the figures achieved in both editions of the Chapultepec Index, a downward trend is noticed: from 12 points, a low number out of a theoretical maximum of 42, the score for the second edition of the study was 11.35. This second score was influenced by quantitative values: between August 2020 and July 2021, 12 journalists were murdered. Human rights advocates have also blown the whistle on the impunity and inefficiency in investigations regarding these crimes.

Mexico has a high score in Realm D, Control over the Media, for both editions of the Chapultepec Index, 21.8 points out of 25 during the first one, 19.43 points during the second one. Although there were no media closures, seizures, or expropriations, there were regulatory matters that caused controversy, such as the executive order that returned to private radio and television companies airtime that was given to state institutions in 2020, then the reform to the Telecommunications and Broadcasting Act (Ley de Telecomunicaciones y Radiodifusión) in 2021, which provided for mandatory measures targeting companies in order to establish oversight mechanisms.

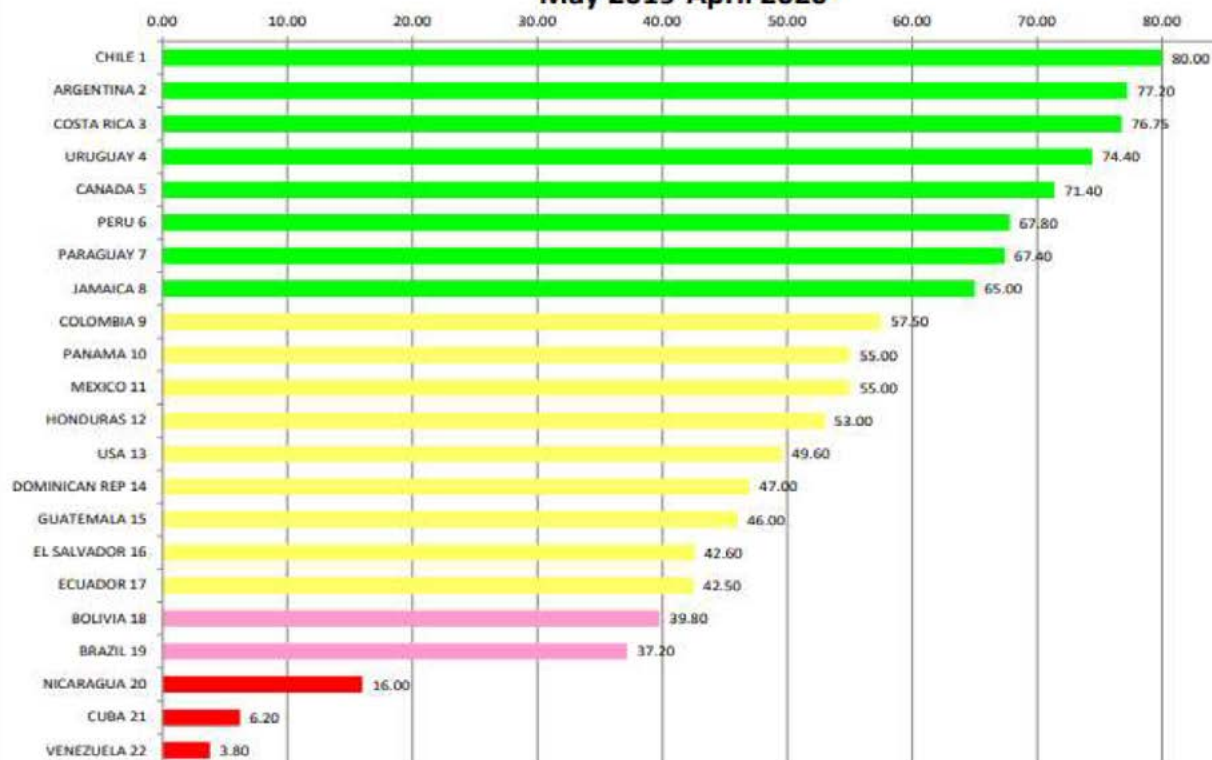
The most influential [institutional] environment in situations unfavorable to freedom of expression was the executive, which continues to be viewed negatively, especially in the impact it made on the Violence and Impunity Realm, according to experts.

## 2.16. NICARAGUA

### 2.16.1 NICARAGUA 2019-2020

NICARAGUA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>16.0</b>
<b>REALM A: "Citizens informed and free to express themselves"</b>	<b>23</b>	<b>6.2</b>
Flow of information	11	2.2
Free Expression	12	4.0
<b>REALM B: Exercise of Journalism</b>	<b>10</b>	<b>6.4</b>
<b>REALM C: Violence and Impunity</b>	<b>42</b>	<b>2.0</b>
Protection	10	0.0
Persecution	15	1.4
Impunity	17	0.6
<b>REALM D: Control over the media</b>	<b>25</b>	<b>1.4</b>
Direct control	16	0.8
Indirect control	9	0.6

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

NICARAGUA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	6.40	6.65	7.02
REALM A: "Citizens informed and free to express themselves"	7.91	8.55	9.28
Flow of information	8.01	8.54	9.13
Free Expression	7.82	8.55	9.43
REALM B: Exercise of Journalism	2.44	2.52	2.39
REALM C: Violence and Impunity	5.63	5.73	5.77
Protection	4.50	4.50	4.50
Persecution	9.13	9.45	9.55
Impunity	3.25	3.25	3.25
REALM D: Control over the media	8.43	8.67	9.60
Direct control	8.45	8.45	9.64
Indirect control	8.40	8.88	9.57

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

## Nicaragua: No freedom of expression

### Executive summary

Deprived from freedom of expression, Nicaragua is ranked negatively among the lowest scores in Latin America and the Caribbean, according to the parameters of the Chapultepec Index of Freedom of Expression and the Press. The study measured freedom of expression in a 100-point scale, and Nicaragua scored only 16 points, only ahead of Cuba (6.2) and Venezuela (3.8) from a list of 22 countries in the region. Nicaragua is in a Human Rights crisis after the 2018 civic protests against the government of Daniel Ortega, considered by the Organization of American States as a dictatorship.

## INTRODUCTION

The Chapultepec Index study spans from May 1, 2019 to April 30, 2020. This is a pre-election year in Nicaragua, and the Ortega dictatorship has intensified its threat against independent media, as they have reported and blown the whistle on Human Rights violations committed during the 2018 protests and until currently.

In this year under analysis, it can be noted that the population in Nicaragua continues to be very polarized, as well as the media, between those who support the government (state-owned outlets) and those who oppose it (independent outlets).

The Ortega regime does not forgive the media for reporting on the 2018 protests, to the point that, by August 2020, the facilities of such outlets as the 100% Noticias news channel and those of the Research and Communication Center (Centro de Investigaciones de la Comunicación, CINCO) information programs continue to be seized.

## Report

It is no coincidence that the experts surveyed remarked that freedom of expression is non-existing in Nicaragua's institutions. This stems from the fact that it is conditioned by the interests of the Ortega regime, which has control over all the branches of government to quash any attempt at freedom of expression.

According to the experts inquired, all three environments have a negative influence on freedom of expression in Nicaragua, with a negative maximum of 10 (legislative environment 7.91, judicial environment 8.55, and executive environment 9.28).



Citizens cannot make statements against the government on the streets, because, as of September 2018, opposition civic demonstrations or gatherings of non-government officials have been banned; citizens cannot spray-paint signs on streets, banners, or walls expressing their dissent with the government, because they are immediately arrested.

Flor Ramírez, known as the “*güipil* lady” (for wearing said traditional costume as a sign of protest against the government), denounced that, since the ban on marches in 2018, she has been under constant police patrolling and cannot voice her inconformity against the regime in the streets. Otherwise, she may be immediately arrested, as she has been on four occasions (her last stint in prison was on August 30, 2019). She was ultimately released, not before being beaten, kept under surveillance, and harassed by the police every day during a week.

## Environments analyzed

### Executive environment

In Nicaragua, the Executive in the hands of the presidential couple, Daniel Ortega and his wife, Vice-President Rosario Murillo, exerts great influence in both environments (legislative and judicial). This couple of dictators has full control over information and decision making; other officials in the three environments only obey and replicate their narrative.

Perhaps this monolithic style of ruling the country explains why the Executive has the highest scores, evidence of a strong influence, with 7.02 out of a maximum 10, in situations discouraging free speech.

From the executive environment, all decisions regarding the political, economic, and social life of the country are made. There is even an element of religiosity in each call-in address to the nation from Vice President Rosario Murillo during each government *cadena* [mandatory multicast], Monday through Friday noon, on television channels and radio stations, regarding government activities and all sorts of topics, as a permanent proselytism strategy in favor of Ortega.

The experts inquired reaffirm that, since 2008, Vice President Murillo takes 40 minutes every day for mandatory pro-government addresses on the media, not only to brief on and praise government activity, but also to intimidate and threaten opponents, as well as independent media and journalists, in the aftermath of the anti-government protests that began in April 2018.

Almost daily, in these monologues, Murillo accuses independent media journalists of promoting fake news and distorting reality, just because every day these outlets denounce the Human Rights and freedom of expression violations perpetrated in the country.

These messages from the vice-president are directed to her loyalists who, at every opportunity, attack, mug independent media journalists, and prevent them from



doing their job, as they are denied access to press coverage of government activities. If independent journalists attempt to cover an inauguration of public works or a government event, they are forcibly removed from the location or law enforcement agents simply deny them access. The same happens in ministries or agencies: There is no access. Gates are closed on them or they are denied entry.

## Judicial environment

The judicial environment in Nicaragua also exerts a high degree of negative influence on freedom of expression, with a score of 6.65 out of a negative maximum of 10, which demonstrates the role that this branch of government plays against this right.

The experts point this out and exemplify how the Criminal Code (Código Penal) sets forth harsher penalties for some crimes; but it provides no specifics on those committed against journalists who are constantly under attack or have their equipment stolen. Even when there exist videos and witnesses, there is no punishment for the offenders.

Most unfortunately, those who attack journalists and freedom of expression in Nicaragua are usually National Police officers, described by the population as the *Orteguista* police, in allusion to the fact that it is a law enforcement body at the service of Ortega and his loyalists.

The judicial environment is identified as another repressive tool against journalists in their exercise of freedom of expression. This branch of government does not enforce the laws in favor of journalists or the population regarding such right.

For example, Act 621, the Law on Access to Public Information (Ley de Acceso a la Información Pública), is merely dead letter. It is enforced by no government agency. Independent journalists request information by mail or phone to exhaustion, and there is no response from officials. In the rare event of a reply, it only comes with incomplete and insufficient information.

The media assets seized by the police in 2018 have not been returned to date, as is the case with the television channel 100% Noticias or those of the CINCO. There are no warrants or lawsuits filed against the media regarding these seizures.

Both journalist Carlos Fernando Chamorro, director of the CINCO, and producer of opinion programs *Esta Noche* (Tonight) and *Esta Semana* (This Week), and online newspaper *Confidencial*, as well as journalist Miguel Mora, owner of TV channel 100% Noticias, have turned to the Judiciary to recover their assets. However, there is no response from the officials heading this branch of government.

Judges have initiated proceedings against opponents and, according to their defense attorneys, these officials become a repressive arm on behalf of the regime. Furthermore, bogus cases with a series of irregularities are conducted. This includes matters regarding freedom of expression such as the one originated in April 2020 on the island of Ometepe, where several people demonstrated in the streets and were detained and prosecuted.

Chamorro and Mora have repeatedly said that they have filed legal appeals before top Supreme Court of Justice officials to recover their assets, but only for complying with formalities and exhausting domestic processes. They do not expect any favorable rulings from those authorities on their appeals.

The judicial environment in Nicaragua is rigged to shield the regime and its allies, which is why they have been denounced for conducting bogus cases. The laws establish that court proceedings shall be open and public. However, when cases involve opponents and independent journalists, they are heard behind closed doors and any coverage is banned.

No judge or justice to the Supreme Court grants interviews to independent media, and the communication offices of that branch of government are closed to independent journalists. There is no access to public information, and independent media are briefed through press releases or statements on Supreme Court and courts websites or through information published in state-owned media.

## Legislative Environment

According to the experts surveyed, the legislative environment achieved a score showing strong influence against freedom of expression, rated at 6.4 out of a negative maximum of 10.

This is because, despite the fact that it is the branch of government that passes laws, it also has a great influence on all matters relating to freedom of expression and the press.

The legislative environment, in addition to passing laws, is in charge of checking their enforcement by the judicial environment. It can amend and upgrade laws; but it does not do so in favor of freedom of expression.

The legislative environment is also in charge of appointing or dismissing the judges that make up the Judiciary. Nevertheless, most *Sandinista* congresspersons, that is, from Daniel Ortega's party – 60 representatives out of a total 90 in parliament – are aligned with the Executive, are very compliant, and only do as Ortega says.

Regarding the legislative environment, almost all the realms show a very strong influence of this branch on freedom of expression. This is not by chance; it is part of a system devised by the Ortega and Murillo regime to wield absolute control over all branches of government.



The Inter-American Commission on Human Rights (IACHR) and the reports of the United Nations Office of the High Commissioner for Human Rights have stated that there are no checks and balances in Nicaragua. Furthermore, they have called for respecting autonomy and the rule of law in order to restore democracy in Nicaragua.

The experts inquired also point out, for example, how the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have issued precautionary measures for independent journalists which are disregarded by the State.

They also add that such organizations as the Inter-American Press Society (IAPA), the IACHR, and all international organizations defending journalists' human rights and freedom of expression have denounced the lack thereof in Nicaragua. Notwithstanding, the government does not modify its behavior.

## REALMS

### REALM A: Informed citizens free to express themselves

Out of 23 possible points, Nicaragua achieved 6.2 in the realm regarding of informed citizens free to express themselves. The low rating for this realm in Nicaragua is explained because there is no freedom of expression according to the experts surveyed.

In this sense, the experts inquired further remarked that, from top government positions, the population is threatened and intimidated, as illustrated in examples provided by them in this matter, "the main source of hate, intimidating, and stigmatizing speech against journalists and the media comes from the highest authorities, President Daniel Ortega and Vice President Rosario Murillo".

Given this pattern of behavior by the regime, it is difficult for citizens to muster the courage to express themselves freely, because if they do, they become the target of threats and all kinds of abuse. Therefore, regarding free information flow, the rating was 2.2 points out of 11.

Independent media shutdown, cases of murdered journalists, court actions against reporters, economic censorship, information censorship, police siege, and harassment by armed pro-government civilians against journalists are some examples of abuse by the authorities and lack of freedom of expression in the country.

Information from government agencies is only provided once cleared by Murillo. Furthermore, officials only repeat it in their statements, even being required to mention the names of Ortega and Murillo and thank them for everything.

In this realm, institutional action regarding free speech also received a rating in the red of 4 points out of 12. As an example, experts pointed out that not even independent digital platforms escape abuse. In addition, they indicated that the government encourages restrictions and blockage, by exposing websites for using images of public government activities released in state-owned media, despite the fact that independent media cannot cover government activities and have to rely on these resources.

The independent media that take images or resources of government activities, as published in state-owned media, may be subjected to cease-and-desist orders seeking to get their sites taken down, even when the images are of public activities and there are no other means to acquire them for news fact checking.

## **REALM B: Exercise of journalism in Nicaragua**

In this realm, Nicaragua achieved 6.4 out of 10 points in the experts' assessment. With regard to the exercise of journalism in Nicaragua, the experts noted that the legislative (2.44) and executive (2.39) environments have a low influence, while the judicial environment exerts a moderate influence, with 2.52 points. However, it has a negative influence on freedom of expression.

Although the data obtained indicates a low influence of the three branches of government on the exercise of journalism, this may be in reason of the existing laws encouraging free speech. Unfortunately, they are not enforced in practice.

This low influence, as per the results from respondents, could also be explained because, in Nicaragua, there are many universities offering degrees in journalism or communications and anyone could claim that journalism can be practiced freely. In addition, because there is a General Law on Affiliation and Professional Practice (Act No. 588 of September 11, 2007 – Ley General de Colegiación y del Ejercicio Profesional [Ley Nro. 588, del 11 de septiembre de 2007]), which establishes that any citizen who has approved three years of journalism in college may practice the profession. Furthermore, in many cases, even people from other professions make inroads into journalism without any legal problems, so one might think that there are few restrictions on the practice of journalism.

## **REALM C: Violence and impunity**

In the realm of violence and impunity, Nicaragua scored very low, 2 points out of 25, divided into only 1.4 out of 15 for the sub-realm of persecution and 0.6 for the sub-realm of impunity.

The Executive exerts the greatest influence with 5.77, the Judiciary with 5.73, and the Legislative with 5.63, which indicates the significant extent of responsibility from these

branches of government for the acts of violence and impunity against journalists and freedom of expression in the country.

Such are the risk levels for practicing journalism in Nicaragua that the murder of journalist Angel Gahona, perpetrated in April 2018 while covering a popular protest and where the only ones shooting firearms were law enforcement officers and government loyalists, remains unsolved. Respondents so stated.

Some media outlets in Nicaragua have also been compelled to bow down in matters of freedom of expression to avoid conflict with the government, including those inquired for the study. They point out that the exercise of journalism is threatened by the government's seizure of independent media assets (100% Noticias and CINCO).

The free exercise of journalism took a toll behind bars in 2018 on journalists Lucía Pineda, 100% Noticias television channel news director, and Miguel Mora, CEO of the same channel. They were released in June 2019, but the channel assets continue to be in the hands of the Daniel Ortega government.

That is why those surveyed for the study of the Chapultepec Index also held that the government had disregarded requests from international Human Rights and freedom of expression organizations, demanding that the government return the seized assets to this media outlet.

Since the Daniel Ortega government took office (2007), violence against journalists and independent media (other than state-owned outlets) has not ceased; on the contrary, it has intensified following the popular uprising of April 2018.

The year under study has not been the exception: There continues to be violence against journalists, who do not have press coverage access to government agencies and have even been assaulted and robbed of equipment in the last year.

These results of violence and impunity against freedom of expression in Nicaragua have also been documented in the monitoring conducted by the Violeta Barrios de Chamorro Foundation (Fundación Violeta Barrios de Chamorro), the reports of the Inter-American Commission on Human Rights (IACHR), and the monitoring conducted by NGO Independent Journalists and Reporters of Nicaragua (Periodistas y Comunicadores Independientes de Nicaragua, PCIN).

In July 2019, journalist Sergio León, owner of the radio station *La Costeñísima*, in Bluefields, South Caribbean Coast Autonomous Region, denounced that he had received death threats and that, additionally, the radio station was target of a cyberattack.

Thereafter, the station was besieged by the National Police and armed pro-government civilians. Furthermore, a week before his death by COVID-19, (June 14, 2020), journalist Sergio



León said he had been filed slander and libel complaints for reporting on the poor conditions and preparedness to face the advent of the pandemic into the country.

Violence against journalists is also evident in the tirades that Vice President Rosario Murillo has hurled during some of her daily call-in noon addresses on state-owned media.

Respondents pointed out that the vice president has described journalists from non-government media as “terrorists, vandals, coup mongers, evildoers, a plague, and fake news fabricators”.

The vice president, who uses airtime on at least six television channels and over ten radio stations nationwide, constantly slams independent media journalists whom she accuses of being servants of the US Empire.

## **REALM D: Control over the media**

Regarding control over the media, this realm achieved only 1.4 points out of 25 possible. The three environments exerted a very strong influence, as mentioned by those inquired, who gave a score of 8.43 to the legislative environment, 8.67 to the judicial environment, and 9.6 to the executive environment. This denotes a high negative influence on the media.

The three environments do nothing to prevent direct control over the media. Instead, the Executive is the one that controls them, be it with laws, orders, threats, censorship of all kinds, or even imprisonment.

Although the law of the land sets forth that monopolies and control over the media shall be outlawed in order to encourage content diversity and a pluralistic offering, actually the government does not comply with such provisions and there is more and more concentration of media outlets in the hands of the government.

The results are similar with regard to actions preventing indirect control over the media: The three environments exerted a very strong influence. Instead of preventing indirect control, they encourage it with their attitudes. The Nicaraguan Telecommunications Act (Ley de Telecomunicaciones de Nicaragua) sets the conditions for granting licenses to media outlets. Under this Telecommunications Act, which is enforced by Nicaragua's Telecommunications and Post Office Institute (Instituto de Telecomunicaciones y Correos, TELCOR), media licenses are granted or revoked in service of the government's political agenda.

TELCOR uses this law to serve the communication interests of the ruling family. Case in point, it has granted licenses to at least four television channels for the children of Daniel Ortega and Rosario Murillo, as well as over ten radio stations managed by the Ortega-Murillo family.

Conversely, TELCOR also used this law to revoke the licenses of television channel 100% Noticias. Additionally, it has stripped several radio stations in the country (identified as opposed to the regime) of their operating licenses.

This telecommunications regulatory agency in Nicaragua also makes use of this law, in outright abuse of power, to interrupt media programming with mandatory television and radio *cadenas* to multicast addresses by President Daniel Ortega and Vice President Rosario Murillo whenever they so wish.

## CONCLUSIONS

The violations of the right to freedom of expression and of the press in Nicaragua are made evident in the responses provided by those surveyed and the many examples mentioned.

The entire study reflects how the executive, judicial, and legislative environments in Nicaragua operate in a system encouraging impunity in favor of officials who violate the right to free speech, excessive control exerted by these branches of government over the media – primarily the Executive, and intolerance of criticism.

From top government offices, such as the Vice President of the Republic, Rosario Murillo, inflammatory speech is used against those who think differently from the government. Furthermore, journalists are harassed with a string of disparaging slurs, as mentioned by the experts surveyed.

The rating obtained from Nicaragua-based respondents averaged an Index of 16 points, which reflects the fact that there is no freedom of expression in this country.

For most of the responses regarding environments and realms, scores in the red indicate a very strong influence of the three environments on the lack of freedom of expression in Nicaragua.

The examples cited by respondents show the lack of guarantees from the Nicaraguan government and the failure to fulfill its duties and international commitments with regard to freedom of expression.

Various international organizations, including the United Nations High Commissioner for Human Rights and the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, have called on the State of Nicaragua to respect freedom of expression.

In the period under review, over 40 journalists have received precautionary measures from the IACHR, following threats and harassment for doing their job, including journalists from *Radio Dario* in the western department of León, workers from *Radio Corporación* in

Managua, journalists from TV Channel 10, and other independent media newsmen. Notwithstanding, the government does not comply with these measures.

Another scheme that the Nicaraguan government has devised to assault freedom of expression was mentioned in the examples provided by those inquired and is directed at novel digital media that have had great influence and reach among the audience during this year of the study.

According to respondents, those who run state-owned channels cry foul at digital platforms for using visual resources from their media. However, these new digital media do so for fact checking purposes, because there is no access to coverage of official sources. Despite the fact that these emerging media give proper attribution for visual resources, their YouTube channels have been blocked on several occasions.

In addition to information censorship, the State of Nicaragua, controlled by the Executive, continues to use economic censorship, which has caused several media outlets to shut down for the lack of government advertising and after denial of supply imports, as well as hefty tax levies. Instead, media outlets of the rulers' family and political party enjoy all the privileges and get all the government advertising.

As the November 2021 presidential elections are nearing close amidst the opposition's distrust towards an electoral system controlled by the ruling party (*Sandinista* National Liberation Front [Frente Sandinista de Liberación Nacional]), freedom of expression is also threatened by government officials who want to remain in power and therefore try to prevent the people and independent journalists from voicing opinions contrary to the regime.

## REFERENCES

- Agencia EFE. (2019, July 24). Presentan Protocolo para restablecer la libertad de expresión en Nicaragua. *Agencia EFE*. Retrieved 2020, July 30 from <https://www.efe.com/efe/america/sociedad/presentan-un-protocolo-para-restablecer-la-libertad-de-expresion-en-nicaragua/20000013-4029089>
- Álvarez, L. (2019, July 26). El periodista Sergio León denuncia ciberataque al sitio web de La Costeñísima. *La Prensa*. Retrieved 2020, August 2 from <https://www.laprensa.com.ni/2019/07/26/departamentales/2573094-el-periodista-sergio-leon-denuncia-ciberataque-al-sitio-web-de-la-costenisima>
- Fundación Violeta Barrios de Chamorro. (2020, July 22). Informe de violaciones a la libertad de prensa abril-junio 2020. Retrieved 2020, August 14 from <https://www.violetachamorro.org/biblioteca/publicaciones/148-informe-de-violaciones-a-la-libertad-de-prensa-abr/>

- Guevara, O. (2019, December 24). Libertad de prensa y expresión en Nicaragua. *Confidencial*. Retrieved 2020, August 8 from <https://www.google.com/amp/s/confidencial.com.ni/libertad-de-prensa-y-expresion-en-nicaragua/amp/>
- Luna, Y. (2020, March 19). Periodistas exigen a Ortega cesar agresiones y censura. *Confidencial*. Retrieved 2020, August 14 from <https://www.google.com/amp/s/confidencial.com.ni/periodistas-exigen-a-ortega-cesar-agresiones-y-censura-tv/amp/>
- Medrano, M. (2020, March 4). Organismos de derechos humanos condenan agresiones a periodistas independientes de Nicaragua. *CNN*. Retrieved 2020, August 13 from <https://www.google.com/amp/s/cnnespanol.cnn.com/2020/03/04/alerta-organismos-de-derechos-humanos-condenan-agresiones-a-periodistas-independientes-en-nicaragua/amp/>
- Ortega, D. (2007, September 11). Ley general de colegiación y del ejercicio profesional. Ley No 588. Retrieved 2020, August 2 from [http://oas.org/juridico/spanish/mesicic3\\_nic\\_ley588.pdf](http://oas.org/juridico/spanish/mesicic3_nic_ley588.pdf)
- Ortega, D. (2007, May 16). Ley de acceso a la información pública. Ley N°. 621. Retrieved 2020, August 1 from [http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/675A94FF2EB-FEE9106257331007476F2](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/675A94FF2EB-FEE9106257331007476F2)
- Redacción La Vanguardia. (2019, September 2). Crisis de libertad de expresión en Nicaragua agudiza, según PEN internacional. *La Vanguardia*. Retrieved 2020, August 1 from <https://www.google.com/amp/s/www.lavanguardia.com/politica/20190902/47152412100/crisis-de-libertad-de-expresion-en-nicaragua-agudiza-segun-pen-internacional.html%3ffacet=amp>
- Tórrez, C. (2019, September 1). Doña Flor Ramírez, la señora del huipil, denuncia haber sido detenida por la PO por andar la bandera de Nicaragua en su bolso. *La Prensa*. Retrieved 2020, August 1 from <https://www.laprensa.com.ni/2019/09/01/nacionales/2584963-doña-flor-la-señora-del-huipil-denuncia-haber-sido-detenido-por-la-po-por-andar-la-bandera-de-nicaragua-en-su-bolso>
- Voz de América. (2019, November 19). Periodistas denuncian ataques a libertad de expresión en Nicaragua. *La Prensa*. Retrieved 2020, July 28 from <https://www.laprensa.com.ni/2019/11/19/nacionales/2612837-periodistas-denuncian-ataques-a-la-libertad-de-prensa-en-nicaragua>

## NICARAGUA

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	The courage of the men and women of the independent media and the citizens' demand for freedom of expression, as the experts point out with their examples, are strengths in the midst of the crisis. Another strength is the support of the international community, offered by the Inter-American Commission on Human Rights and the Inter-American Press Association seeking the restitution of seized media assets.
<b>WEAKNESSES</b>	The main weaknesses of the lack of freedom of expression in Nicaragua are related to the absolute control of the executive environment over the judicial and legislative environments, which translate into strong (6.59) and very strong (7.02) influences, respectively, on unfavorable situations resulting in high restriction of freedom of expression in the country.
<b>OPPORTUNITIES</b>	The existing law of the land, which promotes free speech, represents an opportunity, as a reference that can influence the restitution of guarantees for the exercise of journalism.
<b>THREATS</b>	The conditions of impunity, lack of protection, intimidation, and hate against independent journalists fueled by government officials.

## 2.16.2 NICARAGUA 2020-2021

NICARAGUA	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>17,20</b>
REALM A: "Citizens free to express themselves"	23,00	2,71
Information flow	11,00	2,71
Free speech	12,00	0,00
REALM B: "Exercise of journalism"	10,00	3,79
REALM C: "Violence and impunity"	42,00	8,70
Protection	5,00	0,36
Persecution	7,50	0,00
Impunity	8,50	1,29
Registered violence	21,00	7,05
REALM D: Control over the media	25,00	2,00
Direct control	19,00	0,86
Indirect control	6,00	1,14

Chapultepec Index on Freedom of Expression and the Press 2021





## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

NICARAGUA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	7,96	6,96	7,16
REALM A: "Citizens informed and free to express themselves"	8,36	4,52	4,62
REALM B: Exercise of Journalism	8,57	8,71	8,71
REALM C: Violence and Impunity	7,33	7,24	7,67
REALM D: Control over the media	7,57	7,36	7,64

### Type of Influence Points

SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Nicaragua: no freedom of expression

### Executive Summary

Nicaragua ranks for the third consecutive year among the three countries in the region where freedom of expression is absent for its citizens (17.20 out of a scale of 100 as maximum to exercise this right). This is due to the appalling treatment perpetrated by the branches of government that prevents citizens from being able to express themselves freely, also affecting the exercise of independent journalism.

## INTRODUCTION

The exercise of free speech and freedom of the press in Nicaragua has had a remarkably deep deterioration in the last three years, following the people's uprising that began on April 19, 2018, when the Sandinista government led by Daniel Ortega quelled the protests by using violence. In these events, journalist from the Caribe Sur coast Ángel Gahona was killed, and other journalists were injured while covering the protests.

The government has ever since tightened censorship, the siege of the media and attacks and aggressions against journalists. This is evidenced in the monitoring of freedom of expression carried out by the Violeta Barrios de Chamorro Foundation (Fundación Violeta Barrios de Chamorro, FVBCH) until it was forcefully closed down. The monitoring was taken over by newspaper La Prensa, which now is only issued in digital format because of government repression.

In February 2021, the Violeta Barrios de Chamorro Foundation (Fundación Violeta Barrios de Chamorro FVBCH), which promoted freedom of the press and strengthening the media, had to close operations because of the enacting of new bills passed by the Legislative by the end of 2020, among which is the Special Bill on Cybercrime (Ley Especial de Cibercrimitos, # 1042, passed on October 27, 2020), the Foreign National Agents Act (Ley de Agentes Extranjeros, # 1040) and the Act on the Defense of People's Rights (Ley de Defensa de Derechos del Pueblo, # 1055).

On the closing day, former President Violeta Barrios de Chamorro's daughter Cristiana Chamorro, who until a few weeks before had [time sequence] performed duties as head of the organization that advocates for the rights of journalists, called this Friday "*un día de luto cívico*" (a mourning day for the citizens) "because Ortega is legally assassinating Nicaraguan

society with the Foreign Nationals Act” (Castillo, H. February 5, 2021. Luto en Nicaragua por el cierre de la Fundación Chamorro. Voice of America).

The government’s persecution on the FVBCH continued throughout the year, and on May 2, 2021, dozens of police officers raided Mrs. Chamorro’s home and held her under house arrest; then the driver, the chief administrator and the accountant were arrested, as arrest warrants were issued at three more female workers. They are all indicted of various crimes, such as money laundering, which has been denied by the foundation’s former workers.

Journalist and former Nicaraguan President Violeta Barrios de Chamorro’s daughter Cristiana Chamorro has been under house arrest since last Wednesday, May 2. Chamorro had announced her intention to run against Daniel Ortega in the upcoming November elections; but a court banned her and ordered her arrest for alleged money laundering. Chamorro and her inner circle assure that this indictment is politically motivated by Ortega’s fear of losing the elections. (Sedano, R. June 5, 2021. Nicaragua: Cristiana Chamorro, un mal recuerdo del pasado para Daniel Ortega.)

On May 20, the police also raided for the second time the facilities of digital newspaper Confidencial, run by Cristiana’s brother Carlos Fernando Chamorro, so attacks against the media have not ceased in Nicaragua.

Newspaper La Prensa also was subjected to a police raid of its facilities on August 13, 2021, after complaining that the government was preventing them from importing paper. The facilities have been taken by the police ever since, and the newspaper has stopped printing; additionally, the chairman of the board of directors was arrested and indicted with several offenses related to the so-called repressive laws (Bills 1040, 1042 and 1055).

In this scenario, at least 269 aggressions on and threats to journalists and 103 attacks on media outlets, mostly perpetrated by agents from the government, have been accounted for during the surveyed August 2020-June 2021 period.

Likewise, consultations with experts in communications and journalism disclosed that the Legislative, Judicial and Executive environments –above 7.51 out of a maximum influence of 10– have a very strong influence on obstructing the exercise of freedom of expression and press freedom in Nicaragua.

## Results Analysis

### Executive Environment: Hindering Free Speech

Per results of the influence of the environments analysis in situations not favoring free speech, we find that the Executive environment shows a strong unfavorable influence (7.16) in obstructing the exercise of free speech and freedom of the press in Nicaragua via different harmful actions against journalists and citizens who want to express themselves.



The Executive environment also exhibits a mild influence (4.62) regarding the realm of Informed Citizens Free to Express Themselves. The idea is to give an impression that citizens are able to freely access the news in the country through a large number of media outlets and, at the same time, express themselves on what they are getting informed about. In real life, there are a great deal of pro-government media going over and over the same narrative again and, at the same time, restrictions are implemented on media not aligned with the government.

Regarding the free Exercise of Journalism, the Executive environment is very strongly influential (8.71), which indicates that it is behind all actions to control free speech and freedom of the press in Nicaragua, to such an extent that through the Cybercrime Act and other actions carried out by the Attorney General's Office, it is sought that journalists are intimidated about what they are reporting, so they are prevented from influencing citizen's critical judgments on the government's administration.

## **Legislative Environment: Passing of Acts That Are Harmful to Freedom of Expression.**

Per results for Nicaragua, the Legislative environment is the one that seems to be the most highly influential on freedom of the press, with an overall – speech register score ranging from 7.33 to 8.57. During the period surveyed, this branch of government has turned itself into a tool available to the Executive branch.

Accordingly, the Legislative has closed ranks in favor of the Executive, passing quickly, without consultation, and as a matter of urgency, the so-called repressive laws combo. In addition, it keeps passing bills that intensify control over freedom of expression and the media.

The Legislative has played a key role in all this repressive context in Nicaragua, because it has granted the legal basis for every single abuse the government commits against free speech and freedom of the press. Based on the rationale of such laws, sports journalist Miguel Mendoza is imprisoned for the sole reason of posting on social media his opinions on what he considered abuses by the government, and other journalists have been frightened by the Attorney General's Office inquiries.

Journalists and media outlet owners indicate that free speech has been attacked on different fronts. They explain that one of the most recent is a string of bills that place even more pressure on the media, already suffocated due to siege, threats, revocation of licenses and reduction of advertising. (100 % Noticias. May 3, 2021.)

## Judicial Environment: Abusive Laws Applying to Those Who Exercise Their Freedom of Expression

According to the results, the Judiciary environment shows strong and very strong levels of influence ranging from 4.52 to 8.71 in almost all realms, because it is the body that enforces the laws and immediately hears government proceedings against people who use their free speech or freedom of the press.

Between May and June 2021, Nicaraguan Attorney General's Office, in coordination with judicial authorities, summoned 23 journalists and some other opponents for questioning aimed against the FVCH and other civil society organizations. As a consequence, some were arrested immediately and others were days later.

Four journalists have been imprisoned since that date: siblings Cristiana and Pedro Joaquín Chamorro, as well as Miguel Mora and Miguel Mendoza. Additionally, an arrest warrant was issued for journalist Carlos Fernando Chamorro for making use of his free speech and freedom of the press. Consequently, a new flock of journalists has fled for protection: at least 100 are in exile, according to the observatory of the organization PEN International.

### The realms

#### REALMS A: Nicaraguan Citizens Unable to Express Themselves

This realm is in the area Without Freedom of Expression through a 2.71 index out of a theoretical maximum of 23, showing that citizens can neither express themselves freely nor appropriately access to information by themselves because the plurality of media is nonexistent; on the contrary, almost all of them communicate the same official or pro-government message.

This result also indicates how the branches of government's environments make it impossible for citizens to exercise this right, which is threatened by the new repressive laws. The effect of the aforementioned is noticeable by the number of the imprisoned, among opponents and journalists; definitely, everything responds to a sort of warning to make people refrain from expressing their opinion.

In fact, many citizens in Nicaragua consider this as a "blackout of voices", because those who speak their mind about the reality of the country are either risking jail time –as it happened to journalist Miguel Mendoza– or summoned by the Attorney General's Office, institution that has conducted 43 inquiries on Nicaraguan journalists.

## REALM B: Imprisonment and Intimidation to Anyone Willing to Exercise Free Journalism

In Nicaragua, Exercise of Journalism scored 3.79 out of the maximum scale of 10, reflecting the low score of Nicaragua's global Chapultepec Index, and showing how journalists feel restrictions to do their job in the aggressive and repressive atmosphere from the government.

The National Police, a State institution whose mission is to keep citizens safe, took on the task of barring citizens from showing solidarity and from covering the news of damages caused by Hurricane Eta and Iota, and showed a continued failure to comply with the injunctive relief granted by the Inter-American Committee on Human Rights (IACHR). (November 2020 Monthly Report. Violeta Barrios de Chamorro Foundation).

In this socio-political scenario, the ability to exercise journalism in Nicaragua has been hindered mainly by the governments's intimidating actions; among others, we highlight the summons by the Attorney General's Office at journalists, inquiries to intimidate, investigations, and indictments against journalists and opposition supporters.

"This new wave of repression expressed in judicial processes against journalists is another repressive method against the independent press, in an attempt at intimidating them and silencing their informative work". (August 2020 Monthly Report. Violeta Barrios de Chamorro Foundation).

Accordingly, nearly 100 journalists had to flee the country for protection, mainly to neighboring nations. Those who stand and remain as newsmen are exposed to lawsuits for libel and slander, which happened to journalist David Quintana, taken to a hearing and found guilty in a trial during which his lawyer complained about a series of supposed irregularities.

In the year under survey, at least three journalists were prosecuted for libel and slander: David Quintana, Kalua Salazar, and Elsa Espinoza. These people claim they have only done their job.

## REALM C: Violence from Institutions against Journalists

The Violence and impunity realm scored an 8.70 index out of a theoretical maximum of 42. This realm surveys the level of protection, violence, impunity and persecution experienced in the country when it comes to exercising the right to free speech and freedom of the press.

Although it seems to be an index scoring better than the rest of the realms, perhaps this is because in the country violence by organized crime gangs is less when compared to other countries, and there are no records of journalists being murdered or kidnapped by these gangs.





When the topic is violence, the institutional environment remains its source rather than organized crime; however, we gradually notice how pro-government zealots have attacked journalists. This is the case of those referred to as government's paramilitary or clash groups.

In December 2020, journalist Jacdiel Rivera, a Channel 10 correspondent in the department of Madriz, north of Managua, reported threats from the police; so did journalist Georgina Vargas, also a correspondent from that TV station, in Bilwi, Region of Northern Caribbean.

The IACHR informed this Tuesday that it granted injunctive relief measures in favor of journalist Georgina Roxana Vargas Clarens, from Nicaraguan region of Caribe Norte, upon deeming that she is at serious and urgent risk of irreparable damage to her rights in Nicaragua. (La Prensa. September 01, 2021).

## **REALM D: The Government Subjugates the Media to Its Message; Otherwise, Shuts Them Down.**

This realm scored 2.0 out of a theoretical maximum of 25, evincing government branches' direct and indirect control over the free speech that citizens are able to exercise. The government tells citizens that they have the right to freely express themselves in theory; in reality, direct penalties are imposed on those who make use of this right, with more serious consequences if the opinion is on politics.

The media in Nicaragua are first and foremost controlled by a couple of powerful groups: those run by the government through Rosario Murillo, which comprise five broadcast TV stations, several cable (pay TV) stations, and about ten radio stations; another media group managed by Mexican Ángel González; and, lastly, some other minor media outlets.

In general, Ortega's government controls the media with an iron fist through state-owned Nicaraguan Telecommunications Institute (Instituto Nicaragüense de Telecomunicaciones y Correos TELCOR), a body that in previous years has revoked frequencies from TV and radio stations and also pushes national mandatory broadcasts in all media when President Ortega addresses the nation with no national emergency to justify so.

The government enforces the most direct control over the media by a reward-and-punishment tactic as they are supporters or not, as well as threats of closure, customs withholding of supplies –as in the case of the newspaper La Prensa, monitoring and fiscal penalties on political grounds.

## **Conclusions**

This report's period surveyed indicates that in Nicaragua citizens do not enjoy free speech; this is noticed in the several obstructions and limitations –in all realms and environments– affecting the Nicaraguan people and journalism not aligned with the government.



Aggressions, threats and intimidations by government agents supported by a government-tailored legal framework are the order of the day. Consequently, there has been the “apagón [blackout – consistency, as you used this term on page 4]” of newsmen’s voices, the closedown of slots in television and radio media, and most seriously, the persecution on journalists.

Between May and June 2021, at least 14 journalists went into exile in neighboring countries due to the Attorney General’s Office’s threats to arrest them, after they were summoned to testify in the case against the FVBCH that is still open.

Journalists have stated that during the inquiries they were questioned about the provenance of funds used to carry out their news-related duties, their sources, and the type of publications they share in their respective media. Additionally, according to their statements, special mention was made of **Act 1042** and the charges they could be indicted for when not complying with it. (La Prensa, June 2021. Report on violations to freedom of the press)

During this period, indictments and prosecutions have been issued and conducted against opponents and journalists who are currently under arrest. They are being indicted for several serious offenses; according to some political analysts in exile, this serves the purpose of intimidating and sending a clear message to any other journalist who dares to make use of free speech and freedom of the press.

In the period surveyed, it is clear that being a journalist or expressing oneself freely in Nicaragua exposes journalists and citizens to retaliation from the government. These range from siege, persecution, aggressions, and even arrests. Therefore, as a conclusion, there is no such thing as freedom of expression in the country.

## REFERENCES

Houston, C. Castro, L. (February 05, 2021). *Luto en Nicaragua por el cierre de la Fundación Chamorro*. Voz de América. Retrieved from [https://www.vozdeamerica.com/a/centroamerica\\_medios-digitales-nacionales-lamentan-cierre-fundacion-violeta-barrios-de-chamorro/6071386.html](https://www.vozdeamerica.com/a/centroamerica_medios-digitales-nacionales-lamentan-cierre-fundacion-violeta-barrios-de-chamorro/6071386.html)

Informe mensual de septiembre 2020 y el Consolidado Trimestral julio - septiembre 2020 (2020), Violeta Barrios de Chamorro Foundation. Nicaragua

Informe mensual de agosto de 2020. Violeta Barrios de Chamorro Foundation (2020). Nicaragua.

Informe mensual de noviembre y diciembre de 2020. (2020), Violeta Barrios de Chamorro Foundation. Nicaragua.

Informe de violaciones a la libertad de prensa, April 2021. (2021). Diario La Prensa. Nicaragua.



Informe de violaciones a la libertad de prensa, May 2021. (2021). Diario La Prensa. Nicaragua.

Informe de violaciones a la libertad de prensa, June 2021. (2021). Diario La Prensa. Nicaragua.

La Prensa. (September 01, 2021). CIDH otorga medidas cautelares a favor de la periodista caribeña Georgina Vargas. La Prensa. Retrieved from <https://www.laprensa.com.ni/2021/09/01/politica/2872647-cidh-otorga-medidas-cautelares-a-la-periodista-caribena-georgina-vargas>

Ley N° 1055, Ley de defensa de los derechos del pueblo a la independencia, la soberanía y la autodeterminación para la paz. Retrieved from [http://legislacion.asamblea.gob.ni/SILEC/Iniciativas.nsf/C4084E2665A5610F06258642007E9C3F/\\$File/Ley%20N%C2%B0%201055,%20Ley%20Defensa%20de%20los%20Derechos%20del%20Pueblo.pdf?Open](http://legislacion.asamblea.gob.ni/SILEC/Iniciativas.nsf/C4084E2665A5610F06258642007E9C3F/$File/Ley%20N%C2%B0%201055,%20Ley%20Defensa%20de%20los%20Derechos%20del%20Pueblo.pdf?Open)

Medrano, J. (2021). Informe de violaciones a la libertad de prensa, enero - marzo de 2021. Diario La Prensa. Nicaragua.

Normas Jurídicas de Nicaragua. Ley de Regulación de Agentes Extranjeros, Ley N°. 1040, aprobada el 15 de octubre de 2020. Retrieved from <http://legislacion.asamblea.gob.ni/normaweb.nsf/9e314815a08d4a6206257265005d21f9/3306286cd4e82c5f06258607005fdf6b?OpenDocument>

Normas Jurídicas de Nicaragua. Ley especial de Ciberdelitos. Ley N°, 1042, passed on October 27 2020. Retrieved from [http://legislacion.asamblea.gob.ni/normaweb.nsf/\(\\$All\)/803E7C7FBCF44D7706258611007C6D87?OpenDocument](http://legislacion.asamblea.gob.ni/normaweb.nsf/($All)/803E7C7FBCF44D7706258611007C6D87?OpenDocument)

Sedano, R. (June 05, 2021). Nicaragua: Cristiana Chamorro un mal recuerdo del pasado para Daniel Ortega. France 24. Retrieved from <https://www.france24.com/es/am%C3%A9rica-latina/20210605-cristiana-chamorro-opositora-nicaragua-detencion-ortega>

Voz de América. (May 03, 2021). Apagón Informativo en Nicaragua impuesto por Daniel Ortega contra la libertad de expresión. 100% Noticias. Retrieved from <https://100noticias.com.ni/nacionales/106957-censura-medios-independientes-daniel-ortega/>

100 Noticias Nicaragua. (December 03, 2020). Jefe de tránsito en Madriz advierte a periodista que lo meterá preso por grabar accidente. Retrieved from <https://www.youtube.com/watch?v=emiLOOI86VQ>

## NICARAGUA

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	The main strength of journalists and citizens to exercise their right to free speech and freedom of the press is the courage to express themselves, fearlessly, and in accordance with international agreements executed by Nicaragua and that bind the State to respect these rights. Also, the capability of peaceful resistance by citizens and journalists who exercise their right to express themselves even in adverse conditions.
<b>WEAKNESSES</b>	The greatest weakness regarding free speech and freedom of the press in Nicaragua is that, despite the fact that the right to express oneself and exercise journalism freely is granted by the Constitution, the approval of three acts –at the end of 2020– restricts this right and even cautions citizens and journalists that they can be imprisoned for expressing what they feel about the government and the country. This has generated what is referred to as <i>apagón de voces</i> (blackout of voices), because many –especially social leaders– fear being arrested.
<b>OPPORTUNITIES</b>	The political situation the country is going through following the 2018 protests leads to the existence of few opportunities to exercise the right to free speech; however, social media and digital platforms, as well as teamed-up journalists, collaborative work, the voices of Nicaraguans supporting from exile, remain as a sort of domestically and internationally resounding loudspeaker that resonates in defense of the right to free speech and freedom of the press.
<b>THREATS</b>	Nicaraguan citizens and journalists face a hostile environment when exercising their right to express themselves. Threats from officials, aggressions and attacks on the media, perpetrated by agents from the government, are a constant without regard for constitutional rights and international agreements in favor of freedom of expression and of the press.

## 2.16.3 OVERVIEW

### Nicaragua

**Nicaragua** remains in the group of nations viewed as deprived of free speech resulting from institutional actions regarding Freedom of Expression and the Press, according to the second edition of the Chapultepec Index. From 16 points out of a maximum possible 100 points in the overall ranking, it barely varied by 1.2, to reach a total 17.2 points in the second iteration of the study. It has trailed only Cuba and Venezuela for two years in a row.

In Realm A, Informed Citizens Free to Express Themselves, this nation dropped 6.2 points to 2.71 from a theoretical maximum of 23. It barely scored 0 points in the sub-realm of Free Speech. The high restriction on citizen expression occurred in the context of the new laws passed by the Legislative towards the end of 2020, among which are the Special Law on Cybercrime (Ley Especial de Ciberdelitos), the Foreign Agents Act (Ley de Agentes Extranjeros) and the Law for the Defense of People's Rights (Defensa de Derechos del Pueblo).

In Realm B, Exercise of Journalism, Nicaragua also showed a major decline: from 6.4 points in the first edition of the Index to 3.79 out of a theoretical maximum of 10. Actions by public officials have undermined the climate for journalism in the nation, with summons to newsmen, an intimidating narrative from the government, among other measures. Instances of actions against the guarantees for the profession include at least three journalists being prosecuted for slander and defamation during the second period of study for the Index.

In Realm C, Violence and Impunity, alarmingly low numbers persist in Nicaragua, although the score for the second iteration improved slightly. Out of a theoretical maximum 42 points, Nicaragua scored only two points in the first edition and eight in the second. Impunity for crimes against journalists is mentioned in both reports, such as the one involving the case of the murder of journalist Ángel Gahona, occurred in 2018. At least 35 journalists had to flee from the country in 2021, under pressure of legal proceedings against them.

In Realm D, Control over the Media, Nicaragua also obtained low scores, both in the sub-realms of Direct Control and Indirect Control for the second consecutive year. It showed a minimal variation within the range of countries without freedom of expression in this item: from 1.4 out of 25 in the 2019-2020 edition, it went to 2 over the theoretical maximum in the 2020-2021 study.

The government of Daniel Ortega keeps a tight grip on the media through the Nicaraguan Institute of Telecommunications and Mail (Instituto Nicaragüense de Telecomunicaciones y Correos, TELCOR), an agency that has revoked licenses of TV channels and radio stations in previous years. Precisely, among other factors, this shows the impact of the exec-



utive environment's high influence on the unfavorable situations for freedom of expression and the press in both studies. However, for the second edition, the Legislative appears as the one with the greatest impact on a climate unfavorable to expression and dissemination of information, stemming from the laws passed on digital surveillance.

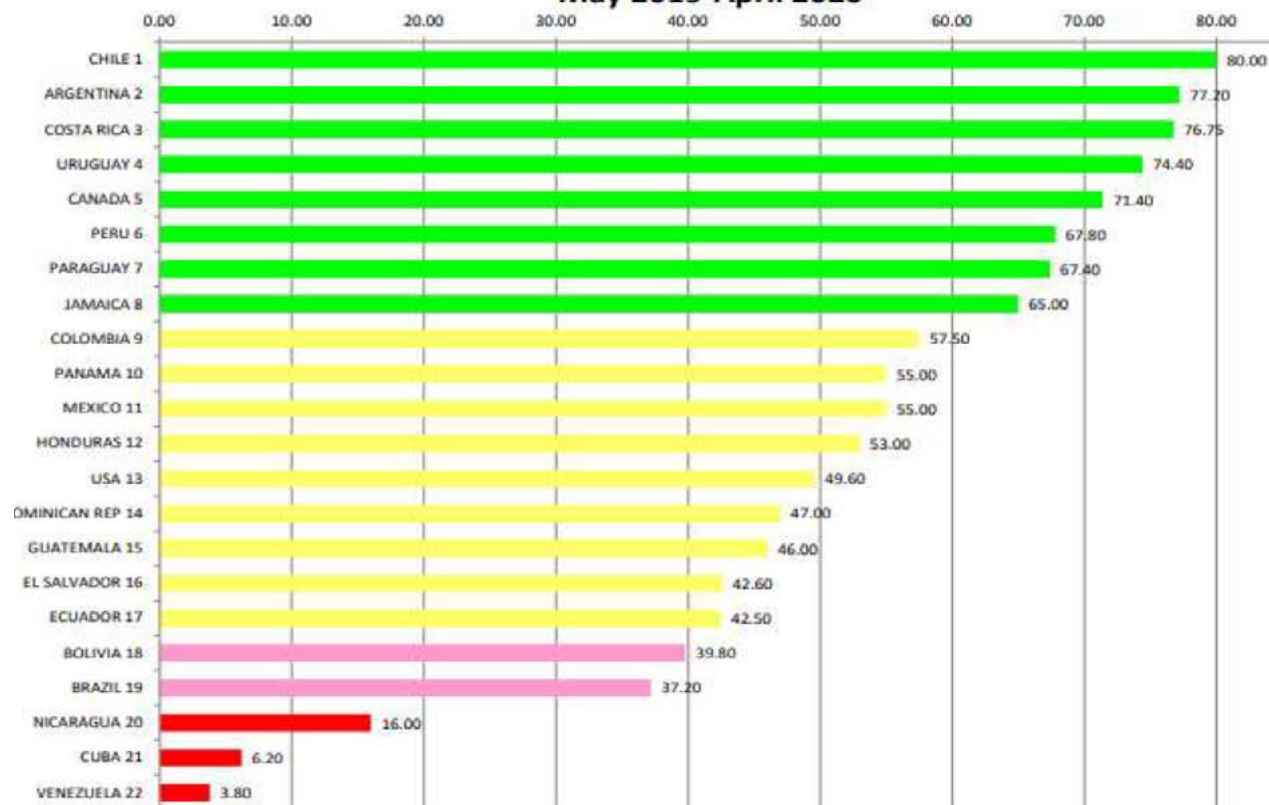


## 2.17. PANAMA

### 2.17.1 PANAMA 2019-2020

PANAMA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>55.0</b>
REALM A: "Citizens informed and free to express themselves"	23	11.8
Flow of information	11	5.8
Free Expression	12	6.0
REALM B: Exercise of Journalism	10	7.6
REALM C: Violence and Impunity	42	14.6
Protection	10	3.2
Persecution	15	7.4
Impunity	17	4.0
REALM D: Control over the media	25	21.0
Direct control	16	12.0
Indirect control	9	9.0

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

PANAMA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	3.63	3.04	3.70
REALM A: "Citizens informed and free to express themselves"	6.51	6.71	6.80
Flow of information	5.83	6.19	6.63
Free Expression	7.19	7.22	6.97
REALM B: Exercise of Journalism	2.00	1.33	1.73
REALM C: Violence and Impunity	3.67	2.64	3.58
Protection	3.17	1.67	3.67
Persecution	7.83	6.25	7.08
Impunity	0.00	0.00	0.00
REALM D: Control over the media	1.47	1.03	1.81
Direct control	2.94	2.06	3.63
Indirect control	0.00	0.00	0.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## **Panama: Harassment from the Judiciary threatens freedom of speech and the press**

### **Executive summary**

The Republic of Panama ranks tenth among the 22 countries reviewed in the Chapultepec Index of Freedom of Expression and the Press with 55 points. Although freedoms of expression and the press are generally upheld, some institutional actions tend to undermine them. Offenses against honor are frequently cited to initiate court proceedings, which is perceived as a tool for undue pressure on the media and journalists. One case of illegal wiretapping by means of specialized software, still in litigation, as well as another related to leaked private communications, sound the alarm about tampering in the digital domain, which has been free from censorship to date. Although there is a Law of Transparency and Access to Public Information (Ley de Transparencia y Acceso a la Información Pública) in force, as well as steady progress in implementing an Open Government project, guaranteeing access to public information continues to face major challenges.

## **INTRODUCTION**

This study period practically begins with the inauguration of a new government in the Republic of Panama (hereinafter Panama). On July 1, 2019, two months after the general election of May 5, 2019, in which 73% of the electoral roll voted, the new Constitutional President and Vice President took office, as well as the new National Assembly [Legislative] and Central American Parliament (Parlamento Centroamericano, PARLACEN) congresspersons, so did mayors, representatives of townships (corregimientos), and councilpersons. The judicial branch was partially renewed in December with the legislative confirmation of three new justices and six deputy justices to the Supreme Court, nominated by the Executive for the period 2019-2024 (Paz, 2019).

The period covered by this report takes place during the first year of the new administration headed by Laurentino Cortizo Cohen, who, in mid-March 2020 – as well as other heads of State in the region – declared a State of National Emergency to address the health crisis caused by the new coronavirus, namely COVID-19. Journalists, media companies and distributors were exempted from the severe mobility restrictions ordered to deal with the pandemic (Ministerio de Salud, 2020).

In general, the media and journalists work in a climate of freedom in Panama, a country experiencing a high economic growth, with rates close to 4.6% over the last five years. During the 2015-2018 period, poverty rates decreased by about three percentage points, albeit marginally in 2019. Despite these figures, serious social asymmetries prevail in the country, making it the third most unequal nation in the region according to the World Bank (2020). Similarly, since 2016, Panama has been declining in NGO Transparency International Corruption Perceptions Index (Libertad Ciudadana, 2020).

## Results analysis

### Overall rating

With 55 points, out of a possible 100, Panama can be considered a country with an environment conducive to freedom of expression, but with partial restrictions. Most Central American countries find themselves in such situation, except Costa Rica, which shows a greater degree of freedom (76.75 points), and Nicaragua, which has severe restrictions (16 points).

The three environments analyzed, Legislative, Judicial and Executive, show moderate influence scores that do not reach 4 points in any case. In relation to the realms reviewed, according to the experts surveyed, the environment that has the greatest influence on restrictions is the Legislative (7.83 points), with persecution against the media and journalists who release information or statements considered offensive by senior officials. The Legislative (7.19 points) and Judicial (7.22 points) environments also appear to be unfavorably assessed regarding free speech, as is the case with the Executive, to a lesser extent.

Panama's Criminal Code (Código Penal) makes slander and defamation offenses against honor. They constitute serious felonies when committed on audiovisual or print media or by means of information technology. In these cases, sentencing ranges [a jail term of] 6-12 months or its equivalent in *per diem* fines – for slander – and 12-18 months in prison or its equivalent in *per diem* fines – for defamation (Ministerio Público, 2016).

There is an exemption or suspended sentence for this type of offense when it involves public servants. In these cases, there is no associated penalty, because it is considered a form of citizen control over officials' performance. However, civil liability is not waived. Therefore, penalties established for offenses against honor are essentially of a pecuniary nature and civil lawsuit awards are not capped (Botero *et al.*, 2017).

## Environments

### Executive

Of the three environments analyzed, the Executive is rated the lowest by the experts surveyed for this study, with 3.7 points. However, the results also reveal that it does not exert a strong influence on any of the realms assessed. The realm rated the lowest by the respondents was C, namely persecution, with 7.08 points. Likewise, Realm A, regarding information flow and free speech, appears to have a strong influence, with an unfavorable rating of nearly 7 points.

One of the most publicized cases during the study period, although it corresponds to the presidency of Juan Carlos Varela, is the one known as *VarelaLeaks*, a *faux* web-site which rose to prominence in November 2019 by disclosing supposed WhatsApp messages from a phone allegedly lost by the former president (EFE Servicios, 2019). These messages revealed conversations that the former president had held with the Attorney General, the Comptroller, other high-ranking officials and businesspersons. Hints at allegedly requesting personal favors, peddling influence, and possibly interfering in the handling of cases at the Attorney General's Office by the former president might be inferred. Following this case, the Attorney General tendered her resignation from office (González, E., 2019 a).

In his defense, former President Varela assured that had lost no phones and, although he admitted that the voice in some of the conversations was his, he said that they had been altered. He attributed the leak to phone tapping with Pegasus software, for the use of which former President Martinelli was criminally prosecuted in the so-called *pinchazos* (wiretaps) case.

Various guilds and associations took a stand on an issue exemplifying an outright violation of personal privacy, and called on the authorities to investigate and punish those responsible. In this regard, the Chamber of Commerce of Panama (Cámara de Comercio de Panamá) and the National Journalism Council (Consejo Nacional de Periodismo, CNP) invited Inter-American Commission on Human Rights Rapporteur for Freedom of Expression Edison Lanza to the country. Then, he underscored: "The Latin American region is experiencing a complex situation and freedom of expression is at the center" (Vega Loo, 2019).

Another realm highlighted by those inquired is D, namely sub-realm 1, with 3.63 points. Although the Executive does not actively restrict the free flow of or access to information, there is a perception that media editorial policies are rewarded or punished by means of advertising budget allocations.

In general, pressure by means of government contracts is notorious. The advertising campaign regarding pandemic, for instance, was conducted by private compa-



nies from the concerned sector, which, in turn, were directly awarded these contracts (Noriega, 2020). Although there is no overt censorship, high officials of the Executive sometimes publicly state that the media only report on negative aspects of their performance while they silence others more favorable to the government's image.

At the onset of his term, President Cortizo Cohen met with the members of the National Journalism Council, who underscored that this visit was the first in a decade. During the encounter, the president "made a commitment to comply with the universal principles of freedom of expression and the press, as set forth in the Declaration of Chapultepec, sponsored by the Inter-American Press Association (IAPA) and signed by Panama" (Presidencia de la República de Panamá, 2019).

However, following the declaration of the National State of Emergency regarding the pandemic, some groups have expressed their disagreement with the way the press conferences of the health authority have been conducted. Following the disclosure of some data on alleged corruption in the procurement of medical equipment, these addresses were suspended. However, they were subsequently resumed.

During the period under study, the National Authority for Transparency and Access to Public Information (Autoridad Nacional de Transparencia y Acceso a la Información Pública, ANTAI) made progress in implementing the 4<sup>th</sup> National Open Government Action Plan (ANTAI, 2020) and, along with the National Authority for Government Innovation (Autoridad Nacional para la Innovación Gubernamental AIG), continues to run the site Datos Abiertos de Panamá (Open Data of Panama), on which some government institutions have been releasing data in open format. ANTAI has also acted on citizen complaints demanding transparency in access to public information.

The government has a Public Radio and TV System of educational and cultural nature (SerTV). Its board of directors, chaired by the Minister of Education, is composed of members of the Executive and Legislative branches, the civil society, and the Comptroller General's Office. It consists of one digital broadcast TV station and three radio stations, one of them AM. The National Assembly and the Panama Canal also have digital broadcast TV channels. All the above TV channels also offer streaming over the Internet.

## Legislative

According to the experts surveyed, the legislative environment, which has been under serious criticism in connection with acts of corruption, has behaved in such a manner that has occasionally come to constitute a threat to freedom of expression and the press. In the Chapultepec Index of Freedom of Expression and the Press, it is rated as moderately influential (3.63), just slightly behind the executive branch (3.7). However, the results reveal that



it is the only one of the environments with strong influence, especially in sub-realm 1, on persecution.

One of the elements that stands out among the actions linked to this environment is the behavior of some lawmakers who, in use of their immunity, make disparaging statements against the media and journalists, most notoriously the case involving Congressman Sergio Gálvez, who hurled harsh invectives against the director of Radio Panama, journalist Edwin Cabrera. This incident was unanimously condemned by several media and such associations as the Forum of Journalists (Fórum de Periodistas), the CNP, and the Panamanian Broadcast Radio Association (Asociación Panameña de Radiodifusión) (El Siglo, 2019).

During the discussion of constitutional reform proposals, there were warnings about the possibility that amendments of some articles would change their meaning and curtail the protections for freedom of expression contained in Articles 4, 37, and 89 of the Political Constitution in force (González, E., 2019 b). It is noteworthy that these changes never occurred since, following public demonstrations against the process consultation underway, the National Assembly withdrew and shelved the proposed constitutional reforms and the Executive called for a dialogue to review the content thereof (Bustamante, 2019).

## Judicial

The judicial environment obtained the highest rating from the experts surveyed, with 3.04 points. The results reveal that this environment has a strong influence on Realms A and C. For Realm A, the score achieved in the item inquiring on free speech stands out, with 7.22 points; and in the C realm, the score related to persecution, with 6.25 points.

Although the overall score is the lowest among the three environments, it was the realm on which most cases were reported, all regarding judicial harassment. This behavior has been described by NGO Libertad Ciudadana (the Panamanian chapter of Transparency International) as a new form of attack on freedom of expression.

Most of the cases occurred during the period under review are linked to the criminal prosecution of former President of the Republic Ricardo Martinelli. Its extensive coverage resulted in numerous criminal and civil lawsuits against the media and newsmen brought by the former president (Álvarez, 2019).

Nevertheless, there were other cases, such as the criminal litigation filed against Congresswoman Zulay Rodríguez Lu by the Attorney General of the Nation, Kenia Porcell, on alleged offenses against honor (slander and defamation) and against the public administration (abuse of authority by a public servant). The claim, on grounds of two tweets on the representative's social media feed, amounted to slightly over \$1,000,000 in damages (Redacción de La Prensa, 2019 a).

## REALMS

### REALM A

According to those surveyed, this realm is strongly influenced by the three environments to practically the same extent, with 6.51 points for the Legislative, 6.71 points for the Judicial and 6.8 for the Executive. Although it can be stated that full freedom of expression exists in Panama, some specific actions have contributed to this perception during the period under analysis. Among these, those conducted by the National Charity Lottery (Lotería Nacional de Beneficencia, LNB) in December 2019 and by National Assembly Vice President Zulay Rodríguez Lu in January 2020 stand out.

By means of an order, National Charity Lottery Director Gloriela del Río classified as confidential, for a ten-year period, information that by nature and under the Law of Transparency and Access to Public Information is for public access. This administrative act followed a request for information made by journalists who obtained evidence of alleged acts of corruption linking congresspersons to LNB beneficiaries (Libertad Ciudadana, 2019). In reply to requests from the media, several citizens' organizations, and formal complaints at the Office of the Solicitor General of the Government, AN-TAI acted to ensure access to public information and opened *ex officio* administrative proceedings to determine possible violations of the Law on Transparency and Access to Public Information. The LNB finally reversed the order, and partly released the information required (González Pinilla, 2019).

For her part, the vice president of the National Assembly, Zulay Rodríguez Lu (Esq.), in an action regarded as reprisal for the coverage of a case in which she was involved, managed to get the Attorney General's Office to issue an injunction on her behalf against journalist Mauricio Valenzuela, who runs a digital media outlet, alleging violence against women and the family. During attempts at interviewing her, National Assembly security detail threatened to remove the above newsperson from the premises of the parliamentary palace (Vega Loo, 2020).

The complaint filed by the congresswoman was of a criminal nature, but she warned that she would also file a civil lawsuit for slander and defamation. The protective injunction prevents a journalist from approaching the locations where the representative is in attendance, as well as from using technological or electronic media that may disturb her. One month after the injunction was granted, the representative accused the reporter of violating it. The digital media joined forces to emphasize that the injunctive relief granted to the congresswoman restricted the exercise of journalism and freedom of expression (Batista, 2020). Previously, Congresswoman Rodríguez

Lu had also hurled invectives against La Prensa newspaper, which were rejected by the National Journalism Council (Redacción de La Prensa, 2019 b).

In Panama, the law sets forth the right to reply, retract, or respond; likewise, the law provides for the right to injunction, whereby the affected party may seek legal protection for their honor. Pursuant thereto, the courts may order the reply, retraction, or response sought and, in case of failure to comply, impose fines on the media outlet in contempt according to the seriousness of the disregard. Nevertheless, the Criminal Code, by making slander and defamation as offenses against honor, provides avenues towards curbing freedom of expression and the press.

Freedom of expression and the press is unrestricted in the digital domain. There is a growing amount of native digital media, as well as a steady increase in the use of social media for forums and discussions on various topics, especially in the wake of the pandemic. Although mobile Internet service is reliable and available in major cities, it is not easily accessible in rural and county areas (Urribarri, 2020 a).

During the electoral campaign, which ended on May 2, 2019, there was criticism from the media regarding the ban period established by the Electoral Tribunal for the release of polls, which was restricted to 48 hours prior to election day, a provision not set forth in the country's Electoral Code (Código Electoral). (Gordon, 2019).

## REALM B

This realm appears to be well rated by the experts surveyed for this report, in all three environments. The one that achieved the highest score was the Legislative, with only two; the lowest was the Judicial, with 1.33 points.

In Panama, the fundamental right to freedom of association is enshrined in the Constitution, and there is no mandatory affiliation for journalists. In the country, there exist different unions and associations such as the Journalists' Union of Panama (Sindicato de Periodistas de Panamá), the National Association of Journalists of Panama (Colegio Nacional de Periodistas de Panamá, CONAPE) and the Forum of Journalists for the Freedom of Expression and Information.

Similarly, in Panama there is the National Journalism Council (CNP), an institution in which guilds and associations, media outlets, faculties and schools of mass communication coexist. The CNP has a Journalistic Ethics Committee, a self-regulatory body overseeing the activities conducted by the media outlets that conform the consortium.

There is not a press law in Panama governing the journalistic profession. However, for professional practice in government agencies, clearance that may be issued by the CONAPE or by the Journalists' Union of Panama – a professional suitability of



sorts – is required. For exercise in private companies, this suitability is not required. In neither case, a professional university degree is required.

## REALM C

This realm was the worst rated by the experts surveyed for this report, in connection with actions of the legislative environment (7.83 points), but also of the executive (7.08 points) and the judicial (6.25 points) environments, all regarding the persecution of media and journalists.

The protracted criminal proceedings against former President Ricardo Martinelli, who was indicted for illegal wiretapping during his government and that eavesdropped on journalists too, among other targets, received extensive coverage. This caused civil and criminal prosecution against media outlets, journalists, cartoonists, tweeters, businesspersons, and even public opinion leaders from several print and broadcast media (Agencia EFE, 2019).

The monies claimed in these cases were extremely high, since the legislation does not cap the amounts for them. A single media company, Corporación La Prensa S.A. (Corprensa), faces 12 civil defamation lawsuits and 22 criminal defamation cases, in which the plaintiffs have claimed a total of US\$85,000,000 in compensatory damages. All of the lawsuits faced by Corprensa were brought by high-profile personalities and former government officials who claim that their reputation has been damaged. Of these lawsuits, 15, totaling \$46,000,000 claimed, are filed by former president Ricardo Martinelli (Quijano, 2020).

In addition to potentially causing self-censorship, lawsuits of this nature, for such high amounts, endanger the financial stability of the media. Panamanian legislation also allows for the freezing of assets of some media outlets, such as print and digital media, but not broadcasting, a measure that, if applied, could put a halt to the continuous, nonstop operation of the media.

Media and journalist organizations, as well as the NGO Libertad Ciudadana, consider these actions judicial harassment of sorts aimed at encouraging censorship and self-censorship. Although not all of them, several of these complaints have been dismissed or subsequently shelved by judges who have granted injunctive relief on a variety of grounds: It has not been possible to establish the possible commission of a crime; the statute of limitations for the alleged offenses has been reached; the actions upon which the claims are based do not constitute punishable behavior; or it has not been possible to identify, in the case of a tweeter, their identity este (Redacción de La Prensa, 2020).

On 9 August 2019, the trial court found former President Martinelli not guilty of the charges against him and ordered his immediate release (BBC, 2019). The plaintiffs and the lawyers for the former president filed an appeal in cassation. Those allegedly affected by the so-called *pinchazos* seeking to reverse the decision and the defense filed to have the motion dismissed. The decision must be issued by the Criminal Chamber of the Supreme Court of Justice. Upon closing date of this report, the case is still pending.

In the items regarding actions against impunity, all three environments scored zero points.

## REALM D

Sub-realm 1 shows a slight (2.06 points for the judicial environment) and moderate influence, with 2.94 and 3.63 points for the Legislative and the Executive, respectively.

Although there have been no shutdown, seizure, or expropriation of media outlets, in the wake of a series of reports published by Grupo EPASA (*Panamá-América, Crítica, and Día a Día*), questioning the behavior of the Attorney General, spokespersons for the media group reported that the Attorney General's Office was exerting undue pressure and denying them access to public information (Día a Día, 2019). The Attorney General's Office accused the group of disinformation to damage the image of the institution. Journalists from *Panamá-América* newspaper were treated disrespectfully by some prosecutors who refused to give them interviews. In response to a leak warning of a possible raid on the news organization (Panamá América, 2019), the Attorney General's Office issued a statement in denial thereof. This raid did not take place.

Sub-realm 2 shows the best ratings by the experts surveyed for this study, with a total of zero points in all environments. There is no record of the existence of mechanisms seeking to control the media indirectly, such as blocking of digital media platforms, pressure on technological intermediaries or vendors of supplies necessary for gathering, producing, or disseminating news.

## CONCLUSIONS

This study covers the first year of Panama's new government, emerging from general elections in May 2019. A year that, under normal circumstances, could be considered what some call honeymoon with the press, when the media generally await what the actions of public officials will be. In this case, before the administration's

first anniversary, an exceptional event occurred, namely the pandemic caused by COVID-19, leading to the declaration of extreme emergency measures.

According to the experts surveyed for the Chapultepec Index of Freedom of Expression and the Press, the three environments analyzed had a slight, moderate, or strong influence. Only one, the Legislative, albeit with 3.63 general points, shows an influence deemed very strong, with 7.83 points, regarding persecution, with landmark cases of lawmakers who have hurled invectives and disparaged newsmen and the media by using their parliamentary immunity.

The judicial environment, with an overall score of 3.04, appears to be strongly influenced by the realms involving actions encouraging free speech with regards to the vast number of criminal and civil lawsuits against the media and journalists. Although these do not originate from the same environment, just because they are admitted, they cause negative consequences to freedom of expression and the press, by distracting from their role and demanding resources for the payment of legal fees, from both media companies and journalists. A step forward towards the protection of guarantees of the right to free expression and the press would be, not only the repeal of slander and defamation as criminal offenses, but also caps for civil lawsuit awards.

As for the Executive, although it appears with the highest general score among the three, 3.7 points, the results do not reveal a very strong influence on any of the realms. The greatest is that associated with actions against persecution and those related to the discretionary use of resources, specifically advertising budget allocations, which could be directed at rewarding or punishing the media for their editorial and informative policies.

Panama joined the Open Government Partnership in 2012 and to date has concluded three Open Government Plans with a cross-section participation. The fourth plan is currently being implemented. Since 2002, Panama has had a Law of Transparency and Access to Public Information, a reform of which is currently under consideration (Bustamante, 2020). Since 2013, with the creation of ANTAI, there has been a governing body exerting authority over transparency, access to public information, and personal data protection.

According to official figures, Internet coverage is close to 70%, but concentrated in the capital region and through extensive use of prepaid mobile networks. Freedom of expression and the press in the digital domain is unfettered and there is a growing number of digital media that have already established an association gathering them. However, there is concern about increasingly frequent social media campaigns to rarify or manipulate the climate of public opinion, with those responsible remaining unidentified to date.



With regards to the 2019 elections, the Electoral Tribunal of Panama created a specialized unit aimed at monitoring the use of mainstream and social media to comply with relevant provisions of the Electoral Code. Likewise, it deployed a campaign, called Digital Ethical Pact (*Pacto Ético Digital*), to encourage appropriate use of social media and, in turn, warn against the use of digital disinformation schemes, aimed at manipulating the will of the electorate. The unit detected the use of hubs known as call centers and, thanks to the agreement signed with [social media] platforms, the electoral body was able to impose the respective sanctions, although the procedure was long and complicated in some cases (Urribarri, 2020 b).

The phone tapping and leaks cases known as *Pinchazos* and *VarelaLeaks*, respectively, sounded the alarm about the violation of personal privacy, protected as provided for in the country's Political Constitution. In this regard, an issue that should not be overlooked is the regulation of the Personal Data Protection Law (*Ley de Protección de Datos Personales*), enacted in March 2019, which must be completed so that the law can come into force in 2021. Similarly, attention should be paid to the possible discussion of the draft bill on cyber-crime proposed by the Attorney General's Office, which could stipulate regulations affecting freedom of expression in the digital realm.

## REFERENCES

- Agencia EFE. (2019). Un expresidente de Panamá demanda a radio del Grupo Prisa por 5 millones dólares. In: *Qué pasa mi gente*. Retrieved from <https://charlotte.quepasanoticias.com/noticias/mundo/internacional/un-expresidente-de-panama-demanda-a-radio-del-grupo-prisa-por-5>
- Álvarez, R. (2019). Martinelli: 50 querellas por calumnia. In: *Metro Libre*. Retrieved from <https://www.metrolibre.com/nacionales/146688-martinelli-50-querellas-por-calumnia.html>
- Autoridad Nacional de Transparencia y acceso a la información. (2020). Propuestas Compromisos del Cuarto Plan de Acción Nacional de Gobierno Abierto Panamá. *ANTAÍ*. Retrieved from <https://www.antai.gob.pa/propuesta-compromisos/>
- Banco Mundial. (2020). Panamá: panorama general. Panamá. *Banco Mundial*. Retrieved from <https://www.bancomundial.org/es/country/panama/overview#1>
- Batista, J. (2020). Zulay Rodríguez acusa a Mauricio Valenzuela de violar una medida de protección. In: *La Prensa*. Retrieved from <https://www.prensa.com/politica/zulay-rodriguez-acusa-a-mauricio-valenzuela-de-violar-medida-de-proteccion/>
- BBC News Mundo. (2019). Ricardo Martinelli: un tribunal declara “no culpable” a expresidente de Panamá por caso de escuchas telefónicas y ordena su liberación. In: *BBC News Mundo*. Retrieved from <https://www.bbc.com/mundo/noticias-america-latina-49301623>



- Botero, C., Guzmán, F., Jaramillo, S., Gómez, S. (2017). El derecho a la libertad de expresión (pp. 148–172). Bogotá: Universidad de Los Andes - De Justicia. Centro de Estudios de Derecho, Justicia y Sociedad, Dejusticia. Retrieved from <https://www.dejusticia.org/wp-content/uploads/2017/07/El-derecho-a-la-libertad-de-expresi%C3%B3n-PDF-FINAL-Julio-2017-1-1.pdf>
- Bustamante, A. (2019). Asamblea Nacional retira del pleno acto de reforma constitucional. In: *La Prensa*. Retrieved from <https://www.prensa.com/impresa/panorama/asamblea-retira-del-pleno-acto-de-reforma-constitucional/>
- Bustamante, A. (2020). Asamblea también plantea cambios a la Ley de Transparencia. In: *La Prensa*. Retrieved from <https://www.prensa.com/impresa/panorama/an-tambien-planteta-cambios-a-la-ley-de-transparencia/>
- EFE Servicios. (2019). Escándalo de los “VarelaLeaks” constatan la vulnerabilidad de WhatsApp. In: *La Estrella de Panamá*. Retrieved from <https://www.laestrella.com.pa/nacional/politica/191109/escandalo-varelaleaks-constatan-vulnerabilidad-whatsapp>
- González, E. (2019 a). Renuncia procuradora de Panamá en medio de escándalo por los «VarelaLeaks». In: *CNN*. Retrieved from <https://cnnespanol.cnn.com/2019/11/13/alerta-renuncia-procuradora-de-panama-en-medio-de-escandalo-por-los-varela-leaks/>
- González, E. (2019 b). Preocupación por propuesta sobre la libertad de expresión en la reforma constitucional. In: *TVN Noticias*. Retrieved from [https://www.tvn-2.com/nacionales/Preocupacion-propuesta-libertad-expresion-constitucional\\_0\\_5424207622.html](https://www.tvn-2.com/nacionales/Preocupacion-propuesta-libertad-expresion-constitucional_0_5424207622.html)
- González Pinilla, J. (2019). Lotería publica la identidad de billeteros; directora deroga polémica resolución. In: *La Prensa*. Retrieved from <https://www.prensa.com/sociedad/loteria-publica-la-identidad-de-billeteros/>
- Gordón, I. (2019). Encuestas políticas se publicarán hasta 48 horas antes de las elecciones. In: *La Estrella de Panamá*. Retrieved from <https://www.laestrella.com.pa/nacional/politica/190226/48-encuestas-politicas-publicaran>
- Libertad Ciudadana. (2019). El derecho de acceso a la información pública y la repartición de bienes públicos. Panamá: Libertad Ciudadana. Retrieved from <https://www.libertadciudadana.org/comunicado/966/>
- Libertad Ciudadana. (2020). Panamá baja su calificación en el índice de percepciones de la corrupción 2019. Retrieved from <https://www.libertadciudadana.org/comunicado/panama-baja-su-calificacion-en-el-indice-de-percepciones-de-la-corrupcion-2019/>
- Ministerio de Salud. (2020). Decreto Ejecutivo N° 507 (Del 24 de marzo de 2020). Panamá: Gaceta Oficial Digital No. 28987-B. Retrieved from [https://www.gacetaoficial.gob.pa/pdfTemp/28987\\_B/GacetaNo\\_28987b\\_20200324.pdf](https://www.gacetaoficial.gob.pa/pdfTemp/28987_B/GacetaNo_28987b_20200324.pdf)
- Ministerio Público (2016). Texto único del Código Penal de la República de Panamá (comentado) (p. 138). Panamá.

- Noriega, R. (2020). Leyes no facilitan despilfarro de fondos. In: *La Prensa*. Retrieved from <https://www.prensa.com/impres/panorama/leyes-no-facilitan-despilfarro-de-fondos/>
- Panamá América. (2019). Procuradora Porcell planea allanar EPASA. In: *Panamá América*. Retrieved from <https://www.panamaamerica.com.pa/judicial/procuradora-kenia-porcell-planea-allanar-epasa-1144411>
- Paz, F. (2019). Una gran meta por cumplir para los nuevos magistrados de la Corte Suprema de Justicia. In: *Panamá América*. Retrieved from <https://www.panamaamerica.com.pa/judicial/una-gran-meta-por-cumplir-para-los-nuevos-magistrados-de-la-corte-suprema-de-justicia>
- Presidencia de la República de Panamá. (2019). Presidente Cortizo Cohen se reúne con integrantes del Consejo Nacional de Periodismo. Panamá: Oficina de Prensa. Retrieved from <https://www.presidencia.gob.pa/Noticias/Presidente-Cortizo-Cohen-se-reune-con-integrantes-del-Consejo-Nacional-de-Periodismo->
- Quijano, D. (2020). Legal intimidation takes new form in Latin America. In: *Financial Times*. Retrieved from <https://www.ft.com/content/1b30b9c7-e320-4004-b25b-a83690fd-4b7a>
- Redacción web Día a Día. (2019). Procuradora Kenia Porcell dice que no quiere allanar Día a Día. In: *Día a Día*. Retrieved from <https://www.diaadia.com.pa/el-pais/procuradora-kenia-porcell-dice-que-no-quiere-allanar-dia-dia-358586>
- Redacción Digital El Siglo. (2019). Gremios de Periodismo se pronuncian contra insultos y ataques de diputados. In: *El Siglo*. Retrieved from <http://elsiglo.com.pa/panama/gremios-periodismo-pronuncian-contra-insultos-ataques-diputados/24143316>
- Redacción de La Prensa. (2019 a). La procuradora Porcell presenta querella penal contra Zulay Rodríguez. In: *La Prensa*. Retrieved from [https://www.prensa.com/judiciales/procuradora-Porcell-presenta-Zulay-Rodriguez\\_0\\_5377712194.html](https://www.prensa.com/judiciales/procuradora-Porcell-presenta-Zulay-Rodriguez_0_5377712194.html)
- Redacción de La Prensa. (2019 b). CNP, preocupado por ataques de la diputada Zulay Rodríguez contra 'La Prensa'. In: *La Prensa*. Retrieved from [https://www.prensa.com/sociedad/CNP-diputada-Zulay-Rodriguez-Prensa\\_0\\_5378462149.html](https://www.prensa.com/sociedad/CNP-diputada-Zulay-Rodriguez-Prensa_0_5378462149.html)
- Redacción de La Prensa. (2020). Deciden archivar querellas presentadas por el expresidente Martinelli contra Ledezma, Planells y Eisenmann. In: *La Prensa*. Retrieved from <https://www.prensa.com/judiciales/juez-mantiene-decision-de-archivar-querella-del-expresidente-martinelli-contra-mariela-ledezma/>
- Urribarri, R. (2020 a). Coronavirus y desigualdad digital. In: *CIEPS*. Retrieved from [https://cieps.org.pa/coronavirus\\_y\\_desigualdad\\_digital/](https://cieps.org.pa/coronavirus_y_desigualdad_digital/)

- Urribarri, R. (2020 b). Medios digitales y periodismo: retos para la democracia en Panamá. In: *Agenda Pública El País*. Retrieved from <http://agendapublica.elpais.com/medios-digitales-y-periodismo-retos-para-la-democracia-en-panama/>
- Vega Loo, M. (2019). Hay que saber quiénes están haciendo las filtraciones, dice presidente de la Cciap. In: *La Prensa*. Retrieved from [https://www.prensa.com/sociedad/saber-haciendo-filtraciones-presidente-Cciap\\_O\\_5442955653.html](https://www.prensa.com/sociedad/saber-haciendo-filtraciones-presidente-Cciap_O_5442955653.html)
- Vega Loo, M. (2020). Funcionarios amenazan a Mauricio Valenzuela con retirarlo de los predios del Legislativo. In: *La Prensa*. Retrieved from <https://www.prensa.com/politica/funcionarios-de-la-asamblea-amenazan-a-mauricio-valenzuela-con-retirarlo-de-los-predios-del-legislativo/>

## PANAMA

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	The State has a Public Radio and Television System with a board of directors, chaired by the Minister of Education, made up of members from the Executive and the Legislative, the civil society and the Comptroller General's Office. The system consists of one digital broadcast TV channel and three radio stations, one of them AM. The National Assembly [Legislative] and the Panama Canal also have digital broadcast TV channels. All the above-mentioned TV outlets also offer streaming feeds. Their programming features educational, cultural and IT content.
<b>WEAKNESSES</b>	The Panamanian Criminal Code sets forth slander and libel as crimes against honor, considered serious offenses when committed through a media outlet. Although government officials are exempted from penalties in this regard, civil liability is not excluded. The fines provided for these crimes are of a pecuniary nature and there are no amount caps for these lawsuits. In addition to possibly causing self-censorship, lawsuits of this nature jeopardize the financial stability of media outlets.
<b>OPPORTUNITIES</b>	Since 2017, there is a public policy of Open Government Data. The National Authority for Transparency and Access to Information, along with the National Authority for Government Innovation, is developing the government's open data portal. In 2019, the Open Data Working Group was established, a multi-sector body responsible for formulating and promoting action plans to promote greater transparency, accountability, and citizen participation in public affairs.
<b>THREATS</b>	According to official data, Internet penetration is close to 70%, albeit concentrated in the capital region and mostly available on mobile networks as a prepaid service. Although freedom of expression and the press in the digital domain is full, there is concern about increasingly frequent campaigns on social media seeking to rarify or manipulate the climate of opinion, without having identified those responsible for them to date.

## 2.17.2 PANAMA 2020-2021

PANAMA	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>65,97</b>
REALM A: "Citizens free to express themselves"	23,00	12,57
Information flow	11,00	5,71
Free speech	12,00	6,86
REALM B: "Exercise of journalism"	10,00	6,29
REALM C: "Violence and impunity"	42,00	25,12
Protection	5,00	0,50
Persecution	7,50	3,07
Impunity	8,50	1,43
Registered violence	21,00	20,12
REALM D: Control over the media	25,00	22,00
Direct control	19,00	16,29
Indirect control	6,00	5,71

Chapultepec Index on Freedom of Expression and the Press 2021





## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>PANAMA</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	3,33	2,36	2,90
REALM A: "Citizens informed and free to express themselves"	4,50	2,09	2,93
REALM B: Exercise of Journalism	5,14	5,00	5,71
REALM C: Violence and Impunity	3,10	1,76	2,33
REALM D: Control over the media	0,57	0,57	0,64

### Type of Influence Points

<b>SLIGHT INFLUENCE</b>	0,1 - 2,50
<b>MODERATE INFLUENCE</b>	2,51 - 5,00
<b>STRONG INFLUENCE</b>	5,01 - 7,50
<b>VERY STRONG INFLUENCE</b>	7,51 - 10,00

PERIOD SURVEYED.  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## **Panama: controlled information but no open censorship**

### **Executive Summary**

The Republic of Panama ranks 9th among the 22 countries covered by the Chapultepec Index of Freedom of Expression and Freedom of the Press, with a score of 65.97. Although freedom of expression and freedom of the press exist, the Panamanian legal framework - especially the Criminal Code - allows some restrictive measures such as common legal proceedings for offenses against the honor of individuals associated to the political sphere which results in undue pressure on the media and journalists. There is also inequality on allocation of government advertising, which could be interpreted as attempts to control the media. The amendment implemented to the Law on Transparency and Access to Public Information (Ley de Transparencia y Acceso a la Información Pública), in force since 2002, has been stalled, and the observance of the guarantees for access to public information continues to be both a demand by the citizens and a challenge for government institutions. Journalists have been assaulted while covering popular protests arising due to the economic crisis.

## **INTRODUCTION**

The study period falls within the second year of the presidency of Laurentino Cortizo Cohen, and amid a national state of emergency implemented in March 2020 to address the health crisis caused by COVID-19. While journalists, media agencies and media distributors were not affected by mobility restrictions, they have encountered limitations to access relevant information, especially on the vaccination plan and the extraordinary government procurement process implemented within the context of the pandemic.

In general terms, the media and journalists operate in an environment of broad freedom in Panama. However, the health emergency accelerated the intensification of the economic crisis, and growing allegations of corruption have arisen as consequence of the economic decline. Social dissatisfaction has been expressed through protests and mobilizations. While covering these events, freedom of expression and freedom of the press have been infringed.

Some legal cases related to the media and journalists are still underway and, apparently, with no clear means to resolution. The most remarkable cases are the seizure of the assets of *Corporación La Prensa, S.A. (CORPRENSA)* - the publishing company of *La Prensa* newspaper.

per – which resulted from a civil lawsuit filed by former president and member of the current ruling party, Ernesto Pérez Balladares, which amounts to more than USD 1 million for alleged damages. Also underway is the court case of former president Ricardo Martinelli for illegally wiretapping journalists' phones using software called *Pegasus*.

## Results Analysis

### The Environments

According to the evaluation by the experts surveyed for this report, none of the three environments reviewed, Executive, Legislative, and Judicial, appear with a very strong influence record. The Executive and the Legislative appear with a record of moderate influence, with a score of 3.33 for the Legislative and 2.90 for the Executive. The Judiciary environment appear with a low influence, with a score of 2.36 points. The higher influence is in the Realm B of the Executive branch, related to exercise of journalism, with a score of 5.71 points out of the possible 10. The lowest score is for Legislative and Judiciary, in realm D related to control over the media, both with 0.57 points.

### Executive

The Executive environment accumulates a total score of 2.90 points and stands out for its mixed influence in situations unfavorable to freedom of expression. This ranges from a slight one, of 0.64 points, in dimension “D” relative to the control of the media, to a strong one, of 5.71 points in dimension “B”, corresponding to the exercise of journalism. According to data from official sources, the Executive has developed selective contracting strategies in state advertising services with which it could be seeking media control. (Eliana Morales Gil, 2021). Analysts have also pointed out on the Executive's intervention to prevent access to public information, too.

The non-governmental organization, Foundation for the Development of Civic Freedom (Fundación para el Desarrollo de la Libertad Ciudadana, FDLC), in its chapter on International Transparency in Panama (FDLC, 2021), negatively appraised the first two years of the Executive's administration due to failing to apply periodic control and transparency procedures over the public procurement processes implemented during the health emergency. Likewise, FDLC questioned the government's refusal to allow citizen oversight of the emergency plans carried out during the pandemic which have been classified as discretionary and implemented in a under crony-friendly practices.

Regarding violence, by the end of 2020, during the demonstrations around the National Assembly, National Police officers attacked and arrested two journalists. In October, while covering a demonstration, a journalist from the newspaper *La Estrella de Panamá*, Juan Cajar, was briefly arrested. This incident has not been fully cleared out (María Alejandra Car-



rasquilla Reina, 2020). Two months later, in December, EFE News Agency photojournalist, Bienvenido Velasco, was attacked by law enforcement officers (EFE Servicios, 2020a).

## Legislative

In total, the Legislative environment collects 3.33 points and, like the Executive environment, has a mixed influence on situations unfavorable to freedom of expression. This goes from slight in realm “D” relative to the control of the media, with 0.57 points, to strong in realm “B”, related to the exercise of journalism, which shows the highest score of all, of 5.14 points.

According to the experts inquired, one of the issues that stand out among the actions relating to this environment is the behavior of some congresspersons who, taking advantage of their position and power, try to prevent media coverage. In a case that has not been fully explained, journalists complained that while the Budget Commission (Comisión de Presupuesto) of the National Assembly was approving an additional credit by USD 22 million, the journalists and cameramen covering the event were expelled from the palace (Dalia Pichel, 2020).

Moreover, there is controversy over the actions by some congresspersons who - oblivious of the international standards granting guarantees to freedom of expression and information - promote laws like the one passed at the Committee on Government, Justice and Constitutional Affairs (Comisión de Gobierno, Justicia y Asuntos Constitucionales) of the National Assembly, intended to penalize those who take videos or photographs of disasters, catastrophes, accidents, (and) quarrels, and disseminate them through social media (Redacción de TVN Noticias, 2020). This could lead way to censorship and self-censorship measures. (Redacción de TVN Noticias, 2020).

Other congresspersons have also been criticized for taking legal actions against journalists like the case of Mauricio Valenzuela, a reporter charged for alleged gender violence by the House Vice President of the Legislative Assembly, also a member of the ruling party. The associations of journalists estimated that the action is an attempt to obstruct the free exercise of journalism and, therefore, regarded it as an attack against freedom of expression and information (Maycol Núñez, 2021b).

## Judicial

With 2.36 points, the Judicial environment is the one with the least influence among the three. Its impact is reflected within a score of 2.36 points. Numerically, its impact is reflected in a range of 0.57 points, in relation to media control; to 5 points, which indicates a strong influence on the exercise of journalism.

Panama's Criminal Code classifies slander and defamation as crimes against honor. They are considered as serious felonies when committed through spoken or printed media or through the use of a computer-based system. In such cases, the penalty goes from 6 to 12 months (jail term) or its equivalent in *per diem* fines for slander, and from 12 to 18 months in prison or its equivalent in *per diem* fines for defamation. (Public Prosecutor's Office, 2016).

There is an exemption or non-penalized circumstance on this type of offenses when it involves public servants. In such cases, this is not penalized because it is considered a sort of citizen control over the performance of officials. However, civil liability is not excluded, hence the penalties provided for crimes against honor are essentially pecuniary in nature and civil lawsuits awards are not capped (Catalina Botero Marino et al., 2017).

In this context, there are complaints and lawsuits for substantial amounts, such as those filed by former President Ricardo Martinelli against CORPRENSA alleging crimes against honor. The claims reach amounts over USD 45 million (IAPA, 2021).

The law in Panama also allows that, in a context of a lawsuit for damages, even if a favorable sentence has not been ruled, the claimant may request for freezing of assets. Under this premise, a civil court ordered the seizure of CORPRENSA's bank accounts and assets for USD 1.13 million in its ruling regarding the lawsuit filed by former President Ernesto Pérez Balladares; a process that dates back to 2012 (EFE Servicios, 2020b).

Analysts also question the fact that justice officials may process and request pressing charges, but do not dismiss the lawsuits with the sole purpose of preventing the free exercise of journalism. This type of action may be a sign of likely manipulation by justice courts to enforce censorship. This could be considered as a serious abuse by the judicial branch.

## **REALM A: Citizens Free to Express Themselves**

Out of a theoretical maximum of 23 points, the realm Citizens Free to Express Themselves attained 12.57 points, essentially half of the possible score, while attaining 5.71 points on information flow, and 6.86 points on free speech. According to respondents, this realm is moderately influenced by the Legislative and Executive environments, with 4.50 and 2.93 points, respectively; to a lesser extent, it receives a slight influence from the Judiciary, with 2.09 points.

Although it can be argued that there is full freedom of expression and information in Panama, within the period surveyed, some events contributed to undermine this perception. Among those, are the actions by the Executive to restrict access to public information during the pandemic, as well as those by some power players, particularly former high-rank officials who have brought criminal and civil actions against the media and journalists.

An FDLC (2021) report assessing transparency measures promoted by the Executive stressed on the lack of timely responsiveness to requests for access to information. In the event that the information is published - points out the report - it appears incomplete and under closed formats. Equally, the same report underscores the lack of accountability by the Supportive Panama Emergency Plan (Plan de Emergencia Panamá Solidario), intended to provide financial relief to people affected by the pandemic by means of a budget close to USD 200 million (Lourdes García Armuelles, 2021).

As for government's open-access data, while the site for this purpose is live and more government entities join every day, they are still very few, and the information, in many cases, is outdated, and therefore, not very relevant. FDLC spokespersons have also focused their attention on the loopholes in the transparency law and have also expressed fears that its amendment by the National Assembly could result in setbacks instead of improvements (Carlos Barsallo, 2021).

The practice bringing criminal and civil lawsuits against the media and journalists was kept as in the case of journalist Mauricio Valenzuela who was charged with gender-based violence following a complaint by the House Vice President of the Legislative Assembly (Getzalette Reyes, 2021). Also, the ongoing legal procedure by former President Ricardo Martinelli who filed complaints and lawsuits against CORPRENSA on alleged crimes against honor which affect a total number of 38 journalists, directors or executives, with claims for an outstanding amount of USD 46 million (IAPA, 2021).

Also ongoing, is the legal case whereby a court ruled the seizure of CORPRENSA's assets following a lawsuit for alleged damages to the reputation and honor of former president Ernesto Pérez Balladares who is claiming more than USD 1 million.

During a long process that took almost 10 years, a judge ordered the seizure of the assets of legal affairs journalist, Linett Lynch, on alleged moral damages to Justice Geneva Ladrón de Guevara, whose court had been reported for influence peddling for rigged rulings (Edwin Cabrera, 2021). The lawsuit was used against the journalist and the media outlet she worked for, La Estrella de Panamá, but the penalty only fell on the reporter.

There is a state-owned educational and cultural broadcasting service (SerTV) chaired by the Minister of Education, whose board of directors also comprises members of the Executive, the Legislature, civil society, and the Comptroller General of the Republic. The service comprises a digital broadcast TV station and three radio stations (one of them AM). The National Assembly and the Panama Canal also have digital broadcast TV stations. All the above TV channels also feature streaming on the Web and their penetration rate is 47.8%, according to official data from the regulatory authority (Autoridad Nacional de los Servicios Públicos, 2020) In the digital sphere, the frequent use of trolls intended to smear and disrupt public opinion in social media is also a matter of concern (Raisa Urribarri, 2020).

The approval of the IV Open Government National Action Plan 2021-2023 (IV Plan de Acción Nacional 2021-2023 de Gobierno Abierto) should be considered as auspicious. The Plan, presented on July 31, 2021, establishes commitments toward openness and transparency over the national budget, education, and agribusiness, among others (Autoridad Nacional de Transparencia y Acceso a la Información, 2021).



## REALM B: Exercise of journalism

This realm scored 6.29 points out of ten according to the appraisal made by the experts inquired for this study. It is the dimension that registers the greatest influence of all environments, being moderate that of the Judicial, with 5 points, and strong those of the Executive and Legislative, with 5.71 and 5.14 points, respectively.

Although there were restrictions to access of information during the particularly sensitive time of the pandemic, there were no reports on the obstruction of access to official sources by the media or journalists who differ with the government administration. Conversely, in general terms, the media disseminated and provided room for the circulation of official information, especially referring to COVID-19.

However, the protests that arose from the deterioration of the economy were the subject of actions by the organs of control of public order, which ended with attacks on journalists.

The Political Constitution of Panama guarantees freedom of association. There is no mandatory affiliation for journalists; however, there are different guilds and associations such as the Union of Journalists of Panama (Sindicato de Periodistas de Panamá), the National Guild of Journalists of Panama (Colegio Nacional de Periodistas de Panamá, CONAPE) and the Forum of Journalists for Freedom of Expression and Information (Fórum de Periodistas por las Libertades de Expresión e Información).

The National Council of Journalism (Consejo Nacional de Periodismo, CNP), which has a Committee on Journalistic Ethics to promote self-regulation of the members of the association, comprises guilds, associations, media, colleges, and schools of communication. The exercise of journalism is not regulated in Panama, and its practice does not require a university degree. However, professional qualification is required to work in government agencies which is issued by CONAPE or by the Union of Journalists of Panama.

## REALM C: Violence and Impunity

This realm achieved a total of 25.12 points from the experts inquired. Violence amounted to 20.12 points, followed by a score of 3.07 points for persecution, 1.43 points for impunity, and 0.5 points for protection. The Legislative environment is the one that appears as the greatest influence, with 3.10 points. Both the Executive and the Judiciary exhibit a slight influence, of 2.33 and 1.76 points, respectively.

During the period under study, there were violent actions by the National Police against journalists. Such were the cases of the arrest of Juan Cajar, from the newspaper *La Estrella de Panamá*; and the attacks by law enforcement officers against Bienvenido Velazco, from EFE.

According to the National Police, Cajar was arrested for being among a group of young protestors who were demonstrating in the area surrounding the National Assembly while holding no visible credentials like the rest of the journalists who were covering the events. Nevertheless, video footage circulating on social media and later disseminated by *La Estrella de Panamá*, Cajar's workplace, contradict the official version. Finally, the police dismissed the charges on public order disturbance against the reporter (Adelita Coriat, 2020). Association of Journalists and Press Associations notably stressed that, although President Laurentino Cortizo had requested for the immediate release of Cajar, "the order was not immediately complied with by the director of the National Police" (Henry Cárdenas, 2020).

Likewise, journalists and TV presenters Flor Mizrahi (Telemetro) and Sabrina Bacal (TVN) received threats from unidentified individuals via telephone and social media. Mizrahi received them after revealing a clandestine case of COVID-19 vaccination not authorized by the Ministry of Health (Federación Internacional de Periodistas, 2021); and Bacal after exposing cases of alleged government corruption (Martha Vanessa Concepción, 2021).

Panama's Criminal Code Article 195 defines slander and defamation as crimes which are considered as serious offenses when committed through the use of the media. The Criminal Code establishes imprisonment penalties ranging from 6 to 18 months, or the equivalent in *per diem* fines for slander; and from 12 to 18 months or the equivalent in *per diem* fines for defamation (Ministerio Público, 2016). When it involves national rank officials, they have been decriminalized, but civil liability is not waived, so the penalties provided for crimes against honor are essentially pecuniary in nature and civil lawsuits awards are not capped. This type of civil actions is frequently filed by current or former officials and can be labeled as a form of harassment against freedom of expression and freedom of the press.

## REALM D: Control over the Media

This realm received a total score of 22 points, with 16.29 points related to direct control over the media, and 5.71 in the indicator of indirect control. The three environments showed a very strong influence, but greatest being that of the Executive with a total of 0,64 points, also the highest among all the situations unfavorable to freedom of expression. The legislative and judicial environments received 0,57 points each.

There have been no media shutdowns or seizures in Panama. There is no record on the existence of mechanisms aimed at controlling or blocking digital platforms, nor is there pressure on technological intermediaries or suppliers of the resources needed for gathering, producing, or disseminating news.

The controversy on the control over the media relates to the selective allocation of advertising, specifically by government institutions. According to official records, during the period under study, the Executive allocated a little more than USD 7 million for advertising. The two most important radio conglomerates (Medcom and Telemetro) received un-

equal amounts: USD one and two million, respectively. With regards to print media, the small amount allocated to the newspaper *La Prensa* stands out, (only USD 248,000 of a total of nearly USD 2.7 million). Only one advertising agency was favored with almost USD 1.5 million allocated (Eliana Morales Gil, 2021). With a score of 8, the legislative environment also shows a very strong influence; more due to the actions by some congresspersons against some journalists with the purpose of restricting freedom of expression and freedom of the press, than because of the actions by the Legislative itself.

With respect to the Judiciary, it is noteworthy the Supreme Court of Justice's ruling supporting the decision of a High Court to prevent the newspaper *La Prensa* from publishing the photo of a lawyer, and stop investigating him, following a defamation lawsuit filed by him against the president and associate editor of this newspaper. This infringes the international standards on freedom of the press as it implies an action of prior censorship. The lawyer also requested the judge to remove the recordings from the digital platforms of *La Prensa*, but it was overruled (Redacción Panamá América, 2021).

## CONCLUSIONS

In general terms, it can be said that both journalists and the media enjoy broad freedom of expression and press freedom in Panama. However, the facts described in this report allow us to assert that the control over information, although subtle, is also a reality, especially that related to the exercise of journalism.

In the section on media control, the Executive environment recorded the highest score among the three environments. By the end of the period surveyed, Office of the Chief of Staff of the President (Ministerio de la Presidencia) declared restricted access to the minutes of proceedings of Cabinet Meetings for a period of ten years. This action, along with the occurrence of violence against some journalists by law enforcement agents, raises serious concerns.

The legislative environment also has a strong influence, especially in relation to the exercise of journalism, with 5.14 points. More than the Legislative itself, the actions that harm freedom of expression are those carried out by various congresspersons trying to arbitrarily restrict the work of the press, as well as the attempts to adopt laws restricting freedom of information and freedom of the press; if successful, this would mean a setback for the guarantees that protect such liberties.

Although the judicial environment appears with a slight influence, analysts debate over justice officials admitting those lawsuits with the sole purpose of preventing the free exercise of journalism, like those arising from the enforcement of Article 185 of the Criminal Code on crimes against honor, which sets forth claims for money with no ceiling on their amounts. This represents a form of judiciary harassment.

By the end of the period under review, the discussions over the electoral reform that will regulate the 2024 elections began in the National Assembly. In the midst of the discussions, the possibility of a modification to the concept of propaganda by the Electoral Code (Código Electoral) was discussed, so that any kind of content published in any media would be considered as such. This fact caused rejection among journalists' unions, and in the news industry (Maycol Núñez, 2021a).

## REFERENCES

- Adelita Coriat (2020, noviembre 3). Policía retira los cargos contra periodista Juan Cajar. *La Estrella de Panamá*. <https://www.laestrella.com.pa/nacional/201103/policia-retira-cargos-periodista-juan>
- Autoridad Nacional de Transparencia y Acceso a la Información (ANTAI) (2021, agosto 31). Panamá entrega 4to. Plan de Acción Nacional de Gobierno Abierto [Institucional]. *antai.gob.pa*. <https://www.antai.gob.pa/panama-entrega-4to-plan-de-accion-nacional-de-gobierno-abierto/>
- Carlos Barsallo (2021, septiembre 23). Access to Information in Central America. Panamá. *Conference on Access to Information: Latin America and the Caribbean (CAI:LAC)*. James Rogers College of Law. University of Arizona.
- Catalina Botero Marino, Federico Guzmán Duque, Sofía Jaramillo Otoya, & Salomé Gómez Upegui (2017). *El derecho a la libertad de expresión. Curso avanzado para jueces y operadores jurídicos en las Américas. Guía curricular y materiales de estudio*. Universidad de Los Andes, De Justicia.
- Edwin Cabrera (2021, abril 27). SIP conoce sobre caso de periodista Lineth Lynch. <https://www.radiopanama.com.pa/noticias/actualidad/sip-conoce-sobre-caso-de-periodista-lineth-lynch/20210427/nota/4129715.aspx>
- EFE Servicios (2020a, diciembre 17). Agresión policial a un fotógrafo de Efe causa repudio generalizado en Panamá. [Agencia de Noticias]. <https://www.efecom.com/efe/espana/sociedad/agresion-policial-a-un-fotografo-de-efe-causa-repudio-generalizado-en-panama/10004-4422116>
- EFE Servicios (2020b, julio 6). El secuestro del diario panameño La Prensa alerta sobre un «Estado fallido» [Agencia de Noticias]. <https://www.efecom.com/efe/america/sociedad/el-secuestro-del-diario-panameno-la-prensa-alerta-sobre-un-estado-fallido/20000013-4289348>
- Eliana Morales Gil (2021, abril 6). Gobierno asigna contratos millonarios para publicidad. *La Prensa*. <https://www.prensa.com/impresap/panorama/gobierno-asigna-contratos-millonarios-para-publicidad/>
- Federación Internacional de Periodistas (2021, junio 18). Panamá: La periodista Flor Mizrachi recibió amenazas luego de una investigación [Institucional]. <https://www.ifj.org/es/centro-de-medios/noticias/detalle/category/press-releases/article/panama-la-periodista-flor-mizrachi-recibio-amenazas-luego-de-una-investigacion.html>

- Getzalette Reyes (2021, septiembre 1). Imputan cargos al periodista Mauricio Valenzuela por presunta violencia de género, tras denuncia de Zulay Rodríguez. *La Prensa*. <https://www.prensa.com/judiciales/imputan-cargos-al-periodista-mauricio-valenzuela-por-violencia-de-genero/>
- Henry Cárdenas (2020, octubre 30). Se pospone la audiencia al periodista Juan Cajar, porque la juez tenía cita médica; director de la Policía no atendió orden de Cortizo. *La Prensa*. <https://www.prensa.com/sociedad/periodista-que-fue-detenido-cuando-daba-cobertura-a-protestas-acude-ante-juez-de-paz/>
- Lourdes García Armuelles (2021, febrero 13). *El Gobierno ha invertido más de \$190 millones en el programa Panamá Solidario*. *La Estrella de Panamá*. <https://www.laestrella.com.pa/economia/210213/gobierno-invertido-190-millones-programa-panama-solidario>
- María Alejandra Carrasquilla Reina (2020, octubre 29). Periodista de «La Estrella» Juan Cajar es detenido por cubrir protesta en la Asamblea. *La Estrella de Panamá*. <https://www.laestrella.com.pa/nacional/201029/201030-periodista-estrella-juan-cajar-detenido-cubrir-protesta-asamblea>
- Martha Vanessa Concepción (2021, marzo 5). Periodista Sabrina Bacal recibe mensaje intimidante. *Mi Diario*. <https://www.midiario.com/farandula/periodista-sabrina-bacal-recibe-mensaje-intimidante-lo-atribuye-a-call-center-del-gobierno-castalia-pascual-y-otros-reaccionan/>
- Maycol Núñez (2021a, septiembre 8). Diputados proponen coartar la libertad de expresión en tiempos de campaña [Medio digital]. *FOCO*. <https://focopanama.com/diputados-proponen-coartar-la-libertad-de-expresion-en-tiempos-de-campana/>
- Maycol Núñez (2021b, septiembre 8). Gremios instan a la diputada Zulay Rodríguez a desistir inmediatamente de la querrela contra Mauricio Valenzuela [Medio digital]. *FOCO*. <https://focopanama.com/gremios-istan-a-la-diputada-zulay-rodriguez-a-desistir-inmediatamente-de-la-querrela-contra-mauricio-valenzuela/>
- Ministerio Público (2016). *Texto único del Código Penal de la República de Panamá (comentado)*. Panamá.
- Raisa Urribarri (2020, junio 1). *Medios digitales y periodismo: Retos para la democracia en Panamá*. Agenda Pública. <https://agendapublica.es/medios-digitales-y-periodismo-retos-para-la-democracia-en-panama/>
- Redacción de TVN Noticias (2020, enero 14). Prohijan iniciativa que sancionaría a personas que graben incidentes y lo suban a las redes sociales [Sitio web de televisora]. <https://www.tvn-2.com/>. [https://www.tvn-2.com/nacionales/Prohijan-iniciativa-sancionaria-personas-incidentes\\_0\\_5487951206.html](https://www.tvn-2.com/nacionales/Prohijan-iniciativa-sancionaria-personas-incidentes_0_5487951206.html)

Redacción Panamá América (2021, abril 7). Diario La Prensa sufre un duro revés en la Corte Suprema de Justicia. *Panamá América*. <https://www.panamaamerica.com.pa/judicial/diario-prensa-sufre-un-duro-reves-en-corte-suprema-justicia-1184714>

SIP (2021, abril 23). Panamá. Informe ante la Reunión de Medio Año. Abril 20-23, 2021 [Institucional]. *Sociedad Interamericana de Prensa*. <https://www.sipiapa.org/notas/1214474-panama>



## PANAMÁ

PERIOD SURVEYED

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	<p>The Government has a Public Radio and Television System whose board of directors, chaired by the Minister of Education, comprises members of the Executive, the Legislative, civil society and the Comptroller General of the Republic. The system consists of a digital broadcast TV station and three radio stations, one of them AM. The National Assembly and the Panama Canal also have digital broadcast TV channels. All these TV channels also have Internet streaming. Their programs are essentially educational, IT-related, cultural, and scientific. It also has a national program for digital literacy, Infoplazas, with 320 service centers throughout the nation that has been running uninterruptedly for 21 years.</p>
<b>WEAKNESSES</b>	<p>Article 185 of the Criminal Code defines defamation and slander as crimes, and these are considered serious offenses when committed by means of the media. Although there is waiver of punishment in cases involving public servants, civil liability is not excluded. The punishments provided for these offenses include pecuniary penalties and there is no limit to the amount of the lawsuits. In addition to the likely encouragement of self-censorship, lawsuits of this kind put financial stability of the media at stake.</p>
<b>OPPORTUNITIES</b>	<p>Since 2017, there has been a public policy on Government Open Data. The National Transparency and Access to Information Authority (Autoridad Nacional de Transparencia y Acceso), along with the National Authority for Government Innovation (Autoridad Nacional para la Innovación Gubernamental), is developing the government open data website. In 2019, Open Government National Commission of Panama (Comisión Nacional de Gobierno Abierto Panamá) and the Open Data Working Group (Grupo de Trabajo de Datos Abiertos) were set. These multi-area entities are responsible for articulating and promoting action plans to encourage greater transparency, accountability, and citizen participation in public matters. Up to date, four national open government plans have been presented.</p>

<b>THREATS</b>	<p>According to official figures, Internet penetration is close to 70%, but with a vast use of prepaid mobile networks. Although freedom of expression and the press in the digital environment is full, there is concern over the increasingly frequent campaigns on social media intended to disrupt or manipulate public opinion. Individuals responsible for such actions have not been identified yet. Similarly, very few digital local media have financial power, wide coverage, and significant readership.</p>
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## 2.17.3 OVERVIEW

### Panama

**Panama** improved in terms of perception regarding freedom of expression, from being in the group exerting partial restriction (No. 10 with 55 points) to that with low restriction (No. 9 with 65.97 points). However, there is evidence of some practices affecting the exercise of free speech, such as the categories of crimes against honor, which places pressure on journalists.

Regarding Realm A, Informed Citizens Free to Express Themselves, Panama showed similar results in both 2019-2020 and 2020-2021, which place it in the middle range of the maximum score that could be obtained in this realm. During the second study period, restrictive actions were noticed, especially on the part of the Executive, regarding access to information, in addition to the pressure exerted by the contempt laws existing in Panama's legal framework to protect senior officials' honor. This curbs the full exercise of freedom of expression under penalty of legal sanctions, for example, the cases filed against journalist Mauricio Valenzuela and Corprensa media group.

Realm B, Exercise of Journalism, reflects a greater unfavorable influence from all [institutional] environments, stemming from restrictions on access to public information for journalists during the [COVID-19] pandemic. Although in Panama membership in a professional association is not mandatory, a license is required when working in state-owned media.

Analyzing the results for Realm C, Violence and Impunity, especially in the period 2020-2021, there were aggressions against journalists in the wake of protests arising from the economic situation, such as the cases of the arrest of Juan Cajar (*La Estrella* newspaper) and the aggressions against Bienvenido Velazco (EFE news agency). In addition, threats against Flor Mizdachi (Telemetro) and Sabrina Bacal (TVN) were made. Panamanian legislation sets forth speech crimes such as libel and slander. This provides grounds for lawsuits that, to a measure, can be deemed as harassment towards freedom of expression and the press.

Finally, in Realm D, Control over the Media, there are no instances of direct control affecting them; but there is evidence of indirect control through the allocation of advertising budget from the different government agencies. There are distinct examples in which the media were gagged from publishing certain information, such as the case of the newspaper *La Prensa* (2020-2021) and refusals to attend interviews or provide information, such as what happened to the newspaper *Panamá-América* (2029-2020).

Regarding the extent of unfavorable influence from the different [institutional] environments in the 2019-2020 period, a moderate to strong influence was witnessed in general, especially in Realm A. For 2020-2021, the perception decreased in all realms except for Realm B, where the influence of the Executive, Legislative, and Judiciary remained strong.

## 2.18. PARAGUAY

### 2.18.1 PARAGUAY 2019-2020

PARAGUAY	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>67.4</b>
REALM A: "Citizens informed and free to express themselves"	23	14.2
Flow of information	11	7.6
Free Expression	12	6.6
REALM B: Exercise of Journalism	10	7.6
REALM C: Violence and Impunity	42	23.6
Protection	10	7.6
Persecution	15	12.0
Impunity	17	4.0
REALM D: Control over the media	25	22.0
Direct control	16	13.6
Indirect control	9	8.4

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

PARAGUAY	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	5.20	5.73	5.72
REALM A: "Citizens informed and free to express themselves"	5.60	7.22	6.99
Flow of information	5.83	7.22	7.78
Free Expression	5.38	7.21	6.21
REALM B: Exercise of Journalism	1.93	2.13	2.20
REALM C: Violence and Impunity	7.33	7.67	7.50
Protection	3.00	5.00	5.00
Persecution	10.00	9.00	8.50
Impunity	9.00	9.00	9.00
REALM D: Control over the media	2.17	2.17	2.67
Direct control	1.00	1.00	2.00
Indirect control	3.33	3.33	3.33

Type of influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00



MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

## Paraguay: Impunity and weak institutional framework, a risky path for freedom of expression

### Executive summary

The Republic of Paraguay shows low levels of restrictions on freedom of expression and the free dissemination of public interest information, ranking seventh among the 22 countries in the Chapultepec Index, with 67.4 points out of 100. Institutional action from the judicial environment is regarded as the most influential against freedom of expression, resulting from a pattern of impunity, the lack of suitable legal instruments, weak institutional framework, and a scenario increasingly putting freedom of expression in jeopardy. The murder of a journalist in reason of his professional work has given rise to the need to move forward with upgrading protective mechanisms.

## INTRODUCTION

The period under study for this report covers part of the first and second year of the government of Mario Abdo Benítez, who, in general, has shown to be a man in favor of freedom of expression and, in times of political crisis, given interviews to different media.

In spite of the above scenario, his government is besieged by numerous complaints of alleged acts of corruption and secrecy. In turn, the right of access to public information has been curtailed, since there persists a pattern showing a high rate of unattended and/or poorly replied queries.

## Report

Paraguay has a low level of restrictions on freedom of expression and the free dissemination of public interest information, ranking seventh among the 22 countries in the Chapultepec Index of Freedom of Expression and the Press, with 67.4 points out of 100.

Despite the favorable environment for the exercise of freedom of expression, on February 12, 2020, Brazilian journalist Lourenço “Leo” Veras was murdered in his home in the city of Pedro Juan Caballero, Department of Amambay. According to reports available, he was shot twelve times while he was having dinner with his family and, allegedly, his was a “contract killing” (ABC Color 2020). The journalist ran Porã News website, and worked as a correspondent for some Brazil-based media.

He was working in a border area where drug trafficking was rampant, a topic on which Veras was probably reporting, and the reason for which he was allegedly the victim of death



threats (Office of the Special Rapporteur for Freedom of Expression). According to data from the Ministry of the Interior (Ministerio del Interior), on February 23, 2020, ten alleged hitmen on drug cartels' payroll were apprehended, as "responsible for contract killings". Among them might be one of those who committed the crime (Ministerio del Interior de la República del Paraguay, 2020).

On March 4, 2020, members of the Inter-Institutional Roundtable for the Protection of Journalists (Mesa Interinstitucional de Protección a Periodistas), which gathers government institutions and unions, met to discuss upgrading measures for the protection of journalists at risk (Ministerio del Interior de la República del Paraguay, 2020).

Along with this crime comes the fear that it may be left unpunished, in view of the high rates of impunity compared to other crimes committed in previous years and the weak institutional framework for prosecuting the perpetrators, also a consequence of the lack of suitable laws and protective mechanisms.

On the other hand, the lack of adequate regulation to prevent concentration of media ownership and guarantee plurality compromises journalists' independence. Additionally, government advertising tends to be allocated under political criteria, although social media are increasingly giving signs of being alternative means for the free exercise of journalism.

## **Environments: Institutional action against freedom of expression**

According to the score given by the experts surveyed, the three environments show similar ratings, although the judicial environment appears to have the greatest degree of influence against freedom of expression, with a score of 5.73; while the executive environment achieved a score of 5.72; and the legislative environment scored 5.2. In general, this rating by the experts shows a "strong influence" against freedom of expression, where the realm of "violence and impunity" is viewed as the most critical, with a score of 23.6 out of 42.

## **REALM A: Informed citizens free to express themselves**

Citizens are taking an increasingly prominent role through social media platforms that are increasingly displacing mainstream media and "democratizing" the freedom to inform, express opinions, and make an impact. According to the score given by the experts, this realm shows a strong influence, with 14.2 out of 23 points. The influence of the judicial environment is rated at 7.22, the executive environment at 6.99, and the legislative environment at 5.6.

With respect to the sub-realm "Information flow from the media", the score achieved was 7.6 out of 11, with the executive environment having a "very strong" influence at 7.78 points, followed by the judicial environment at 7.22, and finally, with a lesser degree of influence, the legislative environment at 5.83, the latter two having a "strong" influence.



Regarding the sub-realm “actions encouraging free speech”, the rating given by the experts surveyed was 6.6 out of 12, with all three environments regarded as having “strong” influence. The judicial environment shows greater weight, with 7.21, followed by the executive environment with 6.21, and finally the legislative environment with 5.38.

During the period covered by this report, a high number of requests for public information were submitted at the Unified Public Information Portal (Portal Unificado de Información Pública at: <https://informacionpublica.paraguay.gov.py/>), which were not satisfactorily replied, a situation that, in some cases, resulted in court action seeking the information requested. The exercise of this right, in turn, takes the form of an advocacy tool on social media, since users can share their requests and replies, thereby spawning interaction of various sorts even with the authorities themselves.

Per portal statistics, between May 1, 2019 and April 30, 2020, a total 9,696 requests for public information were submitted, of which 976 were not replied (10.1%), and 488 were subject to reconsideration by users (5%), while 6,990 requests were “replied” (72.1%) – regardless of the quality of responses, among other categories. Against statistical data from a previous year, 7,820 requests were submitted, of which 771 were not replied (9.9%), 296 were reconsidered (3.8%) and 5,690 were “replied” (72.8%). These data show that, while the scenario remains favorable, there is a high and increasing volume of public information that is not disclosed. Furthermore, in numerous cases reviewed on the Portal, incongruent or incomplete responses are found.

During the period covered by this report, various laws directly affecting freedom of expression were passed. Below is a mention of the most significant ones.

On May 3, 2019, Law 6299 “to establish the disclosure of sessions of the Supreme Court of Justice, the Governing Body of Courts, the Jury for the Prosecution of Justices, and the Executive Cabinet”<sup>1</sup> entered into force, a law that also makes it mandatory to keep and disclose audiovisual records of the sessions held by these institutions part of the branches of government. This law has been decisive in times where triads of Justices to the Supreme Court have been nominated, although it has also been the object of non-compliance. For example, on June 11, the Governing Body of Courts arbitrarily withheld from disclosure a session during which it had to discuss the “honor” of a competing triad of nominees, a fact that lead a civil society organization to file an injunction so that the proceedings and the session could be disclosed (ABC Color 2019).

On August 8, 2019, Law 6355 came into force, a law that modified the regulatory framework of sworn financial and asset disclosures of public officials, and indirectly restricted access to these records since it ambiguously sets forth the need to previously obtain a court order. This statute was a political reaction to a precedent of the publicity drawn by sworn dis-

<sup>1</sup> Translator’s Note (TN): Literally, “ley 6299 que establece la publicidad de las sesiones de la Corte Suprema de Justicia, del Consejo de la Magistratura, del Jurado de Enjuiciamiento de Magistrados y del Consejo de Ministros”



closures acknowledged by some judicial authorities and to the closing ruling on a case being heard the Supreme Court of Justice, during the period covered by this report, regarding access to sworn disclosures from high government officials in office in the period between 1998 and 2018.

On March 26, 2020, Law 6224 “to declare a state of emergency throughout the territory of the Republic of Paraguay in view of the COVID-19 or Coronavirus Pandemic declared by the World Health Organization and establish administrative, fiscal, and financial measures”<sup>2</sup> went into effect. This law sets forth a chapter on “transparency and accountability measures” and establishes a novel duty, from the legal perspective, to create a website “granting access to all relevant information, in open data format, on the corresponding budgetary execution thereof [of said measures] during the current emergency period. This information shall be accessible to the citizens, without restrictions of any kind, by the appropriate virtual means” (Art. 54, §2).

On May 7, 2019, Law 6292 came into force, thereby declaring the situation of persons with disabilities as an emergency and providing for the “Mandatory use of Sign Language in the News Releases or Programs on Broadcast Media”<sup>3</sup>.

During the period covered by this report, some court actions were ruled in favor of the right of access to public information and others against it. Per data on the Supreme Court of Justice website, between May 2019 and April 2020, at least 11 court cases to gain access to public information were filed. However, this number is not very significant if we take into account the high number of requests that are not favorably replied according to data on the Unified Portal.

Among the judicial cases on record, most of the actions involve information related to alleged acts of corruption, a fact that has attracted a great deal of media interest in following up on these cases and disseminating the information obtained stemming from the acquittals granted.

In August 2019, a “judicial case observatory” was launched on the Supreme Court of Justice website to monitor “landmark” public corruption cases. Notwithstanding, the quality of the data disseminated is far from optimal.

During the period reviewed by this report, on March 26, 2020, the Executive signed the Emergency Act (Ley de Emergencia) into law. Executive Order 3506 Article 70 of March 31, 2020, which regulates the Emergency Law, recognizes emergency fund administrators’ duty to file “sworn interest disclosures”, a novelty in the Paraguayan regulatory framework, in order to prevent potential conflicts of interest between government officials and suppliers.

2 TN: Literally, “ley 6224 que declara estado de emergencia en todo el territorio de la República del Paraguay ante la Pandemia declarada por la Organización Mundial de la Salud a causa del COVID-19 o Coronavirus y se establecen medidas administrativas, fiscales y financieras”

3 TN: Literally, “Obligatoriedad del uso de Lengua de Señas en los Informativos o Noticieros de los Medios de Comunicación Audiovisual”



## REALM B: Exercise of journalism

Paraguay does not have a restrictive context for the free exercise of journalism, in the understanding that any person can practice journalism without any licensing or professional association affiliation requirements. This realm received a score of 7.6 out of 10, with the three environments assessed showing a “slight” influence: The legislative environment, 1.93; the judicial environment, 2.13; and the executive environment, 2.2. During the period covered by this report, there were no discernible obstacles to the free exercise of journalism in the environments assessed, although there were numerous unwarranted dismissals in the media.

On the other hand, during the period reviewed by the report, there were slander and defamation lawsuits filed against journalists investigating and reporting corruption cases, based on remaining criminal “contempt” statutes. For example, on May 31, 2019, a complaint was admitted against ABC Color’s journalist Juan Carlos Lezcano, filed by a former lawmaker who had been removed from Congress after the release by the journalist of a video allegedly showing influence peddling (Ñandutí, 2019). The journalist stated that, in the video, a former congressperson tried to “bribe” him so that he would stop further publications, an assertion that motivated the complaint.

## REALM C: Violence and Impunity

The realm of “violence and impunity” was rated at 23.6 out of 42, which shows a low assessment. The judicial environment is the one that shows the largest extent of, or “very strong”, influence, with 7.67; the executive environment 7.5; and the legislative environment, with 7.33.

However, the sub-realm “impunity” is the one showing to be the most critical, or having “very strong” influence, with all three environments achieved a score of 9, while the sub-realm “persecution” obtained 10 in the legislative environment, followed by 9 in the judicial environment, and 8.5 in the executive environment. With respect to “protection”, the three environments assessed show a “moderate” influence, with the executive and judicial environments scoring 5 and the legislative environment 3.

In the period covered by this report, there were no relevant actions seeking lower impunity and violence against, or improved protective mechanisms for, journalists, and there is little progress in investigations against crimes and acts of violence perpetrated in previous years.

In February 2020, criminal “charges” were filed for the murder of journalist Leo Veras (La Nación, 2020). On the other hand, although there is an Inter-Institutional Roundtable for the Protection of Journalists, under the responsibility of the Attorney General’s Office and the

Ministry of the Interior, among other institutions, it lacks the authority and budget to ensure appropriate measures.

The Supreme Court of Justice has a site devoted to freedom of expression and justice, where it constantly posts relevant information for justices and judges. On December 26, 2019, it published a “Guide for Judges on Freedom of Expression and Public Information” (Guía para Jueces sobre Libertad de Expresión e Información Pública) and held a series of workshops in different locations of the country.

## **REALM D: Control over the media**

This realm achieved a score of 22 out of 25. The legislative and judicial environments scored 2.17, and the executive environment 2.67, with this being the most influential with “moderate” weight. The assessment for the sub-realm “actions preventing indirect control” obtained equal scores in all three environments, 3.33, reflecting “moderate” influence, while the sub-realm “actions preventing direct control” obtained equal scores in the legislative and judicial environments, 1, and the executive environment, 2, all three with “slight” influence.

During the period reviewed by the report, there were no discernible direct or indirect actions against the media, or attempted blocking of social media, although there were reports of personal accounts of government authorities on social media being blocked by users critical of them. Finally, Paraguay shows a high concentration of media ownership, a situation that has a direct impact on the independence of the media and journalists.

### **CONCLUSIONS**

Although Paraguay shows a favorable environment for freedom of expression, this scenario is at risk if vigorous action is not taken in a timely fashion to improve the legislative and institutional framework allowing for pre-emptive protective measures, repealing criminal penalties on contempt, and ensuring greater plurality.

During the period covered by this report, there have been legislative acts aimed at restricting information of high public interest, particularly regarding access to the sworn disclosures of senior government officials. The political reaction, especially in the House of Representatives, compromises pro-transparency and anti-corruption measures.

In addition, requests to access public information from the court system have been unsuccessful, although the trend favors this right. In this regard, the right of access to information is generally upheld, although the number of requests for information that are not approved is also on the rise.

The correlation between the number of requests for information that have not been replied to and the number of lawsuits is negative, which demonstrates a scenario where it is impossible to legally compel government institutions to provide public information. This also



leads to a reflection on the measures to protect this right and the need to have a guaranteeing body with simpler and more flexible procedures, a scenario that should be discussed *de lege ferenda*.

## REFERENCES

- ABC Color. (2019, June 13). Amparo para frenar “cocinada” en terna de la Corte. In: *abc en el este*. Retrieved 2020, August 14 from <https://www.abc.com.py/nacionales/idea-amparo-frenar-cocinada-terna-ministro-corte-suprema-1823416.html>
- ABC Color. (2020, February 13). Con 12 balazos asesinaron a Leo Veras, periodista de Pedro Juan. In: *abc en el este*. Retrieved 2020, August 14 from <https://www.abc.com.py/nacionales/2020/02/13/con-12-balazos-asesinaron-a-leo-veras-periodista-de-pedro-juan/>
- Congreso de la República del Paraguay. (2020). Biblioteca y Archivo Central del Congreso de la Nación (BACN). Retrieved from <https://www.bacn.gov.py/>
- Justicia y Libertad de Expresión. (2019, December 16). Guía para Jueces sobre Libertad de Expresión e Información Pública. In: *Justicia y Libertad de Expresión*. Retrieved from <https://www.justiciayexpresion.org.py/guia-para-jueces-sobre-libertad-de-expresion-e-informacion-publica/>
- La Nación. (2019, August 9). “Basta de despidos”, reclaman periodistas. In: *La Nación*. Retrieved from <https://www.lanacion.com.py/pais/2019/08/09/basta-de-despidos-reclaman-periodistas/>
- La Nación. (2019, September 27). Ex viceministra de la SET querella a directora y periodista de Abc Color. In: *La Nación*. Retrieved from [https://www.lanacion.com.py/destacado\\_edicion\\_impresa/2019/09/27/ex-viceministra-de-la-set-querella-a-directora-y-periodista-de-abc-color/](https://www.lanacion.com.py/destacado_edicion_impresa/2019/09/27/ex-viceministra-de-la-set-querella-a-directora-y-periodista-de-abc-color/)
- La Nación. (2020, February 4). Declaración jurada, proyecto aprobado en general, In: *La Nación*. Retrieved from <https://cdn-www.lanacionpy.arcpublishing.com/politica/2020/02/04/declaracion-jurada-proyecto-aprobado-en-general/>
- La Nación. (2020, February 25). Imputados por crimen de Leo Veras comparecen ante juez. In: *La Nación*. Retrieved from <https://www.lanacion.com.py/pais/2020/02/25/imputados-por-crimen-de-leo-veras-comparecen-ante-juez/>
- La Nación. (2020, April 14). Periodistas fueron despedidos por reclamar medidas sanitarias. In: *La Nación*. Retrieved from <https://www.lanacion.com.py/pais/2020/04/14/periodistas-fueron-despedidos-por-reclamar-medidas-sanitarias/>
- Ministerio del Interior de la República del Paraguay. (2020, February 23). Fuerzas policiales capturaron a 10 sicarios del narcotráfico y van esclareciendo asesinato del periodista Leo Veras. In: *Ministerio del Interior*. Retrieved 2020, August 14 from <http://www.mdi.gov.py/index.php/la-institucion/marco-normativo/item/12092-fuerzas-policiales-capturaron-a-10-sicarios-del-narcotr%C3%A1fico-y-van-esclareciendo-asesinato-del-periodista-leo-veras>

- Ministerio del Interior de la República del Paraguay. (2020, March 4). Viceministro de Asuntos Políticos preside reunión de Mesa de Seguridad para Periodistas en Pedro Juan Caballero. *Ministerio del Interior*. Retrieved 2020, August 14 from <http://www.mdi.gov.py/index.php/component/k2/item/12135-viceministro-de-asuntos-pol%C3%ADticos-preside-reuni%C3%B3n-de-mesa-de-seguridad-para-periodistas-en-pedro-juan-caballero>
- Ñandutí. (2019, May 31). Caso IPS: Jueza admite querrela contra periodista. ñandutí In: *Diario Digital*. Retrieved from <http://www.nanduti.com.py/2019/05/31/caso-ips-jueza-admite-querella-periodista/>
- Poder Ejecutivo. Portal Unificado de Información Pública. Retrieved 2020, August 17 from [https://informacionpublica.paraguay.gov.py/portal/#!/buscar\\_informacion#busqueda](https://informacionpublica.paraguay.gov.py/portal/#!/buscar_informacion#busqueda)
- Poder Judicial de la República del Paraguay. Corte Suprema de Justicia. Retrieved 2020, August 14 from <https://www.pj.gov.py/>
- Presidencia de la República del Paraguay. Gaceta Oficial. *Dirección de publicaciones especiales*. Retrieved 2020, August 14 from <http://www.gacetaoficial.gov.py/>
- Inter-American Commission on Human Rights. (2020, February 17). Relatoría Especial condena asesinato del periodista Leo Veras en Paraguay y llama a adoptar acciones decididas para prevenir e investigar crímenes de periodistas en la frontera. *OEA*. Retrieved from <http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1165&IID=2>

## PARAGUAY

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Current legal regulations consolidate the right of access to information and accountability. The Paraguayan society has technological tools to exercise the right of access to public information. It has benefited from startups that provide independent journalism on social media.
<b>WEAKNESSES</b>	The country has a weak legal and institutional framework for adopting protective measures on threats or violence against journalists. Its regulatory framework does not establish measures to prevent concentration of media ownership. Current regulations indirectly restrict freedom of expression.
<b>OPPORTUNITIES</b>	Paraguay has a Judiciary trained to address issues relating to freedom of expression and access to public information. There is a consensus among professional unions on the need for a law to protect journalists.
<b>THREATS</b>	Society lacks effective systematization of data on violence against journalists and early warnings relating thereto. Excessive concentration of media ownership may result in loss of independence.

## 2.18.2 PARAGUAY 2020-2021

PARAGUAY	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>69,22</b>
REALM A: "Citizens free to express themselves"	23,00	11,43
Information flow	11,00	5,14
Free speech	12,00	6,29
REALM B: "Exercise of journalism"	10,00	6,86
REALM C: "Violence and impunity"	42,00	28,79
Protection	5,00	1,36
Persecution	7,50	5,64
Impunity	8,50	2,21
Registered violence	21,00	19,58
REALM D: Control over the media	25,00	22,14
Direct control	19,00	16,71
Indirect control	6,00	5,43

Chapultepec Index on Freedom of Expression and the Press 2021



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

PARAGUAY	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	1,68	2,51	2,49
REALM A: "Citizens informed and free to express themselves"	3,00	3,38	3,07
REALM B: Exercise of Journalism	2,43	4,57	5,00
REALM C: Violence and Impunity	1,29	2,10	1,90
REALM D: Control over the media	0,00	0,00	0,00

Type of Influence      Points

SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Paraguay: obstacles to information access

### Executive Summary

Paraguay ranks 8<sup>th</sup> among the 22 countries surveyed in the Chapultepec Index, in the Low Restriction category, scoring 69.22 out of 100. In comparison to last year's Index, variation is insignificant (67.40 of 100, ranking 6<sup>th</sup>). In accordance with the survey, the realm of Violence and Impunity scored the highest degree of influence; there is still minor progress when justice is done against violence, insufficient statutes, ambiguous and open regulations restricting free speech, and weak safeguard mechanisms from the government's bodies. Access to public information is quite cumbersome.

## INTRODUCTION

The period reviewed by this report encompasses part of the second and third year of Mario Abdo Benítez's term, impacted by several political turmoil, and alleged irregularities in how COVID-19 has been handled.

There were instances of violence against media professionals just because they were fulfilling their call of duty. However, most of the times violence came from people who were not government officials. This context led to –still insufficient– progress in improving protective mechanisms for newsmen, and made an impact on the enacting of a bill favoring comprehensive safeguard mechanisms for journalists and human rights advocates. On its side, the Attorney General's Office (Ministerio Público, MP) identified the alleged mastermind of Leo Veras' February 13, 2020 crime.

The exercise of the right to access public information has increased, as well as the number of actions from the Judiciary for favorable responses. A negative pattern persists in terms of quality of the responses provided by the enforcers of this right, as well as different obstacles to provide accurate and consistent information. Likewise, there was a dangerously secretive context about the country's two most important binational entities in charge of managing top priority interests of the State and soaring budgets.

The disclosure of sworn declarations of assets and income –upon June 11, 2020 Supreme Court of Justice (Corte Suprema de Justicia, CSJ)'s landmark case– has allowed to file other



similar actions and to release of all documents submitted by the Office of the Comptroller General (Contraloría General de la República, CGR) since 1992. Accordingly, it is possible now to disclose numerous investigations on top government officers' ill-gotten gains.

On the other hand, the Inter-American Committee on Human Rights (IACHR) held the Paraguayan State accountable for a string of infractions contributing to impunity in Santiago Leguizamón's April 26, 1991 murder.

## Results Analysis

Paraguay ranks 8<sup>th</sup>, in the Low Restriction category, among the 22 countries surveyed on [by] the Chapultepec Index, scoring 69.22 out of 100. In comparison to last year's Index, variation is negligible (67.40 of 100, ranking 6<sup>th</sup>). Regarding February 2020 journalist Leo Veras' murder, the MP pressed charges on the alleged mastermind, from the drug-trafficking group known as First Capital Command (Primer Comando de la Capital, PCC) (Última Hora, 2021). In this situation, the Attorney General's Office (Fiscalía General del Estado, FGE [official name of the Ministerio Público, MP])– ruled that acts of violence against journalists should be investigated by the Special Unit on Human Rights (Unidad Especializada de Derechos Humanos) (Paraguay's Public Prosecutor's Office, 2021). This is a giant leap, albeit insufficient, when it comes to government bodies; for instance, in the case mentioned above, accessing information on the proceedings' status becomes extremely hard for journalist Veras' relatives.

Likewise, in December 2020, the Roundtable for Journalist Security (Mesa para la Seguridad de Periodistas, MSP), along with the Union of Paraguayan Journalists (Sindicato de Periodistas del Paraguay, SPP) sponsored in 2017 a draft bill aimed at creating safeguard mechanisms for journalists and human rights advocates (Mesa para la Seguridad de Periodistas, n.d.).

## Environments: Fundamental Judiciary's Role to Protect Free Speech

According to the specialists with whom we conferred, in terms of the "Degree of unfavorable influence", the Legislative environment scores a slight influence (1.68), the Judicial environment scores a moderate influence of 2.51 –the highest influence exerted by the three environments–; and the Executive environment scores a slight influence of 2.49. In the period surveyed, there no patterns hindering free speech; however, there are still criminal complaints against media outlet executives and journalists based on their reporting of top interest topics. It is authority of the Judiciary (Poder Judicial, PJ) to admit to these actions.

## REALM A: Obstacles for Free Speech to Access to Information

The COVID-19 pandemic's effects are not only noticeable on the health and economic outlook, but also impact free speech. Social media are an outstanding source for disseminating news and blowing the whistle on corruption issues. Print media use them as input to report in their mainstream format. According to the specialists' score, this realm shows a mild influence (11.43 out of 23.0), signifying a slight decrease when compared to the 2020 Index (14.20 out of 23.0).

From a scale of 1 to 10, all three environments show mild influence. The Legislative environment scores 3.00, and the Judiciary environment 3.38, while the Executive environment obtains 3.07. In the period surveyed, there were no Legislative actions tending to suppress free flow of information and free expression.

Regarding the Executive environment, there was a report of censorship on a physician for voicing his views regarding COVID-19 situation (La Nación, 2020). An additional action against freedom of expression was that of city mayor Coronel Oviedo threatening a news executive from an independent media outlet in the same city (Última Hora, 2021).

The Information Flow sub-realm scores 5.14 out of 11.0. A slight decrease is noticed when compared to the 2020 Index (7.60 out of 11.0).

The specialists with whom we conferred gave the Free Speech sub-realm a score of 6.29 out of 12.0, quite close to that of 2020 (6.60 out of 12.0).

In the period surveyed, unanswered information release requests remained a constant pattern. In accordance with data from the Unified Public Information Portal (Portal Unificado de Información Pública, n.d.), in the period comprising August 1, 2020-June 30, 2021, there were 10,284 total public information requests, of which 935 had no response (9.1%), 664 were subject to user reconsiderations (6.5%), and 7,462 requests had a "response" (72.6%) (the quality of responses is not taken into account). Considering the figures from the preceding report, the number of requisitions [requests] has had a slight increase (out of a universe of 9,696, between May 1, 2019 and April 30, 2020, with a level of 72.1% of requisitions "with a response").

During the period surveyed by this report, certain legal actions to obtain public information were filed. Per data from the Supreme Court of Justice's website (Corte Suprema de Justicia - Poder Judicial, n.d.), between August 2020-April 2020, at least 24 court matters on accessing public information were filed, representing an increase of more than 100% when compared to the data of last year's report (11 matters on record). However, the universe of petitioners remains insignificant when contrasted with the high number of requests without favorable responses. On the other hand, particularly in the Executive environment, responses are neither timely nor consistent.

Among the matters cases on record, the matter of *“Juan Carlos Lezcano Flecha v. Contraloría General De La Republica S/ Amparo”*, ruling that all sworn declarations of assets and income withheld by the Comptroller General of the Republic must be disclosed, needs to be highlighted. This action was within the scope of the Supreme Court of Justice’s ruling by means of the Agreement and Ruling 111 of June 11, 2020, whereby the above petitioner requested records of sworn declarations from top government officials. Likewise, a highly relevant case was filed by a group of journalists opposing the Itaipu Binational Entity for denial of information on decisions of the Paraguayan board members on issues addressed by the body’s Board (La Nación, 2021) (ABC Color, 2021).

## **REALM B: Statutes in Force Stifling The Free Dissemination of Information**

Paraguay continues to show a moderately favorable climate for free exercise of journalism. This realm scored 6.86 out of 10. During the period this report is surveying, no pattern of obstacles from the government harming the free exercise of journalism was reported, although there were newspersons attacked by third parties and groups linked to political parties. However, several criminal complaint proceedings for punishable acts against honor and reputation are still in progress, a situation that hinders the freedom to disseminate information on irregularities detected in the public administration and the assessment of the official conduct of government officers.

The Legislative Environment showed slight influence by scoring 2.43, whereas the Judicial Environment scored 4.57 the Judicial environment 4.57, and the Executive environment gets 5.00, based on which these realms’ influence is mild.

During the period surveyed, no implementation or omission of regulations affecting independence of the media and/or journalists, plurality, and protection of confidential sources of information, went on record. Categories such as the above are constitutionally protected, as is the free exercise of journalism, without the need for licenses or membership in a guild. There has been no record of actions from the government preventing access to sources aligned with the government.

## **REALM C: Violence Unpunished**

In the specialists’ opinion, the Violence and Impunity realm scored 28.79 out of 42.0, This is a slight increase compared to that of the previous Index at 23.60. As for sub-realms, Protection scores 1.36 out of 5.0; Persecution 5.64 out of 7.5; Impunity 2.21 out of 8.5, and reported Violence 19.58 out of 21.0.

Data from the timeline of aggressions against journalists disclose 15 aggressions in total: the government would be held accountable for two of them, an unknown perpetrator for

one, while 12 are by unknown third parties. A persisting concern is that such violations end up unpunished. From the murders of journalists, only Pablo Medina's matter, who was murdered on October 16, 2014, resulted in the mastermind's conviction.

Despite the above assertions, in this period there was slight progress when addressing impunity in crimes against journalists, as well as in the influence of the bill for media employees' protection. The MP/FGE identified the alleged mastermind of journalist Leo Veras' February 2020 crime, an event occurred in Pedro Juan Caballero's border area.

Compared the 2020 Index, where Violence and Impunity was deemed the most decisive realm (scoring 23.60 out of 42), in the period surveyed the influence has subsided to slight in all three environments. From the scale of 1 to 10, the Legislative environment scores 1.29, the Judicial environment 2.10, while the Executive environment gets 1.90.

Although a pattern encouraging the persecution of journalists and the media is not noticed, top-ranking government officials or political personalities aligned to the ruling class invoke criminal regulations that protect honor and reputation when disclosure of public interest information in the professional practice is impending. Oftentimes, political personalities aligned with the government rely on social media to promote stigmatizing messages against investigative journalists.

On the other hand, the MSP, which gathers several institutions, continues to be active, although it formally it lacks a budget of its own and acknowledgement by the Legislative. However, this body has served the purpose of implementing protection measures and training initiatives for judges and prosecutors. In turn, this Roundtable supports promoting the aforementioned bill on protection of journalists.

## **REALM D: No Change in Terms of Provisions to Prevent Monopolization**

This realm shows a score of 22.14 out of 25.0. The survey regarding the sub-realm of Direct Control was rated 16.71 out of 19.00, while Indirect Control scored 5.43 out of 6.0. Paraguay continues to show high levels of media monopolization, a situation that has a direct impact on the independence of the media and journalists. However, alternative media and information platforms that have allowed for the promotion of plurality and independence of media professionals have reportedly been launched.

## **CONCLUSIONS**

Paraguay continues to show a mildly favorable environment for the exercise of journalism and free speech. COVID-19 has awakened numerous critical voices against the government's administration, which have been channeled largely through social media. This area constitutes a source of interaction and free information, although it excludes groups in vul-



nerable situations. Criminal statutes inhibiting free speech and dissemination of high public interest information, as well as the high degree of media monopolization, are drawbacks for independence and plurality in the exercise of journalism.

The current criminal code regulations lead political personalities aligned with the government and top officials to threaten the dissemination of information blowing the whistle on alleged irregularities. In this regard, there has been no record of actions leading to the repeal of such provisions or landmark cases for the dissemination of international standards of protection.

Thankfully, legislative actions barring the free exercise of journalism are absent. Although the trend continues to favor the right to access public information, the results from the justice system are discouraging. Likewise, we underscore the threats on posting highly relevant information due to arbitrary decisions of officials or court rulings.

The promotion of the bill on comprehensive journalist and human rights advocate protection seeks to strengthen existing mechanisms, provide them with budget funds and legislate on vital aspects from which the work of media employees may benefit. The steps to build an adequate institutional framework commensurate with the country's reality are still slow, but the interest of certain political personalities is simultaneously increasing.

As a challenge, it remains to optimize the powers of the offices for access to public information so that they adequately meet legal requirements, improve the way how information is disclosed and the accuracy of its content in terms of users' –journalists and citizens– legitimate expectations.

## REFERENCES

- ABC Color (August 26, 2020). CIDH se expidió sobre responsabilidad de Estado en asesinato de Santiago Leguizamón. From <https://www.abc.com.py/nacionales/2020/08/26/cidh-se-expidio-sobre-responsabilidad-del-estado-en-asesinato-de-santiago-leguizamón/>
- ABC Color (October 9, 2020). Denuncian a diputada por supuesto enriquecimiento ilícito. From <https://www.abc.com.py/este/2020/10/09/denuncian-a-diputada-por-supuesto-de-enriquecimiento-ilicito/>
- ABC Color (April 30, 2021). Acusan a supuesto organizador del asesinato del periodista Leo Veras. From <https://www.abc.com.py/nacionales/2021/04/30/acusan-a-supuesto-organizador-del-asesinato-del-periodista-leo-veras/>
- ABC Color (June 30, 2021). Comunicadores accionan judicialmente contra Itaipu por negar información del Consejo de Administración. From <https://www.abc.com.py/nacionales/2021/06/30/comunicadores-accionan-judicialmente-contra-itaipu-por-negar-informacion-del-consejo-de-administracion/>

Cámara de Diputados (May 31, 2021). *Periodistas y defensores de los derechos humanos piden un marco legal que los proteja*. From <http://www.diputados.gov.py/index.php/noticias/periodistas-y-defensores-de-los-derechos-humanos-piden-un-marco-legal-que-los-proteja>

Cámara de Senadores (March 17, 2021). *Senador aguarda respuesta a su pedido de derecho a réplica*. From <http://www.senado.gov.py/index.php/noticias/noticias-comisiones/7523-senador-aguarda-respuesta-a-su-pedido-de-derecho-a-replica-2021-03-17-13-38-35>

CODEHUPI (August 26, 2020). *Caso Santiago Leguizamón: El Estado debe reparar con justicia y políticas de protección los asesinatos de periodistas en Paraguay*. From <https://codehupy.org.py/caso-santiago-leguizamon-el-estado-debe-reparar-con-justicia-y-politicas-de-proteccion-los-asesinatos-de-periodistas-en-paraguay/>

Corte Suprema de Justicia - Poder Judicial (s.f.). From <https://www.pj.gov.py/>

Hoy (January 12, 2021). *Wiens bloquea en redes a los que critican y no informa sobre su gestión, reclaman*. From <https://www.hoy.com.py/nacionales/wiens-bloquea-en-redes-a-los-que-critican-y-no-informa-sobre-su-gestion-reclaman>

La Clave (November 10, 2020). *Jueza Cinthia Garcete debe ser investigada por evasión, enriquecimiento ilícito y lavado*. From <https://www.laclave.com.py/2020/11/10/jueza-debe-ser-investigada-por-evasion-enriquecimiento-ilicito-y-lavado/>

La Nación (August 29, 2020). *Médico de CDE denuncia al Gobierno y Salud Pública por amedrentarlo y censurarlo*. From <https://www.lanacion.com.py/politica/2020/08/29/medico-de-cde-denuncia-al-gobierno-y-salud-publica-por-amedrentarlo-y-censurarlo/>

La Nación (April 29, 2021). *Fiscal acusó y solicitó juicio oral y público para Waldemar Pereira, miembro de la banda de “Minotauro”*. From <https://www.lanacion.com.py/judiciales/2021/04/29/fiscal-acuso-y-solicito-juicio-oral-y-publico-para-waldemar-pereira-miembro-de-la-banda-de-minotauro/>

La Nación (April 29, 2021). *Itaipú niega acceso a información sobre decisiones asumidas y voto de los consejeros*. From <https://www.lanacion.com.py/politica/2021/04/29/itaipu-niega-acceso-a-informacion-sobre-decisiones-asumidas-y-voto-de-los-consejeros/>

La Nación (April 30, 2021). *Itaipú niega derecho a información pública*. From [https://www.lanacion.com.py/politica\\_edicion\\_impresa/2021/04/30/itaipu-niega-derecho-a-informacion-publica/](https://www.lanacion.com.py/politica_edicion_impresa/2021/04/30/itaipu-niega-derecho-a-informacion-publica/)

La Nación (April 22, 2021). *Querellan al periodista de ABC Color Juan Carlos Lezcano*. From <https://www.lanacion.com.py/judiciales/2021/04/22/querellan-al-periodista-de-abc-color-juan-carlos-lezcano/>



**La Nación** (March 17, 2021). *Simpatizantes del efrainismo golpearon brutalmente a un periodista*. From <https://www.lanacion.com.py/politica/2021/03/17/simpatizantes-del-efrainismo-golpearon-brutalmente-a-un-periodista/>

**La Nación** (January 27, 2021). *Simpatizantes del efrainismo golpearon brutalmente a un periodista*. From <https://www.lanacion.com.py/politica/2021/03/17/simpatizantes-del-efrainismo-golpearon-brutalmente-a-un-periodista/>

**Ley N° 6534 “De protección de datos crediticios”** (27 de octubre de 2020).

**Megacadena** (January 23, 2021). *Caso Cuevas: Presentan acusación y piden juicio por enriquecimiento ilícito y declaración falsa*. From <https://megacadena.com.py/caso-cuevas-presentan-acusacion-y-piden-juicio-por-enriquecimiento-ilicito-y-declaracion-falsa/>

**Mesa para la Seguridad de Periodistas** (December 1, 2020). *Camino abierto hacia ley para protección de periodistas*. From <https://seguridadperiodistas.org.py/camino-abierto-hacia-ley-para-proteccion-de-periodistas/>

**Mesa para la Seguridad de Periodistas** (May 11, 2021). *Fiscalía de DDHH investigará violencia contra periodistas*. From <https://seguridadperiodistas.org.py/fiscalia-de-ddhh-investigara-violencia-contra-periodistas/>

**Ministerio de Justicia** (June 29, 2021). *Charlas sobre libertad de expresión y acceso a la información en tiempos de pandemia*. From <https://ministeriodejusticia.gov.py/noticias/charlas-sobre-libertad-de-expresion-y-acceso-la-informacion-en-tiempos-de-pandemia>

**Ministerio Público** (2020 November 2020). *Fiscalía realiza seminario de capacitación sobre seguridad y protección de periodistas*. From <https://www.lareplica.com.py/fiscalia-realiza-seminario-de-capacitacion-sobre-seguridad-y-proteccion-de-periodistas/>

**Ministerio Público** (April 29, 2021). *Caso Leo Veras: Fiscal acusó y solicitó elevación a Juicio Oral para Waldemar Pereira, miembro de la banda de “Minotauro”*. From <https://www.ministeriopublico.gov.py/nota/-5727>

**Ministerio Público** (May 25, 2021). *Fiscal General dispone que causas que tengan a periodistas como víctimas sean investigadas por la Unidad Especializada de Derechos Humanos*. From <https://www.ministeriopublico.gov.py/nota/fiscal-general-dispone-que-causas-que-tengan-a-periodistas-como-victimas-sean-investigadas-por-la-unidad-especializada-de-derechos-humanos--5736>

**Ministerio Público de la República del Paraguay** (May 5, 2021). *Fiscal General dispone que causas que tengan a periodistas como víctimas sean investigadas por la Unidad Especializada de Derechos Humanos*. From <https://www.ministeriopublico.gov.py/nota/>

fiscal-general-dispone-que-causas-que-tengan-a-periodistas-como-victimas-se-an-investigadas-por-la-unidad-especializada-de-derechos-humanos--5736

*Portal Unificado de Información Pública (n.d.).* From <https://informacionpublica.paraguay.gov.py/portal/>

Última Hora (April 30, 2021). *Acusan a supuesto organizador del asesinato del periodista Leo Veras.* From <https://www.abc.com.py/nacionales/2021/04/30/acusan-a-supuesto-organizador-del-asesinato-del-periodista-leo-veras/>

Última Hora (March 27, 2021). *Periodista denuncia a intendente de Coronel Oviedo por amenaza de muerte.* From <https://www.ultimahora.com/periodista-denuncia-intendente-coronel-oviedo-amenaza-muerte-n2933593.html>

## PARAGUAY

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Swot analysis

<b>STRENGTHS</b>	The environment is mildly favorable for the exercise of freedom of expression. There are constitutional safeguard mechanisms in terms of source confidentiality and the exercise of free speech without a license or membership in a guild. Also, different alternative media have been launched.
<b>WEAKNESSES</b>	The quality of the information provided under actively binding transparency is deficient. We obtain inconsistent, ambiguous, vague, or incomplete responses within passive transparency commitments. The Mesa de Seguridad de Periodistas (Roundtable for Journalist Security) is institutionally inadequate.
<b>OPPORTUNITIES</b>	There is progress in the identification of the alleged mastermind of a journalist's murder. The right of access to information is increasing. Public information on numerous topics of public interest is available. The Paraguayan government can be held accountable for a journalist's murder case. A draft bill on journalist protection is being discussed. Additionally, rulings legally bind to provide information on highly relevant topics.
<b>THREATS</b>	Some criminal statutes for the safeguard of honor and reputation are in force. Again, the vast majority of cases of violence and murder against journalists go unpunished. There is no budget for protective mechanisms. Protocols are very much absent when aggressions against journalists are investigated. Victims of violence do not enjoy freedom of information in the proceedings, and social media as sources of information will exclude groups at risk. We notice a pattern in cases of censorship on public officials. Clearly, personalities with political ties exert violence against journalists. While actions to prevent the media from being monopolized are non-existent, rulings from the Judiciary hinder free information on highly relevant topics. The access to public information is arbitrarily denied without punishment or accountability.

## 2.18.3 OVERVIEW

### Paraguay

The Republic of **Paraguay** remained in the group of countries exerting low restriction to Freedom of Expression and the Press, but dropped from the seventh position in 2019-2020 with 67.4 points, to position No. 8 in 2020-2021 with 69.22 points. In general, there are still specific situations impairing access to information, and protection for journalists is weak. The government of Mario Abdo Benítez was affected by a political crisis, but has preserved a discourse in favor of freedom of expression.

Regarding Realm A, Informed Citizens Free to Express Themselves, the leading restriction is found to be the access to information. The common denominator causing this, especially in the period 2020-2021, is that no replies were granted to requests for information, after relief to obtain it (Injunction in the Matter of Juan Carlos Lezcano Flecha v. Comptroller General's Office [Caso Juan Carlos Lezcano Flecha C/ Contraloría General De La Republica S/ Amparo]). Therefore, social media have become the main space for disseminating information and blowing the whistle on acts of corruption. In the two sub-realms that make up Realm A, Information Flow and Free Expression, there was quantitative decrease from one period to another. As of 2019-2020, laws directly affecting freedom of expression had been passed, among them Law 6299 regarding publications based on Supreme Court of Justice sessions, and those of the Judiciary Council (Consejo de la Magistratura), the Jury for the Prosecution of Justices (Jurado de Enjuiciamiento de Magistrados) and the Cabinet Council (Consejo de Ministros); Law 6355 amending the regulatory framework for public officials' sworn statements of property, assets, and income, among others.

These pieces of legislation have an impact on the perception of Realm B, Exercise of Journalism. In addition to aggressions against journalists by third parties, thereby impairing performing their duties, the prosecution of speech crimes (against honor and reputation) continues. This is evident in ongoing court actions. However, there is no requirement for mandatory membership or degree to practice journalism; any person may do so.

Analyzing the results for Realm C, Violence and Impunity, it is worth noting the cases of aggressions occurred in the period 2020-2021, a total 15 in which impunity regarding these situations constitutes the greatest concern. Nevertheless, in a case of murder (Pablo Medina), the mastermind was convicted. The regulatory framework is the basis upon which public officials file lawsuits against the media and journalists.

Finally, in Realm D, Control over the Media, based on the results in both periods, there are no actions posing direct and indirect controls targeting the media, with 22 points out of 25 in 2019-2020 and 22.14 in 2020-2021, there is evidence of plurality and independence among the media and newsmen.

Regarding the extent of unfavorable influence from the different [institutional] environments on freedom of expression, we noticed that, in general, from one study period to the other, it dropped from strong and very strong influence in some cases, to moderate and slight influence for the period 2020-2021. Realm A and Realm B were those where the greatest interference from the different branches of government was observed, especially on the part of the executive and the judicial environments.

## 2.19. PERU

### 2.19.1 PERU 2019-2020

PERU	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>67.8</b>
<b>REALM A: "Citizens informed and free to express themselves"</b>	<b>23</b>	<b>18.0</b>
Flow of information	11	8.4
Free Expression	12	9.6
<b>REALM B: Exercise of Journalism</b>	<b>10</b>	<b>7.6</b>
<b>REALM C: Violence and Impunity</b>	<b>42</b>	<b>19.2</b>
Protection	10	3.2
Persecution	15	12.2
Impunity	17	3.8
<b>REALM D: Control over the media</b>	<b>25</b>	<b>23.0</b>
Direct control	16	14.6
Indirect control	9	8.4

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**





## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

PERU	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	2.41	2.37	2.31
REALM A: "Citizens informed and free to express themselves"	3.86	3.84	3.45
Flow of information	3.10	3.05	3.40
Free Expression	4.63	4.63	3.50
REALM B: Exercise of Journalism	4.10	3.60	3.60
REALM C: Violence and Impunity	2.11	2.17	2.22
Protection	2.83	3.00	3.17
Persecution	2.50	2.50	2.50
Impunity	1.00	1.00	1.00
REALM D: Control over the media	1.00	1.00	1.00
Direct control	1.00	1.00	1.00
Indirect control	1.00	1.00	1.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## Peru: Positive indicators in the midst of the crisis

### Executive summary

The perception of the experts surveyed is that Peru has a low level of restriction on freedom of expression, mainly based on a perception of full freedom of expression with regard to the control over the media by State environments [branches of government]. On the other side of the spectrum, there is a perception that, in Peru, there are partial restrictions regarding prevention of violence and impunity, which reflects a pattern where there are no laws to protect journalists, which encourages persecuting or exerting undue influence over them.

## INTRODUCTION

The period covered by the survey in this report has been one of instability and change in Peru's political and legal outlook. After the political crisis of 2018, resulting in the resignation of President Pedro Pablo Kuczynski, the confrontation between the executive and legislative branches ensued, ending that year in a referendum proposed by the government to enact four constitutional amendments.

During 2019, corruption scandals in the judicial branch – unveiled by a group of journalists – deepened the crisis and confrontation between the branches of government, when the congressional majority refused to investigate or remove some of the judges under scrutiny. This led President Martín Vizcarra to propose early elections, shortening his term in office but also that of the Congress [Legislative].

The power struggle ended with the shutdown of Congress in September 2019 and parliamentary elections to close the 2016-2021 period. This brought some political calm until March 2020, when the new Congress was inaugurated and the mandatory confinement following the COVID-19 pandemic began. In this context, the press has taken a stand for one or another political sector, receiving pressure and accusations about hidden agendas and editorial policies for sale.

## Results analysis on institutional environments

The perception of those surveyed yields an overall index of 67.8 out of 100 points possible, placing Peru sixth among the countries reviewed regarding freedom of expression.



There is a perception of low restriction on access to information and the exercise of journalism, and full freedom from attempts at controlling the media.

The poorest performing indicator is the perception of violence against exercising journalism, where 19.2 points out of a possible 42 were obtained, indicating a perception of minimum protection for journalists and the existence of impunity for actions restricting free speech.

## **Legislative environment**

In general, the legislative environment has the greatest influence on restricting free speech (2.41). The Congress that concluded in September had introduced draft bills to restrict government advertising - the main source of income for many media outlets - or toughen penalties for defamation. Additionally, the majority party used congressional funds in hiring staff to slander those considered as its opponents, be it politicians or members of the press.

## **Judicial environment**

The judicial environment is perceived in second place regarding influence on freedom of expression (2.37). It is noteworthy that this environment has been exposed in recent years by journalistic reports revealing high levels of corruption, money laundering, and rigged penalties by several of its members. This spawned measures that attempted at compelling journalists to reveal their sources, as well as seizing their assets, or bringing court action against them as forms of pressure.

## **Executive environment**

The government branch with the least influence in situations discouraging free speech is the executive environment (2.31), achieving the highest scores for protective actions and access to information. This is mainly due to inaction or delays by the national government rather than concrete actions against free speech. In some cases, however, it is clear that regional governments [departments] have had an influence on the exercise of freedom of expression in Peru.

## **REALM A: Well-informed citizens**

The results of the survey indicate that the sentiment regarding the possibility for citizens to be able to express and inform themselves is very strong, placing the indicator very close to full freedom. There is a sense of appropriate access to information, although there have been cases when some offices of the legislative or executive branches have been opaque in granting access to [information on] certain expenditures or the use of certain funds. As part of the initiative to establish entities addressing access to public information as of 2018 - albeit

with limited progress last year, information websites facilitate access to allocation of funds and awarding of contracts in most cases.

This has led some authorities to try to exert pressure following certain information disclosed by the press, in the form of legislative initiatives or filing of complaints in court, which have not been successful, as the CPP (Peruvian Press Council [Consejo de la Prensa Peruana]) points out in its 2019 report. However, in local government environments, access to information is much more opaque. Furthermore, news media outlets themselves have fewer resources to apply pressure for or access sensitive information to uncover acts of corruption, which is one of the main problems in Peru.

The media structure in Peru is one of large conglomerates, mostly making up a nationwide news duopoly, and a number of local media outlets surviving in a rather vulnerable manner. This means that, at national government, the power of the media makes them more capable of reacting and defending themselves against threats or pressures. It is the independent and regional press the ones suffering under the pressure from the authorities, and being brought defamation charges seeking to prevent them from publishing matters affecting certain interest groups in the country. Peruvian legislation and even the slow pace of court proceedings allow this to be used as a way of restricting some journalistic investigations.

## **REALM B: Exercise of journalism under appropriate conditions**

The exercise of journalism in Peru is perceived to have low restrictions by the experts surveyed, in reason of a lesser extent of pressure on some sectors of the press, pressure that was present until the first half of the period under review. During this period, members of the Judiciary, supported by some members of the Legislative, tried to force some journalists to disclose their sources, in a clear indication of attempts at interfering with the whistleblowing about them.

Parliamentary immunity allowed for verbal attacks and threats against some journalists who were critical of some members of the legislative branch. However, this did not materialize into censorship or restrictions on information. With the Congressional shutdown, this diminished markedly. This shutdown also rendered ineffective draft bills providing for mandatory affiliation to professional associations in order to exercise journalism in the country, which had been noted as a means of restricting journalistic work (Consejo de la Prensa Peruana, 2019).

As the pandemic has advanced in 2020, access to information has been restricted and, in different regions of the country, local journalists who have blown the whistle on poor management of the health crisis and lack of resources in local hospitals have been threatened, attacked, or slandered by regional officials (Asociación Nacional de Periodistas del Perú, 2020).



There is an example of institutional pressure against the practice of journalism on record. In November 2019, a prosecutor in the region of Ancash, in the Northeast of the country, demanded that journalist Hugo Gonzales disclose the sources allowing him to report acts of corruption by the lieutenant governor of that department (IPYS, 2020).

## **REALM C: An environment with a degree of violence and impunity against the media**

The perception of actions to protect journalists against acts of violence and impunity is the lowest of all realms in Peru's case, thereby achieving less than half of the maximum score, 19.2 points out of a possible 42, indicating a country with partial restrictions on the exercise of freedom of expression. The different environments are deemed responsible for similar measures so that no protective actions are taken with regard to journalists. During this period, several people hired as congressional advisors were found to be part of a network of defamation and attacks on politicians and several journalists by means of fake accounts (La República, 2020), from which they posted an average of 100 messages per day on social media.

Different media linked *Fuerza Popular*<sup>1</sup> congresswoman Rosa Bartra to a group naming itself *La Resistencia* (The Resistance), as she was seen on social media at an address encouraging them [members of this group] to carry out larger attacks. Members of *La Resistencia* were identified as part of the group that organized sit-ins and made threats in June and August 2019 around the premises of *IDL-Reporteros*, a media outlet that blew the whistle on acts of corruption by different Peruvian governments and published investigations involving a corruption ring of judges and public prosecutors.

Nevertheless, these are not the only acts of violence against freedom of expression. There are years-long protracted trials of lawsuits. As cases in point, members of a religious community singled out by journalists Paola Ugaz and Pedro Salinas for sexual abuse filed a complaint against them; or attempts at seizing the assets and databases of media outlets that have reported money laundering or acts of corruption – as happened to the *IDL-Reporteros* or *Ojo Público* (Public Eye) websites in April 2019 – at the same time that the legislature was pushing for laws to toughen penalties on defamation, including against those who do so on social media (CPP, 2019).

Journalists working in departments outside of Lima are more affected by acts of intimidation, threats, and violence. Since January 2020, Deysi Mina, a journalist from Ayacucho, has gone missing. Additionally, poor management of the health crisis by local authorities has resulted in actions against journalists reporting on the issue,

<sup>1</sup> Translator's Note (TN): A conservative political party headed by Keiko Fujimori, daughter of former Peruvian president Alberto Fujimori.



such as the cases of Pablo Rojas, who was attacked in Arequipa in March 2020, Juan López and Carlos Armas, journalists from Ucayali targeted by smear campaigns on social media, or the threats made by Mesías Guevara, Governor of Cajamarca, against journalists who criticized his performance during the pandemic.

## **REALM D: Media free from control measures**

Respondents' perception on control over the media is the most positive. It scores highest for Peru, with the lowest indicators of influence from the different environments. No direct or indirect control actions are perceived, although the management of funds to buy advertising space is noticed to pose a threat to freedom of expression, especially in departments outside of Lima.

Given the existence of a private media ecosystem relying on advertising for subsistence, there are areas of Peru where the funds that local governments allocate for advertising are the main source of income for local media. This creates the possibility of pressure on media outlets opposing local authorities, by choosing not to allocate ads in them.

In the case of media licenses, the market is saturated and there are few possibilities for new licensing, which have largely favored major powerful media groups, thereby preserving their dominant positions.

## **CONCLUSIONS**

The general perception of freedom of expression in Peru during the period reviewed is positive. The country is going through years of political instability, which encourages pressure on the work of journalists. Nevertheless, in most cases, this has been appropriately addressed, and the different news media have been able to rely on newsmen's activity.

The shutdown of the previous Congress brought months of greater stability, but, in March, a new Congress was inaugurated, and new confrontations with the executive branch sparked. The advent of the COVID-19 pandemic that month also generated a situation that made journalists' work more vulnerable, regarding both staffing and health, as well as in terms of access to information.

For the next period, it will be important to look at the possibilities of access to information achieved both in the legislative environment – which has shown to keep several of the practices of the previous congress – and in the executive environment, which, as the pandemic has spread, has begun to restrict media access to the President's conferences, as well as handle pandemic data with opacity.



In this context, none of the environments is expected to show concern about advancing administrative measures or legislative initiatives providing spaces to improve conditions for the exercise of journalism or freedom of expression, either by preventing cases of violence or by protecting journalists from situations that endanger or make their work difficult.

The practice of filing lawsuits against journalists and dragging them to long and cumbersome trials – either by appealing sentences or by filing new complaints – has become a common practice. This is clearly a way of trying to censor whistleblowing and intimidate other journalists into investigating powerful institutions or individuals. With a corrupt and inefficient judicial environment and legislation allowing this to happen, a structure that is unlikely to change in towards improving the conditions for freedom of expression is thereby perpetuated.

Observing whether these situations remain, subside, or become more complex is part of what should be reviewed in subsequent reports, to understand whether the indicators for Peru, which in this case have been quite positive, maintain their levels or not.

## REFERENCES

- Agencia EFE. (2020, March 16). Medios y periodistas son acosados en Perú con demandas judiciales. *Gestión*. Retrieved from: <https://gestion.pe/peru/medios-y-periodistas-son-acosados-en-peru-con-demandas-judiciales-noticia/?ref=gesr>
- Asociación Nacional de periodistas del Perú. (2020). ANP Huamanaga presente en vigilia por periodista desaparecida Daysi Mina Huamán. In: *ANP*. Retrieved from: [http://www.anp.org.pe/index.php?option=com\\_content&view=article&id=3357:2020-03-01-01-44-37&catid=65:pronunciamientos&Itemid=95](http://www.anp.org.pe/index.php?option=com_content&view=article&id=3357:2020-03-01-01-44-37&catid=65:pronunciamientos&Itemid=95)
- Asociación Nacional de periodistas del Perú. (2020). ANP condena agresión a periodista en Arequipa. In: *ANP*. Retrieved from: [http://www.anp.org.pe/index.php?option=com\\_content&view=article&id=3381:2020-04-06-20-31-22&catid=65:pronunciamientos&Itemid=95](http://www.anp.org.pe/index.php?option=com_content&view=article&id=3381:2020-04-06-20-31-22&catid=65:pronunciamientos&Itemid=95).
- Asociación Nacional de periodistas del Perú. (2020). Atalaya: Periodistas locales son centro de campaña difamatoria por redes sociales. In: *ANP*. Retrieved from: [http://www.anp.org.pe/index.php?option=com\\_content&view=article&id=3506:2020-07-08-22-02-28&catid=52:alertas&Itemid=79](http://www.anp.org.pe/index.php?option=com_content&view=article&id=3506:2020-07-08-22-02-28&catid=52:alertas&Itemid=79).
- Consejo de la Prensa Peruana. (2019). Informe 2019 de libertad de expresión en el Perú para la Sociedad Interamericana de Prensa. Retrieved from: <http://consejoprensaperuana.org.pe/opinion/informe-2019-de-libertad-de-expresion-en-el-peru-para-la-sociedad-interamericana-de-prensa/>



IDL-Reporteros. (2019, July 5). La pestilencia. In: *IDL Reporteros*. Retrieved from: <https://www.idl-reporteros.pe/la-pestilencia/>

Instituto Prensa y Sociedad. (2019, November 22). Perú: Fiscal pide a periodista revelar su fuente. In: *IPYS*. Retrieved from: <https://ipys.org/libertad-de-expresion/alertas/peru-fiscal-pide-a-periodista-revelar-su-fuente>

Instituto Prensa y Sociedad. (2020, March 5). Perú: reabren querrela judicial contra periodista. In: *IPYS*. Retrieved from: <https://ipys.org/libertad-de-expresion/alertas/peru-reabren-querrela-judicial-contra-periodista>

Instituto Prensa y Sociedad. (2019, April 21). Perú: Poder Judicial admite embargo indebido a Ojo Público y La República. In: *IPYS*. Retrieved from: <https://ipys.org/libertad-de-expresion/alertas/peru-poder-judicial-admite-embargo-indebido-a-ojo-publico-y-la-republica>.

Política LR. (2019, November 15). Líder de grupo agresivo “La Resistencia” postula al Parlamento por Solidaridad Nacional. In: *LaRepública*. Retrieved from: <https://larepublica.pe/politica/2019/11/14/elecciones-2020-fuerza-popular-lider-de-grupo-agresivo-la-resistencia-postula-al-congreso-por-solidaridad-nacional-jota-maelo-video/>.

La República. (2019, July 19). Rosa Bartra participa en evento de “La Resistencia” pese a negar conocer a grupo radical. In: *LaRepública*. Retrieved from: <https://larepublica.pe/politica/2019/07/19/fuerza-popular-rosa-bartra-participa-en-evento-de-la-resistencia-pese-a-negar-conocer-a-grupo-radical/>

## PERU

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Peru still has fresh memories of the Fujimori dictatorship and editorial policies for sale among leading media of the country. The population that still has confidence in the - weak - democracy and does not wish to return to those years persists in the defense of adequate levels of free speech.
<b>WEAKNESSES</b>	In Peru, the weaknesses regarding freedom of expression lie in the country's own institutional fragility. Many journalists have to face trials, which are cumbersome and protracted, in a Judiciary that is slow and corrupt, all of which constitutes a form of pressure. On the other hand, mainstream media are criticized for not always being aligned with free speech.
<b>OPPORTUNITIES</b>	New technologies, networks, and platforms have generated a great opportunity for the emergence of media alternative to mainstream outlets, thereby allowing for the dissemination of information and for addressing relevant issues with greater freedom. If these ventures manage to remain independent, and consolidate their funding, they can be a continuous source of adequate and reliable information.
<b>THREATS</b>	A great threat to freedom of expression is that experienced by the country in recent years, stemming from its unstable political situation. The three branches of government are struggling to hold as much power as possible. A disruption in the very delicate balance of current forces may completely alter the status of freedom of expression.

## 2.18.2 PERU 2020-2021

PERU	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>69,85</b>
REALM A: "Citizens free to express themselves"	23,00	18,71
Information flow	11,00	7,57
Free speech	12,00	11,14
REALM B: "Exercise of journalism"	10,00	7,43
REALM C: "Violence and impunity"	42,00	21,57
Protection	5,00	0,86
Persecution	7,50	5,43
Impunity	8,50	1,00
Registered violence	21,00	14,28
REALM D: Control over the media	25,00	22,14
Direct control	19,00	16,43
Indirect control	6,00	5,71

Chapultepec Index on Freedom of Expression and the Press 2021



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

PERU	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	1,11	1,07	1,27
REALM A: "Citizens informed and free to express themselves"	0,36	0,50	0,36
REALM B: Exercise of Journalism	2,43	1,86	2,86
REALM C: Violence and Impunity	1,43	1,62	1,52
REALM D: Control over the media	0,21	0,29	0,36

Type of Influence	Points
SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Peru: Freedom of expression is breaking through

### Executive Summary

The results for the period under study show a slight improvement in freedom of expression and the press. The initial months reviewed were marked by a high political instability. This, along with the pandemic, presented difficulties for a correct flow of information. The final months of the period coincided with a presidential election campaign in progress, which posed challenges for news coverage. While freedom of expression shows very low levels of restriction, the structural issues threatening it remain in the country.

## INTRODUCTION

The period under study for this report continued with the characteristics of instability detailed last year, which generates difficulties for the exercise of journalism and to achieve higher levels of freedom of expression. During the second semester of 2020, the political crisis worsened, in addition to the healthcare and economic crisis caused by the COVID-19 pandemic. This brought about great social instability.

In that semester, the confrontation between the Executive and Legislative ended with Vizcarra leaving the presidential office in November and President of Congress Manuel Merino taking over. This was viewed by a large section of the population as a covert coup d'état. Protests erupted in different cities of the country. They were harshly repressed, but resulted in the resignation of Merino after six days in office.

The priorities of President Sagasti's interim government were to reestablish some stability, procure COVID-19 vaccines, start a mass vaccination rollout, and organize the 2021 presidential and legislative elections, while dodging new threats stemming from his vacated congressional office. Elections were held in April and the run-off vote for president in June, in a highly polarized contest that caused further instability.

In this context, the work of the press was conducted always amidst frictions with the different branches of government; but it also played a loosely defined role regarding the country's powers that be. Despite all this, the perception obtained in this study with respect



to freedom of expression and the press places Peru in a status of low restriction, analogous to that obtained in the previous period.

Although journalists had tough times doing their job – primarily on the days of the brief Merino government and during the campaign for the second round of elections – in general there were few institutional attempts to restrict its exercise. These difficulties came mostly from more personal actions and, in some cases, from the news companies themselves.

## **Results analysis on institutional environments: Slight influence in an ongoing crisis stage**

During the period under study, the feeling among those who participated in the study is that the situation with respect to freedom of expression and the press in Peru has improved. Although, both last year and in the current year, a slight influence of the Legislative, Judicial and Executive environments is noticed, the current indicators show a considerable improvement regarding last year.

While Peru has fallen back to the seventh position among countries surveyed, the result of 69.85 points out of a possible 100 is a slight improvement compared to the 67.8 last year. There is a feeling of mild influence and low restriction in all environments and almost all realms, while in the previous period there were several areas showing a moderate negative influence.

The Legislative environment shows an extent of influence at 1.11 points, which responds to the different realities of the relationship between the press and the members of the Congress of the Republic. Unlike last year, there were no attempts to introduce draft bills or regulations that would curb freedom of expression and the press, which produces a perception of mild influence.

During the pandemic, and in the period surveyed, the greatest difficulties between the press and the Legislature stemmed from certain restrictions on access to information. However, in general, the degree of influence was lesser than in the previous period. Even a certain section of the press was part of a campaign to broadcast news and alleged evidence that allowed the Legislative to impeach President Vizcarra in November 2020 (Cuarto Poder, 2020; Mella, 2020).

The degree of influence of the Judicial environment is the lowest in Peru's case, with an index of 1.07 points, which is also a significant progress against last year. This result is striking because one of the most common problems for the exercise of freedom of the press is the frequent threat of legal action against journalists, as well as the defamation lawsuits brought against them and admitted by several courts. Undoubtedly, this becomes a way of deterring the job of news professionals.

In its report for 2020, the Office of the Human Rights of Journalists (Oficina de los Derechos Humanos del Periodista, OFIP) of the National Association of Journalists of Peru (Asociación Nacional de Periodistas del Perú, ANP) reported that 29 instances of judicial intimidation had gone on record that year, not counting those filed in previous years, which continue to threaten news professionals (OFIP, 2020). In the report for the first three months of 2021, the same office totaled eight new court actions (OFIP, 2021b).

While the above does not necessarily result in penalties for members of the press, it does mean devoting resources and a lot of time to legal proceedings. The stress caused by this is added to the challenging emotional state caused by the health and economic crisis that the country is experiencing, which undermines journalists' work. It is important to point out that this reality is more frequent in regions outside the capital, where institutional support for the press is weaker.

The Executive is the one that shows the highest degree of influence of the three environments, at 1.27 points. Although this keeps it at a slight level of influence, it is noteworthy that, in the previous period, it was the environment with the least unfavorable influence. Our review of this Executive environment means considering three different moments in the period under analysis: First, the final months of President Vizcarra during the peak of the first wave of COVID-19; secondly, Manuel Merino's brief term in the presidential office; thirdly, that of President Sagasti's transitional government.

President Vizcarra's last months in office were marked by a mounting tension in his relationship with the media. During the early stages of the pandemic, when press conferences were constantly called, this relationship began to change when the measures did not yield the expected results. Subsequently, press access to his addresses and activities was increasingly restricted. The few days that Manuel Merino held the presidential office were known by constant protests and severe police repression. In those six days, 28 attacks on members of the press were reported (OFIP, 2020).

The final months of the period surveyed encompassed the beginning of the vaccination rollout and the campaigns for presidential and congressional elections, during which the Executive maintained independence and guaranteed freedom of expression, to such an extent that it did not even step in when certain sections of the press disseminated fake or distorted news, both regarding COVID-19 vaccines and the electoral process.

## **REALM A: Free expression in mainstream and alternative media**

One of the best indicators for the study period is in the realm assessing the extent to which informed citizens are free to express themselves, at 18.71 points out of a possible 23. This is a slight improvement compared to the good level also observed in the previous period. The level of influence of the environments regarding this realm is one of the lowest.

The sub-realm of Free Speech shows significant progress regarding the previous period, achieving 11.14 points out of a possible 12. Citizens, as well as people devoted to independent journalism, have enjoyed freedoms, with brief moments of restrictions mentioned above. It is worth noting the growth of social media and alternative websites as sources of information for the citizens, especially for those most socially and politically active.

The sub-realm of Information Flow, although it still shows a result at adequate levels, is the only one that regresses with respect to the previous period. This is not only due to certain restrictions on access to information encouraged by the government, but also to the position of a significant section of the media in the final months of the period surveyed. Journalists who did not agree with the requirements of the newspaper companies where they worked were dismissed, which led to a complaint before the Peruvian Press Council's (Consejo de la Prensa Peruana) Ethics Court (Tribunal de Ética, 2021).

## **REALM B: Exercise of journalism under foreign and domestic influence**

The Exercise of Journalism has achieved a slightly lower score than in the previous period. Although the levels of influence are slight, this realm is, as last year, the one obtaining the least favorable numbers. The levels of influence are at the upper bracket; even the Executive environment is deemed to have a moderate level of influence.

We cannot fail to associate this realm with what was commented in the previous sub-realm, where the exercise of journalism has had to deal not only with health restrictions, the dangers inherent to work in time of pandemic, political instability, and repression. These factors put news professional's work at risk, amidst restrictions within from media outlets themselves.

In a country with a large concentration of media in the hands of one company, some layoffs and forced resignations of producers, directors, and journalists were notorious, in what was seen as an attack on the right to information (Redacción ANP, 2021). However, the indicators do not reflect this problem, marking rather a negative influence from the Executive environment.

It is also noteworthy that the score with the least influence is the Judicial environment. This is a branch of government where news workers are often posed obstacles to practice journalism, or that is used to hinder or threaten certain investigations, as we will see in the next realm.

## **REALM C: Times of violence and impunity**

The realm of Violence and Impunity against free speech in Peru obtains the lowest results of all the realms, with 21.57 points out of a possible 42, placing the country in the 11<sup>th</sup>

position for this category. Although against the previous period, this score represents an improvement, it cannot be denied that the current period has been one of increased violence against the exercise of journalism and freedom of expression.

We have mentioned above the enormous number of aggressions experienced by staff who were reporting the November protests. We must also underscore the violence against the press from various places during the electoral process, including supporters of several presidential candidates (DW, 2021; IPYS, 2021b, 2021a; Panorama, 2021). A report by the ANP totaled 19 physical and verbal aggressions and 22 threatening or harassing actions during the campaign (OFIP, 2021a).

Although the figures yielded during this review indicate only a slight influence of the environments, it cannot be overlooked that, from the Executive and especially from the Judicial environment, conditions are set so that there is a certain impunity for actions against freedom of expression. This year, the use of lawsuits has continued as a method to stop whistleblowing and the work of journalists (IPYS, 2021c; Nalvarte, 2020), while the government shows little interest in protecting them (Nalvarte, 2021).

## **REALM D: Control comes from within**

The results for the realm of Control over the Media are the most favorable of the study for Peru. With 22.14 points out of a possible 25, Peru is in a state of full freedom of expression, holding the fifth place among the countries analyzed. The Executive environment is the most influential, but at very low levels.

Despite certain difficulties in access to information, and repression during some stages of the period under study, the media have achieved a great deal of independence regarding their publications. The political situation has led them to take positions openly – something that, albeit visible in local and regional media, now was more clearly noticed in press with nationwide circulation or broadcast media based in Lima. It has been notorious that when information has been biased or questionable, the media have chosen not to be accountable or comply with resolutions, but cry wolf for persecution (América Televisión, 2021; Willax, 2021).

In any case, what we notice is that the control over the media on what they publish comes from their own inner workings, with journalists who must align themselves with the stance of management, or they are relieved of their position. The most notable case happened in one of the most prestigious TV news shows, which changed its hosts five times in the last six months, and whose main journalists stopped working there during the presidential campaign (Mella & Prado, 2021).

## CONCLUSIONS

The state of freedom of expression and the press in Peru continues to be very favorable, despite critical situations that have been experienced due to the health crisis, the political crisis, and that stemming from the elections. Although it is necessary to strive for improvement, there are no conspicuous actions from the national government to undermine the information flow and access to data. The situation is somewhat more difficult in the more remote regions; but in general, when information has been requested – by the media or by citizens – and the right to access it has been claimed, in most cases the objective has been achieved, although with some delay.

The pandemic-triggered contingency of generalized lockdown encouraged the growth of alternative media, websites, newscasts available on Internet, and the emergence of podcasts and groups accessing and disseminating information. This generates information flows outside the mainstream media. This has allowed citizens to get news, but also to find ways of expressing their own thoughts. In view of these developments, the Government has not made any attempt to limit these sources and activities through regulations or specifically targeted actions.

The nation's institutional fabric allows the exercise of the freedom of the press without many restrictions; but, at the same time, it grants few guarantees and protection to those who dedicate themselves to this duty. The slow and corrupt judicial system can be used to curb the work of the press, laws provide little protection for journalists, and source confidentiality will depend on the legal counsel that a news company can retain when required to reveal them.

In certain regions, the forces and groups of power meant to protect free speech often turn out to be the ones who have committed outrageous acts, especially when investigations have exposed corruption or abuse by the authorities. However, we must point out that all this, as well as the requirements to reveal sources of information have decreased compared to the previous period under study.

There have been some interventions on and closures of media outlets, mainly in regions outside the capital, as part of lawsuits brought against journalists and / or owners of those media. This is the most common method used by certain branches of government to undermine possible allegations of corruption or abuse of power. Even so, these actions are regarded more as individual and personal maneuvers, rather than as a systematic pattern of the government structure.

The great threat to freedom of expression, and above all to access to adequate information, has come from the powers that be, from the media conglomerates and from conservative circles. The dissemination of information mixed with fake or distorted news has increased not only in social media and online outlets, but has also been present in the mainstream me-

dia, leaving citizens in a situation that could lead them to disinformation, or to disbelief in fact-based information.

## REFERENCES

- América Televisión (2021). *Comunicado sobre Resolución Tribunal de ética*. Twitter. [https://twitter.com/americanatv\\_peru/status/1410036662801940484/photo/1](https://twitter.com/americanatv_peru/status/1410036662801940484/photo/1)
- Cuarto Poder (2020). *Vizcarra sobre imágenes con Camayo: “Yo no reconozco esa foto.”* América Televisión. <https://www.americanatv.com.pe/noticias/actualidad/vizcarra-sobre-imagenes-camayo-yo-no-reconozco-esa-foto-n427519>
- DW (2021). *Agreden a periodistas en evento de Pedro Castillo*. <https://www.dw.com/es/perú-agreden-a-periodistas-en-evento-de-pedro-castillo/a-57603722>
- IPYS (2021a). *Equipos periodísticos del canal ATV sufrieron acoso, agresiones e insultos en violenta manifestación*. <https://ipys.org/libertad-de-expresion/alertas/peru-equipos-periodisticos-del-canal-atv-sufrieron-acoso-agresiones-e-insultos-en-violenta-manifestacion>
- \_\_\_\_ (2021b). *Ex militares agreden e insultan a periodista en manifestación contra el resultado electoral*. <https://ipys.org/libertad-de-expresion/alertas/peru-ex-militares-agreden-e-insultan-a-periodista-en-manifestacion-contra-el-resultado-electoral>
- \_\_\_\_ (2021c). *Lider de partido político demanda a periodista y exige 30 millones por supuesta difamación*. <https://www.ipys.org/libertad-de-expresion/alertas/peru-lider-de-partido-politico-demanda-a-periodista-y-exige-us-30-millones-por-supuesta-difamacion>
- Mella, R. (2020, December). *Medias verdades, enteras falsedades*. IDL-Reporteros. <https://www.idl-reporteros.pe/medias-verdades-enteras-falsedades/>
- \_\_\_\_, R., & Prado, C. (2021, June). *Purga en América Televisión y Canal N*. IDL-Reporteros. <https://www.idl-reporteros.pe/purga-en-america-television-y-canal-n/>
- Nalvarte, P. (2020, October). *Periodista peruana enfrenta nueva demanda de difamación y denuncia campaña de desprestigio en su contra*. *LatAm Journalism Review*. <https://latamjournalismreview.org/es/articles/periodista-peruana-enfrenta-nueva-demanda-de-difamacion-y-denuncia-campana-de-desprestigio-en-su-contra/>
- \_\_\_\_, P. (2021, April). *Fiscalía desestima investigar amenazas de muerte contra periodista de investigación peruana Paola Ugaz al tiempo que enfrenta otro proceso legal*. *LatAm Journalism Review*. <https://latamjournalismreview.org/es/articles/fiscalia-desestima-investigar-amenazas-de-muerte-contra-periodista-de-investigacion-peruana-paola-ugaz-al-tiempo-que-enfrenta-otro-proceso-legal/>



OFIP (2020). *Informe Anual - Ataques A La Libertad de Prensa 2020*. <https://es.scribd.com/document/489525087/Informe-anual-Ataques-a-la-libertad-de-prensa-2020?fbclid=IwAR1G1A4uChCC2g3rEASpPOZI7ubfkS8-D40DVcjQIViYVtNvvYsbxVaH2ts>

\_\_\_\_\_ (2021a). *Ataques a la libertad de prensa en el marco del proceso electoral 2021*. <https://es.scribd.com/document/517619106/Informe-Ataques-a-la-libertad-de-prensa-en-el-marco-del-proceso-electoral-2021?fbclid=IwAR2pyxbovTXN1OhXQK-mcDdyaxiDnmJjsKeKunU2hJIUV4E4-hMdxDb8teTc>

\_\_\_\_\_ (2021b). *Termómetro de Libertad de Prensa 2021 - OFIP - Enero Abril 2021*. [https://es.scribd.com/document/505948711/Informe-Termometro-de-libertad-de-prensa-2021-OFIP-Enero-Abril-2021?fbclid=IwAR3aobpIMpQFzv\\_aypakxC0aSKNFDFn-STUN5seHIBv\\_-Y-Y\\_2wH46\\_C4\\_1Q](https://es.scribd.com/document/505948711/Informe-Termometro-de-libertad-de-prensa-2021-OFIP-Enero-Abril-2021?fbclid=IwAR3aobpIMpQFzv_aypakxC0aSKNFDFn-STUN5seHIBv_-Y-Y_2wH46_C4_1Q)

Panorama (2021). *Simpatizantes de Perú Libre golpean salvajemente a periodista de Latina durante enlace en vivo*. <https://www.youtube.com/watch?v=1ONaWXVCZzg>

RedacciónANP(2021). *Pronunciamiento: alerta ante grave ataques al derecho a la información*. <https://www.facebook.com/ANPgreminodelaprensaperuana/posts/4023204854437740>

Tribunal de Ética (2021). *RESOLUCIÓN N.º 003-TdE/2021*. <http://tribunaldeetica.org/caso/caso-n-006-2021-grupo-la-republica-cpr-america-tv-y-ppi-canal-n/>

Willax (2021). *CONFERENCE: "En defensa de la libertad de prensa y expresión."* YouTube. <https://www.youtube.com/watch?v=FkQPm476Tr4>

## PERU

PERIOD SURVEYED

JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### SWOT Analysis

<b>STRENGTHS</b>	Peru has undergone stages of dictatorship, censorship, and bribery for favorable press. This always raises red flags among the population with respect to attempts at manipulation of information. Although the crisis caused by the COVID-19 pandemic and the constantly conflictive political scenario makes citizens weary, it is still a population that remains active and can respond to attempts at restricting freedom of expression, potentially coming from both extremes of the political spectrum, but also from within some media outlets.
<b>WEAKNESSES</b>	The weak institutional framework existing in Peru is a factor that affects in two opposite directions: On the one hand, it could become a danger for freedom of expression; but, at the same time, it could allow an excess of informative expressions that cross the boundaries of journalistic ethics and values. Whether unrestricted freedom will continue to be allowed or whether there will be attempts to curb it depends very much on the groups struggling for quotas of power, on their interests, and on how they handle the situations they are to face.
<b>OPPORTUNITIES</b>	The importance of using social media platforms had already been noted since last year. The pandemic-triggered lockdown led the population to search for news, and not only from traditional media. Web-pages, news sites, YouTube channels, and podcasts have become alternative news media, allowing the dissemination of information in a more fluid and diverse manner. Although this is restricted by Internet access – infrequent in the most remote and / or poorest regions – the option of multiple voices from different parts of Peru is growing and may continue to grow.
<b>THREATS</b>	The political instability experienced since 2016, which has worsened in the last three years, is the greatest existing threat to freedom of expression and the practice of journalism. In a country where positions have been radicalized, where the head Executive officer can be removed at any time, where Legislative representatives brazenly pass laws tailored to their personal agendas, where the Judiciary struggles to maintain its standards of corruption, and where the powers that be can lean towards any direction, activities in the country can remain in permanent tension for a long time, or change completely from one week to the next.

## 2.19.3 OVERVIEW

### Peru

As per **Peru's** results, it is in the group of countries exerting low restriction on freedom of expression, ranking 6<sup>th</sup> in the period 2019-2020 with 67.8 points and one position up for 2020-2021 with 69.85 points. In this country, the rights of Freedom of Expression and the Press are guaranteed; but some obstacles relating to access to information remain, especially in the last period analyzed, which coincided with the electoral schedule. This situation influenced political and legal stability.

Regarding Realm A, Informed Citizens Free to Express Themselves, the results obtained in both study periods remain similar, above 18 points. This shows that citizens can express themselves freely and that they keep themselves informed, both through mainstream and alternative media (social media and websites).

Except for specific cases, heard in the Ethics Court (Tribunal de Ética) of the Peruvian Press Council (Consejo de la Prensa Peruana) in 2020-2021, involving journalists who had been dismissed for disagreeing with the demands of the media outlets where they worked, the perception of Realm B, Exercise of Journalism, remains similar from one study period to the subsequent. In addition, it was affected by restrictions stemming from the measures to fight the [COVID-19] pandemic, situations of political instability, and repression. The results obtained in 2019-2020 were 7.6 and, in 2020-2021, 7.43 out of a maximum of 10.

The score obtained for Realm C, Violence and Impunity, shows an unfavorable climate for journalists in Peru, as there has been an increase in violence against the practice of journalism and freedom of expression, such as physical and verbal attacks, threats, and harassment of media professionals. These actions increase in severity for journalists working in regions other than the capital, including defamatory campaigns and even disappearances (Deysi Mina).

Realm D, Control over the Media, is where the country is highest rated, with 23 points in 2019-2020 and 22.14 in 2020-2021, out of 25, thereby reaching the level of countries with less control over journalists and the media. Generally, they have managed to perform their duties independently from the country's political climate. The media ecosystem is mainly composed of private outlets, for which advertising allocations from government agencies pose the greatest pressure. However, in the period 2020-2021, we could observe that the controls came directly from [media] editorial policies themselves.

The results regarding the influence of the environments on situations unfavorable to free speech reflect that this was moderate to slight (for some realms) in 2019-2020 and improved to slight for 2020-2021 in all [realms], with the sole exception of the pressure exerted by the Executive on the exercise of journalism. In this case, it amounted to a moderate influence, but well below the points obtained in the previous period.

## 2.20. UNITED STATES OF AMERICA

### 2.20.1 UNITED STATES OF AMERICA 2019-2020

UNITED STATES OF AMERICA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>49.6</b>
<b>REALM A: "Citizens informed and free to express themselves"</b>	<b>23</b>	<b>14.2</b>
Flow of information	11	7.4
Free Expression	12	6.8
<b>REALM B: Exercise of Journalism</b>	<b>10</b>	<b>5.0</b>
<b>REALM C: Violence and Impunity</b>	<b>42</b>	<b>8.0</b>
Protection	10	3.6
Persecution	15	1.6
Impunity	17	2.8
<b>REALM D: Control over the media</b>	<b>25</b>	<b>22.4</b>
Direct control	16	15.2
Indirect control	9	7.2

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

UNITED STATES OF AMERICA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	2.26	1.02	4.19
REALM A: "Citizens informed and free to express themselves"	4.08	1.39	6.02
Flow of information	3.60	1.60	5.85
Free Expression	4.56	1.19	6.19
REALM B: Exercise of Journalism	1.57	1.81	3.26
REALM C: Violence and Impunity	1.87	1.00	3.76
Protection	1.75	1.13	3.25
Persecution	3.85	1.63	8.03
Impunity	0.00	0.00	0.00
REALM D: Control over the media	1.58	1.00	3.71
Direct control	1.50	1.00	2.25
Indirect control	1.67	1.00	5.17

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

## **Hostile messages and actions by U.S. president aim to intimidate and silence journalists and news media**

### **Executive Summary**

The United States ranks 13<sup>th</sup> out of 22 nations in the Chapultepec Index of Freedom of Expression and the Press, with 49.6 points, 1.82 points below the global average (51.42) of a maximum of 100. The institutional action in the Legislative and Judicial environments was valued by experts to have “slight influence” in situations adverse to freedom of expression, while the Executive environment had a greater impact, being considered to have a “moderate influence.” This result reflects the effect of president Donald Trump’s attempts to intimidate journalists by describing them as “enemies of the State”, issuing comments to discredit the news media and accusing them of spreading “fake news”, threatening TV stations to take away their broadcast licenses, and intimidating social media platforms into making changes that match his political point of view.

## **INTRODUCTION**

This analysis covers the period from May 1, 2019, to April 30, 2020, which coincides with the third year of the presidency of Donald Trump.

Since the beginning of his presidential term on January 21, 2017, Trump has frequently stated that anti-defamation laws must be changed to apply to journalists critical of his government (something that has not happened), has described reporters as “Enemies of the State”, has launched a campaign to erode the reputation of the news media before the public opinion by classifying them as producers of “fake news”, and has criticized social media platforms for allegedly discriminating conservative opinions.

However, these types of statements or threats often conflict with the constitutional protections that exist in the United States.

The United States has a long history of protecting freedom of speech and the press thanks to the First Amendment to the Constitution. This amendment guarantees freedom of speech, religion and the press, and prohibits the establishment of laws that violate these rights. Historically, freedom of the press and expression have also been protected by the U.S. Supreme Court’s decisions, which have prohibited the application of prior censorship, and in





some cases have guaranteed the protection of anonymous sources in news coverage (History.com, 2017).

There have been advances in the protection of journalists so that they can do their work without restrictions, or with few limitations, and in general the State does not pressure the media to obtain favorable coverage.

There are also resources such as the Freedom of Information Act where journalists can request access to information from the federal and state governments. However, this does not automatically discourage attempts by the federal or state governments to try to limit access to information or even intimidate journalists.

Since the terrorist attacks of Sept. 11, 2001, national security has been a frequently used as a justification for subpoenaing journalists. The administrations of George W. Bush and Barack Obama used this justification in the cases of journalists Judy Miller (who spent 85 days in jail for failing to reveal a source in 2005 [BBC News, 2005]) and James Risen (who was found guilty of contempt of court and was threatened with being sent to jail in 2014 [LoGiurato, 2014]).

There is a concern that this confrontation between the government and the media could disrupt the free flow of information in the United States. This tension has continued during the presidency of Donald Trump.

Another example is the Espionage Act, which has been used to sue journalists or sources who have revealed secret or classified government information, such as Julian Assange (Savage, 2019) and Edward Snowden (Zapotosky, 2019 ). Both administrations of Presidents Barack Obama (2009-2016) and Donald Trump (2017-present) have used the Espionage Act to sue Snowden.

Most recently, on July 23, 2020, a county judge in Washington state ordered a newspaper and four television stations to turn over unpublished photographs and video footage of street protests to the Seattle Police Department. The argument of the police was that the images could help identify protesters who destroyed property during the protest, and thus the images could help them arrest the suspects (Elfrink, 2020). The media organizations appealed the judge's decision and the order was postponed. The final decision is in the hands of the Washington Supreme Court (Kamb, 2020).

Although the previously mentioned examples did not occur within the period studied, they are cases that help us to illustrate the tense relationship that may exist between the United States government and the exercise of the free press.



## Analysis of results

### Overall rating

With 49.6 points, out of a possible 100, the United States ranks 13<sup>th</sup> out of 22 countries in the Chapultepec Index that measures the impact of institutional actions on freedom of expression and the press in the hemisphere. The United States along with eight other countries were categorized as nations with “partial restrictions” on free speech and the press because of the impact of institutional actions.

According to the experts consulted, the domain with the greatest impact was the Executive Domain, which had a “moderate influence” with 4.19 points. In comparison, the Legislative (2.26 points) and Judicial (1.02 points) domains were classified as having a “slight influence” in situations unfavorable to the freedom of speech.

### About the environments

Of the three environments analyzed, the Executive was the one that received the least favorable evaluation with 4.19 points, which places it in the category of having a “moderate influence” in situations adverse to freedom of expression and the press in the United States.

An example of the institutional actions of President Donald Trump are the lawsuits recently filed against three media outlets.

On March 8, 2020, the U.S. president's reelection campaign sued the New York Times, Washington Post, and CNN for defamation for publishing opinion pieces that criticized his administration. The action was considered an intensification of the confrontation that the president has had with the media since the beginning of his government (Wise, 2020).

According to legal experts cited in the story that appeared on the news website The Hill, these lawsuits are not likely to succeed because the standard in the United States for proving defamation is too high. However, these experts warn that this tactic could be used by influential political figures to intimidate the press.

Although the three aforementioned news media have economic resources to pay the expenses of judicial defense in the courts, there is fear that this type of lawsuit could be used to intimidate news organizations that have fewer resources to cover the cost of a lawyer who can defend them in court (Wise, 2020).

Trump regularly attacks the press, and frequently refers to journalists as “enemies of the state,” but these actions represented the first time that he has sued news organizations, and the president also warned that there could be more lawsuits in the future.

Social media platforms have also come under fire from President Trump, who is a regular user of Twitter and has more than 85.5 million followers (As of August 2020).

For example, on April 23, 2019, President Trump criticized Twitter for allegedly discriminating the views of conservatives and representatives of the Republican Party, and advocated for a “fairer” platform. Although he has also criticized other platforms and technology companies such as Google, Trump has offered no evidence to support his accusations (Reuters, 2019.)

In May of this year, Trump threatened to shut down Twitter after the social network placed a warning in two of his tweets alerting readers that the messages contained “questionable information” about voting by mail. These warnings are part of Twitter’s new policy of classifying information that may be false (Bond, 2020).

Another example of the institutional actions by the Executive Environment is the letter that the Trump re-election campaign sent to several television stations in five states that could have a decisive impact on the presidential election on Nov. 3, 2020.

In the letter, the Trump campaign asked stations to stop broadcasting a campaign ad criticizing Trump’s management regarding the coronavirus pandemic. The ad was produced by Priorities USA, a political organization that supports the candidacy of its Democratic rival Joe Biden. Failure to do so, the letter said, the Federal Communications Commission (FCC) would consider suspending the broadcast licenses of these stations (Shields, 2020). An expert quoted in the Bloomberg report explains that this action has no chance of succeeding since the ad is considered political information that is protected by the Constitution, and the government could not penalize the stations that broadcast it. However, the lawyer added that the intention of the letter was to intimidate the stations into limiting the broadcast of negative announcements about President Trump.

With regard to the Legislative (2.26 points) and Judicial (1.02 points) domains, institutional actions had a “slight influence”, according to the assessment of the experts consulted. Although they did not cite specific situations of how these environments affect freedom of expression and the press, recently in the United States there have been cases where judges have ordered the media to hand over photos and videos to the police.

## REALM A

This realm explores whether people are informed and free to express their opinions, and the experts consulted gave it 14.2 points out of a total of 23.

American people live in a country where their right to express themselves and to be informed is respected. In general, there are few restrictions to having access to information and journalists are free to write and cover the news with almost no restrictions. This is not to say that there are no challenges when reporting the news, as President Trump’s constant



criticism of the press and journalists adds pressure to the work they do. In this context, the experts considered that the institutional actions of the Executive Domain had a “strong influence” (6.02 points).

Regarding sub-realm 1, which evaluates actions in favor of the flow of information to people, the experts assigned 7.4 out of 11 points. Here, the impact of the actions of the Executive Environment stands out, which was considered to have “a strong influence” (5.85 points). This is because of threats issued by President Trump to television and digital media that could affect the flow of information.

With respect to sub-realm 2, which assesses whether the State creates possibilities for citizens to express themselves publicly, the experts also assigned 6.8 out of 12 points. Here, the Executive Environment also had the greater impact, which was labeled as having a “strong influence” (6.19 points).

Although there are no state provisions to increase criminal charges of defamation, slander and contempt, President Trump has sued three media outlets for defamation. This is the first time that the president has intensified his confrontation with the media by taking to the courts, despite the fact that the vast majority of specialists have said that these lawsuits are unlikely to succeed.

## REALM B

This realm explores whether the State guarantees the exercise of journalism, and the experts consulted assigned it 5 out of 10 points.

In general, the United States has clear laws that protect the intellectual property of journalistic content, it is not mandatory for journalists to be licensed or belong to an organization, and it is not necessary that they have a university degree, or even formal education to practice journalism.

However, historically there have been cases in which the State tries to pressure the media and journalists to reveal sources of information. In the period evaluated by the experts, no specific examples of these actions were cited. However, as mentioned in the introduction, on July 23, 2020, a Washington state judge issued an order for five news organizations to reveal photos and video images of street protests that have not been previously published.

The Judicial (1.81 points) and Legislative (1.57 points) environments were considered to have a “slight influence”, and the Executive Environment was considered to have a “moderate influence” (3.26 points).

## REALM C

This realm explores violence and impunity in the exercise of freedom of speech and the press. The experts consulted in the case of the United States assigned it 8 out of 42 points. This ranking is low if we compare the U.S. with other countries where there are documented cases of violence against journalists, such as Mexico (12 points) and Colombia (11.4). In this realm, the Executive Environment was classified as having a “moderate influence” (3.76 points), the Legislative (1.87 points) and Judicial (0.92 points) as having a “slight influence”.

In general, in the United States, the State does not favor the persecution of journalists and media outlets that publish criticisms of the government. However, some statements by the current president of the United States, members of his cabinet and influential conservative voices have been considered intimidating and even promoters of hatred toward journalists and the media. In sub-realm 1 of actions against persecution, the experts assigned the Executive Environment 8.03 points and rated it as having a “strong influence”. The Legislative Environment (3.85 points) was perceived as having a “moderate influence”, and the Judicial Environment (1.63 points) was classified as having a “slight influence”.

Sub-realm 2 explores actions for the protection of freedom of speech and the press. As previously mentioned, the First Amendment to the Constitution of the United States offers a strong defense of freedom of speech and the press.

During the period covered by this report, the experts did not cite specific examples. However, since May 25, 2020, when George Floyd, a black man, died after a police officer immobilized him and put his knee on his neck for more than eight minutes in Minneapolis, Minnesota, protests broke out in dozens of cities of the United States. During these protests, there were cases where the police arrested protesters after shouting slogans or criticizing the police, and on other occasions several journalists were temporarily detained and attacked by the law enforcement officers. In several of these cases, the arrests were considered illegal and state attorneys began investigations into the police actions (Editorial Board, 2020).

That was the case of a CNN reporter and his broadcast team who were detained for more than an hour on May 29, 2020 in Minneapolis. The arrest drew criticism, the journalists were released and the action forced the Minnesota governor to apologize for the police agents’ behavior (Grynbaum & Santora, 2020).

Another incident occurred on May 31, 2020, in New York when a Wall Street Journal reporter was physically assaulted by police officers despite identifying himself and following the instructions given by the officers. The Manhattan District Attorney’s Office announced an investigation into the assault (Scannell & Holcombe, 2020).

The influence of the environments was classified as follows: Executive (3.25 points) had “moderate influence”; and Legislative (1.75 points) and Judicial (1.13 points) had “slight influence”.



Sub-realm 3 explores actions against impunity, specifically the existence of legislation to aggravate penalties in cases of homicides of journalists, other types of crimes against journalists and the media, or if the State abides by international judgments or rulings to accept responsibility for crimes against journalists and the media, and repair damages to the victims. All domains received 0 points and were classified as no having an influence in this area.

## REALM D

This realm focuses on the control of the media and how it affects freedom of speech and the press. The experts consulted in this study assigned it 22.4 out of 24 points, a high figure that places the United States in the category of “full freedom of expression.” In this context, the Executive Environment (3.71 points) had a moderate influence, and the Legislative (1.58) and Judicial (0.46) environments had a “slight influence”.

In sub-realm 1 that explores direct control of the media, the United States scored 15.2 out of 16 points, also a high number. In the United States, the State does not really close, expropriate, or confiscate news organizations; nor applies additional taxes beyond what is already applicable under the law. In this study, the experts cite an example where the president threatened to withdraw the broadcasting license of several television stations, something that he cannot legally do since he does not have the power to implement it. All domains were classified as having a “slight influence”: Legislative (1.50), Judicial (0.25) and Executive (2.25).

Sub-realm 2 analyzes indirect control of the media. The United States received 7.2 out of 9 points. In general, the State does not apply pressure to technological intermediaries or suppliers of materials that affect the production of news content or prevent the dissemination of information. The experts consulted classified the Legislative (1.67) and Judicial (0.67) environments as having a “slight influence”, but this was not the case of the Executive Environment (5.17 points), which was placed in the category of having a “strong influence”.

There is a clear example of an institutional action during the period analyzed in which the Executive branch tried to exert indirect influence on a media outlet. On June 1, 2019, President Trump sent a message on Twitter suggesting the idea of boycotting the telecommunications company AT&T to penalize that company for the news content produced by one of its subsidiaries, the cable news channel CNN. Trump accused CNN of unfairly covering his government, producing “fake news” and transmitting a negative image of the United States. The attack is part of the strategy to criticize CNN since his government began (Grynbaum & Lee, 2019).

The article mentions that press freedom activists have warned of Trump’s attacks on the media and the message he sends abroad, where several autocratic regimes have begun to use the same language of “fake news” to suppress independent journalists and news organizations. Also, during the Trump administration, the Justice Department tried to block AT&T;





purchase of the Time Warner conglomerate, to which CNN belongs. In the end, the strategy was unsuccessful as a court decision approved the purchase (Grynbaum & Lee, 2019).

## CONCLUSIONS

Because the U.S. Constitution guarantees the right to freedom of speech and prohibits laws that restrict this right, the United States is a country where its citizens can express themselves freely and journalists carry out their functions in an environment that generally guarantees the free flow of information.

This does not mean that the relationship between the press and the State is free of tension and clashes. In the period analyzed for this report, the experts determined that in the United States there is a partial restriction of freedom of expression and the press. This distinction is primarily reflected in the institutional actions carried out by the Executive Environment.

Specifically, President Donald Trump has carried out a campaign to discredit and undermine the credibility of traditional news media. Trump frequently refers to journalists as “enemies of the state,” and accuses the news media of being sources of “fake news”.

Trump has used this strategy since he became president in 2017, but it reached its most serious point in March 2020 when the president’s reelection campaign sued for defamation two newspapers (New York Times and Washington Post) and a cable news channel (CNN) for publishing opinion articles criticizing Trump’s government.

Although most experts recognize that these types of lawsuits have a very low probability of succeeding and are quickly rejected by the courts, the objective of these actions was to intimidate journalists and the news media so that they do not publish negative information about the president. This attempt to intimidate the media is generally referred to in the United States as having a “chilling effect” in the work of journalists. There were also threats from President Trump to shut down or regulate Twitter, and promote a boycott of AT&T, the company that owns CNN.

It should be noted that although the president’s actions have not led to the closure of news organizations or the imprisonment of journalists, it would be important to determine whether the institutional actions have undermined the trust of citizens in the media. With regard to the Chapultepec Index, it would be relevant to analyze the impact of Trump’s presidency during the last year in office, and to study the following year, in case he is reelected in the presidential elections of Nov. 3, 2020. On the contrary, if there is a new president, it would be interesting to analyze what kind of impact the new president could have on the Chapultepec Index of Freedom of Expression and of the Press in a post-Trump period.

## REFERENCES

- BBC News. (2005, September 30). US CIA case reporter will testify. In: *BBC News*. Retrieved from: <http://news.bbc.co.uk/2/hi/americas/4296090.stm>
- Bond, S. (2020, May 27). Trump threatens to shut down social media after Twitter adds warning to his tweets. In: *NPR*. Retrieved from: <https://www.npr.org/2020/05/27/863011399/trump-threatens-to-shut-down-social-media-after-twitter-adds-warning-on-his-tweet>
- Elfrink, T. (2020, July 24). Judge orders Seattle Times, four TV stations to give photos, videos of protests to police. In: *The Washington Post*. Retrieved from: <https://www.washingtonpost.com/nation/2020/07/24/seattle-times-protesters-police-subpoena/>
- Grynbaum, M. and Lee, E. (2019, June 3). Trump suggests a boycott of AT&T to punish CNN. In: *The New York Times*. Retrieved from: <https://www.nytimes.com/2019/06/03/business/media/trump-att-boycott-cnn.html>
- Grynbaum, M. and Santora, M. (2020, May 29). CNN crew is arrested on live television while covering Minneapolis protests. In: *The New York Times*. Retrieved from: <https://www.nytimes.com/2020/05/29/business/media/cnn-reporter-arrested-omar-jimenez.html>
- History.com editors (2017, December 4). First Amendment. In: *History.com*. Retrieved from: <https://www.history.com/topics/united-states-constitution/first-amendment>
- Kamb, L. (2020, August 20). State Supreme Court grants reprieve to Seattle news outlets in police subpoena case. In: *The Seattle Times*. Retrieved from: <https://www.seattletimes.com/seattle-news/state-supreme-court-grants-reprieve-to-seattle-news-outlets-in-police-subpoena-case/>
- LoGiurato, Brett. (2014, August 27). Why the Obama administration wants this journalist in jail. In: *Business Insider*. Retrieved from: <https://www.businessinsider.com/james-risen-case-obama-journalism-press-freedom-2014-8#ixzz3l4DFP3FU>
- Reuters (2019, April 23). Trump criticizes Twitter in tweet, urges 'fairer' social media. In: *Reuters*. Retrieved from: <https://www.reuters.com/article/us-usa-trump-twitter/trump-criticizes-twitter-in-tweet-urges-fairer-social-media-idUSKCN1RZ171>
- Savage, C. (2019, May 23). Assange Indicted Under Espionage Act, Raising First Amendment Issues. In *New York Times*. Retrieved from: <https://www.nytimes.com/2019/05/23/us/politics/assange-indictment.html>
- Scannell, K, and Holcombe, M. (2020, June 2). District attorney to investigate alleged assaults of WSJ reporter by NYPD officers during protests. In: *CNN.com*. Retrieved from: <https://edition.cnn.com/2020/06/02/media/wall-street-journal-assault-nypd-protest-investigation/index.html>

Shields, T., Epstein, J., y Parker, M. (2020, March 26). Trump campaign's threat on TV licenses may be mostly bluster. In: *Bloomberg*. Retrieved from: <https://www.bloomberg.com/news/articles/2020-03-26/trump-campaign-s-threat-on-tv-licenses-may-be-mostly-bluster>

The Editorial Board. (2020, June 2). In America, Protest is Patriotic. In: *New York Times*. Retrieved from: <https://www.nytimes.com/2020/06/02/opinion/george-floyd-protests-first-amendment.html>

Zapotosky, M. (2019, September 17). Justice Dept. sues for proceeds from Edward Snowden's book. In: *Washington Post*. Retrieved from: [https://www.washingtonpost.com/national-security/justice-dept-sues-for-proceeds-from-edward-snowdens-book/2019/09/17/8f08356e-d96e-11e9-a688-303693fb4b0b\\_story.html](https://www.washingtonpost.com/national-security/justice-dept-sues-for-proceeds-from-edward-snowdens-book/2019/09/17/8f08356e-d96e-11e9-a688-303693fb4b0b_story.html)

Wise, J. (2020, March 8). Trump escalates fight against press with libel lawsuits. In: *The Hill*. Retrieved from: <https://thehill.com/homenews/media/486273-trump-escalates-fight-against-press-with-libel-lawsuits>

## UNITED STATES OF AMERICA

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Thanks to the First Amendment of its Constitution, the United States has solid statutes protecting freedom of expression and the press. This body of law sets boundaries to the restrictions and limits that can be imposed by the government. The Supreme Court has also issued precedent-setting rulings regarding protection of news sources, ban on prior censorship, and stringent criteria for defamation lawsuits. With the rise of the Internet and social media, new outlets have emerged to enrich consumers' news choices.
<b>WEAKNESSES</b>	An issue of concern in the United States is the rise of media outlets that promote extreme, racist, and neo-Nazi views. There is no legal framework to effectively regulate or limit the spread of such views, and it is a subject of academic debate. The freedoms enshrined by the First Amendment to the Constitution also make it difficult to regulate some types of opinion that promote racism and violence against minority groups in the United States. Additionally, there is no legal framework to prevent the dissemination of inaccurate information on social media. Since social media are private companies, it is extremely difficult for the State to enact regulations, thereby resting with these companies the responsibility for restricting the spread of fake news. So far, such companies as Facebook have put in place some guidelines that have been partly effective in limiting the spread of false information.
<b>OPPORTUNITIES</b>	With the rise of misinformation on social media, there are also opportunities to analyze the most efficient ways to restrict the dissemination of fake news, as a form of false information. With respect to freedom of the press, there has also been an expansion of a business model whereby media outlets operate as a nonprofit organization. Such media as ProPublica, Center for Investigative Reporting, The Marshall Project, Texas Tribune, to mention a few, represent a new way of doing journalism without being bound to commercial interests.

**THREATS**

Freedom of expression and the press has been threatened by political leaders such as the president of the United States, who has used his position to discredit the media, as well as criticize and threaten journalists by fueling a notion among the public opinion that sheds doubt on the veracity of news. The term fake news is used to label information that does not conform to the president's political interests. This strategy has been successful to some extent, since the president's followers – such as politicians and even ordinary citizens – use this argument to intimidate and undermine journalists in the fulfillment of their duties. The term has even been adopted by authoritarian leaders in other countries, who use it for the same purpose – to attack the press and journalists. In addition, both the president and his political allies have filed lawsuits against specific communications corporations, media outlets, and journalists, which, far from succeeding, represent attempts at preventing the dissemination of information and news.

## 2.20.2 UNITED STATES OF AMERICA 2020-2021

USA	Index	Index
Chapultepec Index	100,00	61,57
REALM A: "Citizens free to express themselves"	23,00	14,00
Information flow	11,00	5,71
Free speech	12,00	8,29
REALM B: "Exercise of journalism"	10,00	6,29
REALM C: "Violence and impunity"	42,00	19,14
Protection	5,00	2,71
Persecution	7,50	4,57
Impunity	8,50	1,93
Registered violence	21,00	9,93
REALM D: Control over the media	25,00	22,14
Direct control	19,00	16,43
Indirect control	6,00	5,71

Chapultepec Index on Freedom of Expression and the Press 2021





## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

USA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	1,77	0,85	2,65
REALM A: "Citizens informed and free to express themselves"	2,43	1,21	3,00
REALM B: Exercise of Journalism	3,29	1,71	5,57
REALM C: Violence and Impunity	1,38	0,48	2,05
REALM D: Control over the media	0,00	0,00	0,00

Type of Influence      Points

SLIGHT INFLUENCE	0,1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## United States: protests test freedom of the press

### Executive Summary

The United States ranks 10th out of 22 nations in the Chapultepec Index of Freedom of Expression and Press, with 61.57 points; that is, 5.96 points above the global average (55.61) of a maximum of 100. Institutional action in the Legislative and Judicial environments was valued by experts with a “slight influence” in situations adverse to freedom of expression, while the Executive environment had a greater impact, having a “moderate influence”. This result reflects the effect that the actions of former President Donald Trump and the transition to the new government of Joe Biden had; The impact of police actions against journalists who covered the protests that occurred in the wake of the deaths of Afro-American citizens at the hands of police officers; and the attacks suffered by journalists during the attack on the U.S. Capitol. USA. on January 6, 2021.

## INTRODUCTION

This analysis covers the period from July 2020 to August 2021, which coincides with the last six months of Republican Donald Trump’s presidency and the first six months of Democrat Joe Biden’s administration. As described in the report on the United States to the 76th IAPA General Assembly (October 21-23, 2020), the U.S. has just passed through one of the most turbulent periods in its history with regard to freedom of expression and of the press. The death of Afro-American citizen George Floyd at the hands of a police officer on May 26, 2020 in Minneapolis, Minnesota, sparked an unprecedented wave of protests across the country to demand an improvement in the judicial system when it comes to prosecuting police officers suspected of killing ethnic minorities, especially the African-American community. The protests continued in the wake of the deaths of several black people that occurred in the aftermath of Floyd’s murder.

The U.S. Press Freedom Tracker recorded hundreds of assaults by police on journalists covering these protests, including actions such as physical assault, temporary detention, destruction and confiscation of news equipment. Police departments also filed lawsuits to request photographs, videos and other information collected by journalists during coverage of these demonstrations, but most of those requests did not succeed.

The political environment was also heated with an intense political campaign –some-what limited by the coronavirus pandemic– between the at the time President Donald Trump and candidate Joe Biden. Biden’s victory was not recognized by Trump and his supporters, and this conflict reached its highest point during the January 6, 2021 insurrection at the U.S. Capitol in Washington D.C. That day, Trump’s supporters violently interrupted the session of Congress that was scheduled to certify Biden’s victory. A mob managed to force their way into the Congress headquarters, and several deaths occurred in the clash with security agents. Several journalists who were covering the event were assaulted and injured by Trump supporters, and in some cases their equipment was damaged.

The United States is a country where the protection to the freedom of speech is grounded in the Constitution, and there is an extensive list of laws and judicial precedents that guarantee freedom of the press. However, the assault on journalists who covered the protests put this right to the test.

The Chapultepec Index on Freedom of Expression reflects this tension by ranking the United States 10th, with a score of 61.57 out of 100. This number places it as a country where there is a “low restriction” on freedom of the press and expression.

## Analysis of results

With 61.57 points, out of a total of 100 possible, the United States occupies the 10th position of 22 countries in the Chapultepec Index that measures the impact of institutional actions on freedom of expression and freedom of the press in the hemisphere. This places it as a country with “low restriction” for the exercise of both rights. For comparison, the region’s global average was 55.61, with Uruguay (84.10), Chile (82.06) and Jamaica (78.36) occupying the top three spots, and Nicaragua (17.20), Cuba (11.11) and Venezuela (5.71) occupying the last three positions.

The experts consulted attribute this situation mainly to the Executive, with a “moderate influence” of 2.65 points. In comparison, the Legislative environment (1.77 points) and the Judicial environment (0.85 points) were placed in the category of “mild influence” in situations unfavorable to freedom of expression.

An example of the influence of the executive system is the case of Michael Cohen, the former lawyer of former President Donald Trump. In July 2020, a federal judge ruled that Cohen had been transferred to federal prison, after serving a house sentence for jail, as a retaliatory measure for the publication of his book, which finally went on sale in September 2020 (Melendez, 2020).

Also during the summer of 2020 there were several attempts to prevent the publication of books critical of the government of Donald Trump. This is the case of the text written by

Mary Trump, the niece of the former president, who faced a lawsuit by the family to prevent the publication of the work, an action that also did not prosper (Haberman, 2020).

An example of the influence of the judicial system is the case of Seattle's Police Department in Washington state, which sued five media outlets to provide them with photos, videos and information about the coverage of the protests over George Floyd's death.

In July 2020, a judge ordered that the media must hand over the information to the police, a decision that was appealed. In August, the Washington Supreme Court suspended the judge's order, and finally on September 21, 2020, the police withdrew the request for information (Jordan, 2020).

Also during the coverage of protests over the deaths of Afro-American citizens, hundreds of journalists were detained and arrested while carrying out their work. Specifically, the U.S. Press Freedom Tracker recorded at least 133 arrests or detentions in 2020, a large increase compared to previous years. Although the pace of arrests slowed in 2021, according to the organization, the case of the detention of at least 15 journalists who were covering protests in March 2021 in Los Angeles was reported (Lincoln, 2021).

## REALM A

Realm A explores the conditions in which citizens are informed and free to express themselves, and the experts consulted assigned 14 points out of a total of 23, for a rating of "low restriction". Within this category, the sub-realm on the Information Flow received 5.71 points (out of a maximum of 11) and the Citizens free to express themselves received 8.29 points (out of 12). The influence of the environments was rated as follows: Executive 3.00 (moderate), Legislative 2.43 (mild), Judicial 1.21 (mild).

U.S. citizens live in conditions where their right to express themselves and be informed is respected. There are generally few restrictions on access to information and journalists are free to write and cover news with very few obstacles.

A change that demonstrates the improvement in the flow of information occurred with the arrival of Joe Biden to the presidency. The current president pushed for the return of the White House press secretary's daily press conferences. This custom was discontinued by former President Trump during the last year of his term. Also the rhetoric against the media and journalists, a common practice under Trump, has been discontinued by the Biden administration.

Regarding Trump and the right to free expression and flow of information, Twitter permanently suspended the former president's account on January 8, 2021, in the wake of his "support and encouragement of violent acts," specifically during the January 6, 2021 insurrection. According to the U.S. Press Freedom Tracker, Trump posted more than 600 anti-press

tweets during the last year of his administration, the highest number recorded by this organization of the former president's term.

A major development in the information flow occurred when a Minnesota trial court allowed the live broadcast of the trial of police officer Derek Chauvin, who was accused of murdering George Floyd. The trial began on March 29, 2021, on April 20 he was convicted of several counts of involuntary manslaughter, and on June 25 he was sentenced to 22.5 years in prison (Levenson, Sanchez, 2021). However, this type of informational openness was not always repeated in other states. In December 2020, a North Carolina judge denied journalists access to a trial of a white woman accused of assaulting two 12-year-old African-American girls. After several court proceedings introduced by the communicators, the judge allowed coverage of the trial (SIP, 2021).

## REALM B

This realm examines the conditions for the practice of journalism in the United States, and the experts consulted assigned it 6.29 points out of a maximum of 10. This classifies the country as a state where there are "low restrictions" on the practice of journalism. The influence of the environments was rated as follows: Executive 5.57 (strong), Legislative 3.29 (moderate), and Judicial 1.71 (mild).

However, 2020 was a particularly difficult year for journalism, especially during coverage of protests over the death of George Floyd. According to the U.S. Press Freedom Tracker, there were 133 arrests or detentions of journalists during the practice of their profession. This figure represented a considerable increase compared to the previous two years, according to the organization. Although that trend has slowed in 2021, in March 15 journalists were arrested during coverage of a protest by homeless people in Los Angeles. Most cases against journalists have been rejected by the courts, although there have been exceptions.

"In Iowa, prosecutors filed criminal charges against Andrea Sahouri, a journalist with the Des Moines Register, who was arrested while covering a protest last summer," describes the report on the U.S. presented at the 76th IAPA General Assembly. "Sahouri was accused of not dispersing and obstructing official acts. Fortunately, the jury acquitted her in early March, but it is troubling that prosecutors have followed her case," explains the report (SIP, 2021).

## REALM C

This realm explores violence and impunity in the exercise of freedom of expression and the press. The experts consulted in the case of the United States assigned it 19.14 out of 42 points, which places the nation in the category of "partial restriction". Three sub-realms help expand this analysis: protection and prosecution of journalists, and impunity for crimes com-

mitted against them. The influence of the environments was rated as follows: Executive 2.05 (mild), Legislative 1.38 (mild), and Judicial 0.48 (mild).

As previously stated, 2020 was one of the most difficult years for the practice of journalism in the United States. Hundreds of journalists were assaulted during coverage of protests over the death of Afro-American citizen George Floyd, and the deaths of other Afro-Americans that occurred afterward. For example, between April and September there were 148 physical assaults on journalists, according to the U.S. Press Freedom Tracker. This represented a significant increase compared to the previous two years, where 34 and 49 assaults were reported (SIP, 2020).

The Tracker also recorded a significant increase in physical assaults and arrests of journalists during that summer. There were at least 856 incidents where journalists were attacked with tear gas and pepper sprays, their equipment was damaged, and at least 118 were arrested as of October 2020. All these figures represent a significant increase over the previous year (SIP, 2020).

Another example of physical aggression towards journalists occurred on January 6, 2021, during the attack on the US Capitol by supporters of former President Donald Trump, who intended to overturn the results of the presidential election that gave Joe Biden victory. This time the attacks came from civilians and members of pro-Trump political groups. Journalists who covered the incident were threatened and assaulted, and at least nine incidents of assault were reported, according to the U.S. Press Freedom Tracker. The assailants wrote “death to the media” on the door of the Capitol in Washington, and destroyed news broadcasting equipment. Similar incidents of violence were reported in Portland, Oregon, and Charlotte, North Carolina.

With regard to the sub-realm of impunity, one of the most relevant cases was the murder of Washington Post journalist Jamal Khashoggi, which occurred on October 2, 2018 in Istanbul, Turkey. In February 2021, the Joe Biden administration decided not to sanction the person responsible for the journalist’s death, Mohammed bin Salman, the crown prince of Saudi Arabia. However, the Biden administration did release a report confirming bin Salman’s responsibility for the crime and announcing penalties for the crime against lower-ranking Saudi officials. This decision was “criticized by press freedom advocates in the United States and around the world,” according to the 2021 IAPA report.

## REALM D

This realm focuses on media control and how it affects freedom of expression and the press. The experts consulted in this study granted 22.14 out of 24 points to this section, a high figure that places the United States in the category of “full freedom of expression.” With regard to the influence of the environments, the experts consulted assigned 0 points to the





environments Executive, Legislative and Judicial, which means that they did not have an unfavorable influence.

In the sub-realm that explores actions that avoid direct media control, the United States obtained the highest ranking -16 points. The State doesn't really shut down, expropriate, or confiscate media outlets; nor does it apply tax excesses to news companies contrary to the government's official line. Previously, the Trump administration used to threaten the media with measures such as license suspensions and lawsuits, but those threats never prospered. The Biden administration has not resorted to such threats.

Regarding the sub-realm reflecting actions that avoid indirect media control, the United States received 5.7 of 9 points. In general, the State does not apply pressure to technological intermediaries or suppliers of inputs that affect the production of content or prevent the dissemination of information.

## CONCLUSIONS

Because its Constitution guarantees the right to freedom of expression and prohibits its laws that restrict this right, the United States is a country where its citizens can express themselves freely and journalists exercise their functions in an environment that, in general, guarantees the free information flow (Realm A). This is not to say that the relationship between the press and the State is free of tension and clashes. With respect to this situation, the Chapultepec Index assigned the United States 61.57 points out of a maximum of 100, qualifying it as a nation where there is a low restriction on the exercise of freedom of the press and expression. Of the three environments analyzed, the Executive had the greatest impact, with a moderate influence on freedom of expression and the press, while the Legislative and Judicial had a slight influence.

During the rated period from August 2020 to June 2021, the United States went through the transition from the government of Donald Trump -who was characterized by constant attacks against journalists and media- to the government of Joe Biden, who has been the opposite of his predecessor and has not focused on criticizing the media. An example of greater openness of the flow of information during the Biden administration was the return of White House press conferences, a tradition discontinued by Trump in the final year of his term.

However, the practice of journalism went through one of the most difficult years in its history. Journalists and media outlets were frequently assaulted (Realms B and C) during coverage of protests against the excessive use of police force towards Afro-American citizens. Hundreds of assaults, arrests and destruction of equipment were reported, as well as attempts to criminally punish dozens of journalists. Fortunately, none of these proceedings progressed and there were no convictions of journalists during the period under review.

There was also an increase in attacks on the press by citizens and political organizations linked to former President Trump. This was reflected during the attack on the US Capitol on January 6, 2021, where at least nine journalists were assaulted by civilians.

With regards to the direct and indirect control exercised by the state over the media (Realm D), the United States continues to be classified as a country where there is full freedom of expression and press, and the influence of the state is minimal.

In conclusion, the United States is a country where there is great freedom of expression and press. From a judicial point of view, attempts to penalize journalists and force them to disclose sources of information did not succeed.

But the country is not exempt from going through periods where freedom of expression and the right to inform maybe threatened. An example of this was the impact of the Trump administration on the exercise of the press, and the attacks on journalists carried out by police officers and civilians associated with political organizations. That is why press freedom activists and organizations must remain active to prevent a deterioration of this right.

## REFERENCES

- Haberman, Maggie (June 24, 2020). "Trump Family Asks Court to Stop Publication of Tell-All by President's Niece". The New York Times.
- Inter American Press Association (IAPA). "United States: 2021 Mid-year meeting, April 20-23".
- Inter American Press Association (IAPA). "United States: Report for the 76th General Assembly of IAPA October 21-23, 2020".
- Jordan, Caytlin (September 24, 2020). "Seattle Police Department will not force news outlets to turn over unpublished protest photos, videos". Reporters Committee for Freedom of the Press.
- Levenson, Eric; Sanchez, Ray. (June 25, 2021). "Derek Chauvin sentenced to 22.5 years in death of George Floyd". CNN.
- Lincoln, Ross A. (March 25, 2021). "Multiple Journalists Arrested While Covering Protests in Echo Park". The Wrap.
- Melendez, Pilar (July 23, 2020). "Judge Rules Michael Cohen Was Retaliated Against Over Trump Tell-All, Sends Him Home". DailyBeast.

## UNITED STATES OF AMERICA

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Strengths, weaknesses, opportunities and threats Analysis

<b>STRENGTHS</b>	Freedom of speech and the press is guaranteed in the U.S. Constitution, and there are decades of precedents and laws that protect this right. The State exerts little influence on the direction of the media, which are independent to work freely without fear of reprisals or punishment from the government.
<b>WEAKNESSES</b>	<p>The past three years have shown that extreme political tendencies, mainly right-wing, have managed to gain traction in the U.S. political landscape. For example, some state legislatures are passing laws that hinder the voting process and voter registration, weakening a fundamental part of the democratic system. If the trend continues, it is possible that these legislatures will try to pass laws that hinder the free information flow and allow the detention of journalists and confiscation of information materials.</p> <p>The strength and penetration of social media and its critical role in distributing disinformation remains a real threat in the United States, and the world. There are still no clear strategies to limit the distribution of this type of false information, something that weakens the veracity of the information consumed by the American audience.</p>
<b>OPPORTUNITIES</b>	Organizations such as the U.S. Press Freedom Tracker and Reporters Without Borders do an excellent job of preserving freedom of the press and expression. It is important to support these organizations and continue to create opportunities for such institutions to emerge to protect the right to the free information flow.
<b>THREATS</b>	The increase in rhetoric against journalists and media outlets that come from political personalities makes the environment for the practice of journalism more difficult. Increasingly, journalists are exposed to attacks, not only from police officers but also from civilians and political groups.

## 2.20.3 OVERVIEW

### USA

The rating for the **USA** in the Chapultepec Index of Freedom of Expression and the Press improved slightly in its second edition. It moved up three positions, from No. 13 to No. 10, from the Partial Restriction bracket to that of Low Restriction. In the first survey, the country was under the administration of President Donald Trump and *sui generis* tensions with the media and journalists arose; in the second, the period was divided between the last six months of the Trump administration and the first six months of Joe Biden's.

In Realm A, Informed Citizens Free to Express Themselves, the experts' assessment remained virtually unchanged, going from 14.2 to 14 out of a theoretical maximum of 23 points. For the sub-realms corresponding to this set of indicators, we can notice that, in the second edition of the Index, the respondents gave a higher value to the issues related to citizens' free speech, although there were still instances of tensions between the Executive and the press.

In Realm B, Exercise of Journalism, there was an evolution towards improvement from one study period to the other. In the first edition, the score in this item was 5 points out of a theoretical maximum of 10, while the answers obtained in the second measurement totaled 6.29 points. The differences between the Executive and newsmen, intensified by Donald Trump's tweets, were added to other instances of court actions, as well as arrests of journalists during coverage of protests. However, engagement practices against the press were partially eased with Joe Biden in the White House, translating into variations of the corresponding indicators.

Police attacks on journalists weighed heavily on the perceptions gathered during the first edition of the Index; but there was a substantial improvement in Realm C, Violence and Impunity, going from 8 points out of a theoretical maximum of 42 in the first study to 19.42 points in the second one. In this realm, the United States moved from the High Restriction bracket to that of Partial Restriction. Despite the rise, the perception of aggressions against journalists by bigots during the Capitol Hill events on January 6, 2021, as well as the impunity in the murder of Washington Post journalist Jamal Khashoggi, were contextual factors that influenced the rating.

In Realm D, Control over the Media, the USA has enjoyed its highest score in the two editions of this Index. In this country, officials remain respectful towards media activity, and this item showed stability in both iterations, with 22.4 points for the first period and 22.14 for the second, out of a theoretical maximum of 25 points. The government does not close, seize, or expropriate media outlets, nor does it exert direct or indirect pressure measures against media companies.

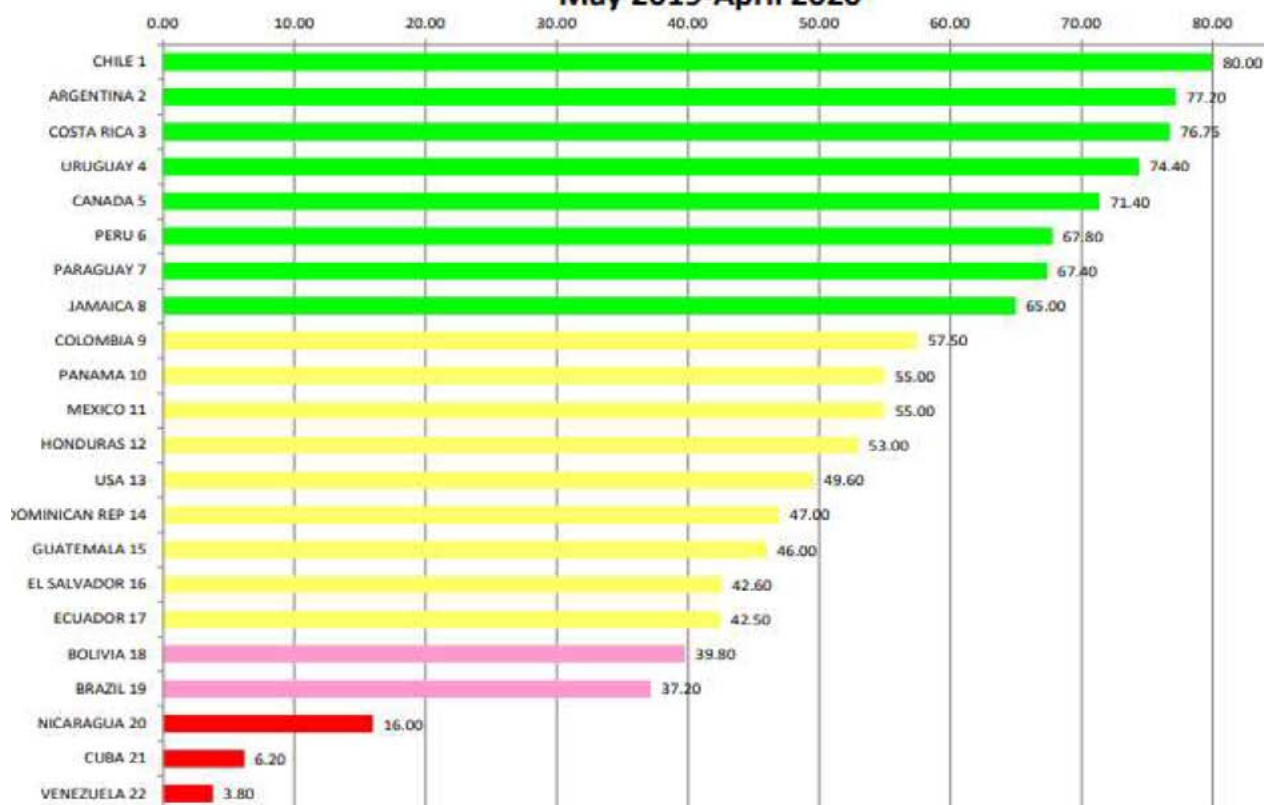
As for influence on situations unfavorable to freedom of expression, the Executive was the environment primarily involved in them during both periods, considered moderate to strong on some of the realms. This responds to the presidential narrative against the media, present at various times during both periods under study.

## 2.21. URUGUAY

### 2.21.1 URUGUAY 2019-2020

URUGUAY	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>74.4</b>
<b>REALM A: "Citizens informed and free to express themselves"</b>	<b>23</b>	<b>19.0</b>
Flow of information	11	8.0
Free Expression	12	11.0
<b>REALM B: Exercise of Journalism</b>	<b>10</b>	<b>9.0</b>
<b>REALM C: Violence and Impunity</b>	<b>42</b>	<b>25.6</b>
Protection	10	6.4
Persecution	15	13.6
Impunity	17	5.6
<b>REALM D: Control over the media</b>	<b>25</b>	<b>20.8</b>
Direct control	16	11.8
Indirect control	9	9.0

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

URUGUAY	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	1.25	1.25	2.21
REALM A: "Citizens informed and free to express themselves"	1.42	1.46	4.09
Flow of information	2.18	2.25	4.85
Free Expression	1.00	1.00	3.33
REALM B: Exercise of Journalism	1.80	1.70	1.70
REALM C: Violence and Impunity	1.50	1.50	1.50
Protection	1.00	1.00	1.00
Persecution	2.50	2.50	2.50
Impunity	1.00	1.00	1.00
REALM D: Control over the media	1.00	1.00	2.00
Direct control	1.00	1.00	4.00
Indirect control	0.00	0.00	0.00

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00



MEASUREMENT PERIOD. MAY 2019 - APRIL 2020

## Uruguay: Going back and forth on media regulation

### Executive Summary

With a rating of 74.4 points out of a total of 100 for the Chapultepec Index, Uruguay can be considered a country with a favorable climate for freedom of expression albeit certain partial restrictions, associated by experts with the moderate influence of the Executive's environment in view of the lack of clear rules for the allocation of government advertising, some obstacles regarding compliance with access to public information, tax provisions that disregard differences between the realities faced by the media in the capital city and across inland regions of the country, and a draft bill for a new Media Law, currently under discussion in the General Assembly, that promises changes in aspects related to freedom of expression are detailed herein.

## INTRODUCTION

The period of this study practically includes the inauguration of a new government in Uruguay. The results of the November 2019 national elections, with a very narrow margin of votes (48.8%; 47.3%), granted the presidency of the Republic to Nationalist candidate Luis Lacalle Pou, a result that marked the alternation in power from the leftist government represented by the *Frente Amplio* (Broad Front) party that was in its third consecutive term in office<sup>1</sup>. This alternation occurs in the country amidst greater confidence from citizens in the General Assembly [Legislative], the judicial branch and the political parties as the main institutions of democracy, in a context where overall approval ratings for democratic institutions are between 21% and 24% of 100 possible throughout the continent, the lowest levels of the last decade (Latinobarómetro, 2018).

In March 2020, the Office of the President declared a health emergency, as in most countries in the region, in response to the COVID-19 pandemic entailing a voluntary restriction of mobility under the responsibility of society (Centro de Información Oficial, 2020). In general, the media and journalists work in a climate of freedom in Uruguay, a country which strongly supports democracy as a political regime (LAPOP, 2018), with positive economic growth at an annual rate of 4.1% from 2003 to 2018 (IDB, 2019), a reduction of this rate to 1.6% as of 2018, albeit allowing 16 years of positive growth, a record in the history of the country (ECLAC, 2019), with a score of 70 points out of a possible 100, ranks 23<sup>rd</sup> in the Corruption Per-

1 1<sup>st</sup> term of President Tabaré Vázquez (2005-2010); José Mujica's term (2010-2015); 2<sup>nd</sup> term of President Tabaré Vázquez (2015-2020)



ceptions Index, three positions behind the United States and Canada (Índice de Percepción de la Corrupción, 2018).

The outgoing administration has achieved recognition for an improvement in institutional guarantees to freedom of expression (IACHR-RFOE, UN) by means of the establishment of a new institutional framework for regulating broadcasting services. In general, it has had a good relationship with the press, which has encouraged the exercise of journalism.

In spite of these advances, in 2018, the Organization of American States (OAS) Inter-American Commission on Human Rights (IACHR) Office of the Special Rapporteur for Freedom of Expression (RFOE) kept a record of reports from journalists' unions on continued layoffs and breach of agreements by various media outlets, a situation that was exacerbated in the wake of the COVID-19 pandemic. According to such reports, as of April 2020, over 300 media workers were on total or partial unemployment insurance.

At the statutory level, in April 2020, the new government introduced to the General Assembly a draft bill in order to repeal articles in the current law governing the media. If enacted, it could be conducive to situations discouraging free speech regarding the granting of licenses, access to public telecommunications networks, and allocation of airtime for electoral campaigns, among others, to be further detailed in this report.

## Analysis of results

### Overall rating

Uruguay ranks third in the Chapultepec Index 2020 among 22 countries from the hemisphere. With a rating of 74.4 points out of a total of 100, it boasts 22.98 points above the regional average (51.42). With this score, it can be considered a country providing a favorable climate for freedom of expression albeit with certain partial restrictions. This situation is similar to that of other Southern Cone countries, which are found among top positions: Chile (80 points), Argentina (77.2 points).

In the analysis of the environments, the Legislative, the Judiciary, and the Executive, appear as exerting a slight influence that in none of the cases exceeds 2.5 points. Regarding the realms reviewed, according to the experts surveyed, the environment that has the greatest influence on these restrictions is the Executive (4.09 points), namely on access to information for journalists on the part of the government as well as actions preventing direct control over the media.

Some academic research in the country (Universidad Católica del Uruguay, 2015) indicates that the Law of Access to Public Information (Ley de derecho de Acceso a la Información Pública) continues to be an instrument mostly for journalists and members of the General Assembly, still denoting an elitist nature in its use that has not been widened to the

citizenry in general. Furthermore, only 60% of the information generated by the agencies under this law is currently of public access.

Some civil society organizations and international bodies underscore that it is essential for the country to have a regulatory framework for the allocation of government advertising. These resources significantly disrupt the dynamics of the media ecosystem as government authority might be used to reward or punish the media for their editorial policies, especially the outlets across inland regions of the country that receive a tiny proportion of the total allocated. This action could be detrimental to the plurality of the media ecosystem and to freedom of expression.

## Analysis of environments

### Executive

The executive environment shows a moderate influence on Realm A, informed citizens free to express themselves, and D, control over the media.

The respondents indicate that the main obstacles to free speech are access to official sources, poor regulation on the allocation of government advertising, non-existent regulation of the Internet under the law in force, and the use of databases containing personal information under market rules. Other obstacles include weak institutional autonomy of the agencies tasked with enforcing the regulatory framework for communication services, and the levying of penalties on media outlets for not complying with restrictions on advertising for amounts sometimes placing them in an extremely vulnerable situation, especially across inland regions of the country.

### Legislative

For its part, the legislative environment exerts a slight influence on all realms. However, Realm A, sub-realm of free speech and Realm C, sub-realm of persecution, are rated over 2 points, moving towards a point in which they influence negatively on the average.

A possible reason for this score is the introduction to the General Assembly, on executive initiative, of a new media regulation bill this year, 2020. The proposal may change key provisions of the current law regarding the right to freedom of expression, such as license permits, mandatory percentage of national content produced by the media, distribution of frequencies for subscribers, airtime allocated to parties for electoral campaigns, regulation of discriminatory content, and those pursuant to the rights of children and adolescents.

## Judicial

The environment of the Uruguayan Judiciary was rated on average as having a slight influence. In spite of this, once again, the two sub-realms regarding information flow (2.25) and persecution (2.50) achieved the highest figures, which may represent a more unfavorable influence on freedom of expression.

Uruguay has experienced a slight increase in cases of minor threats to journalists' freedom of expression. On the other hand, the COVID-19 health emergency set a negative trend that the media ecosystem had been showing since 2018, namely a continuous loss of jobs. This makes journalists' professional practice more difficult, directly impairing the quality of the information circulating among and accessed by the citizens.

Finally, the levying of fines by the Communication Services Regulatory Unit (Unidad Reguladora de Servicios de Comunicaciones, URSEC) on media outlets found non-compliant with the provisions regarding advertising time allowed in broadcast media has fostered conditions conducive to high vulnerability for outlets, especially across inland regions of the country. This opens the possibility for media closures, which compromises the plurality of voices in the production and handling of information.

## REALM A: Informed citizens free to express themselves

The experts' assessment for this realm in Uruguay totaled 19 points out of 23 possible, obtaining high ratings for its two sub-realms, information flow, with 8 out of 11 points possible, and 11 out of 12 points possible for free speech.

Restrictions on citizen access to public information mostly stem from different problems posed by government agencies for providing public information. In 2017, the Unit for Access to Public Information (Unidad de Acceso a la Información Pública, UAIP), the law-enforcing regulatory body, received and processed 60 complaints for non-compliance by relevant entities; this figure rose to 75 in 2018 (unidad de acceso a la información pública, 2020). Similarly, such organizations as the Center for Records and Access to Public Information (Centro de Archivos y Acceso a la Información Pública, CAINFO) reviewed the use of this law in 2018, ten years after its enactment, and questioned the excessive amount of rulings based on Articles 9 and 10 thereof by the agencies, in exercise of their authority to declare the information requested confidential (Centro de Archivos y Acceso a la Información Pública, 2018). These two instances detailed above influence on discouraging free speech insofar as they hinder investigative journalism and the possibility for citizens to make informed decisions based on access to quality information.

With respect to Internet access by citizens, (Act No. 19307) Law on Audiovisual Communication Services (IMPO, 2014) ([Ley N.º 19307] Ley de Servicios de Comunicación Audiovisual, LSCA), enacted and regulated in 2014, is not binding on the Internet. In this sense, the



purchase and sale of databases containing personal information is not yet regulated and is conducted under free market laws (Larronda, 2019).

## **REALM B: Exercise of journalism**

In their assessment of this realm, the experts surveyed gave Uruguay 9 points out of 10 for this item, that is, almost full freedom.

In Uruguay's context, there are not many mechanisms for self-regulation of the journalists' profession and / or the media. It is worth mentioning the National Council for Advertising Self-regulation (Consejo Nacional de Autorregulación Publicitaria, CONARP), a non-profit organization whose objective is to ensure free and responsible communication in commercials (Consejo Nacional de Autorregulación Publicitaria, sf). With respect to the professional practice of journalism in the country, there is a Code of Ethics for Journalists with guidelines aimed at strengthening quality journalism as a voluntary self-regulation mechanism. This code is the product of a consensus between the Uruguayan Press Association (Asociación de Prensa Uruguaya, APU) that includes such workers linked to this field as journalists, camera operators, photographers, producers, presenters, hosts, announcers, and newspersons, and concerned civil society organizations in 2012. The LSCA currently in force incorporated the novelty of journalists' conscientious objection in its article 42 as suggested in the above code. It further recognized the provisions of the former (Act No. 16099) Press Law ([Ley N.º 16099] Ley de Prensa) (IMPO, 1989) of 1989, which guarantees the non-disclosure of the journalist's sources and the freedom of expression enshrined in the Declaration of Human Rights, as well as Act No. 18515 (Ley N.º 18515), which recognizes fostering journalists' activity as a matter of public interest. However, the law does not include any provisions regarding intellectual property to protect news content from plagiarism and improper use. It should be noted that the new government's draft media bill, currently under discussion in the General Assembly, proposes repealing Article 42.

## **REALM C: Violence and impunity**

In the realm of violence and impunity, the rating achieved by Uruguay was 25.60 out of a maximum of 42, showing, in this regard, a decline compared to other realms. With respect to the sub-realms of protection, persecution, and impunity, the scores were favorable for the first two – 6.40 out of 10; 13.60 out of 15 – and rather moderate for the third at 5.60 out of 17, resulting in a relatively low rating in terms of institutional action against impunity.

The sixth CAINFO report on Monitoring and Threats to Journalism and Freedom of Expression (Monitoreo y Amenazas de Periodismo y Libertad de Expresión) documented 18 complaints and instances of whistleblowing on free speech violations from April 2018 to March 2019. These cases were clustered in the country's capital and the top categories con-

centrating the most complaints were “threats”<sup>2</sup> and “denial of requests for access to public information”. Most cases of threats occurred in government offices, and the responsibility rested with officials or agencies. In the last three years, from April 2016 to March 2019, the number of cases documented in the above report decreased from 28 to 18, which also represented a progress in guarantees for the professional exercise of journalism.

No cases of murder, forced disappearance, arbitrary detention, kidnapping, torture, and abuse of government power went on record in the country, nor were any episodes reported to the police or justice system. Two cases of civil or criminal proceedings against journalists or media outlets, which were found for the respondent media or journalist, were documented in said report.

On the other hand, the same report highlights another relevant fact: Although Uruguay has had some problems regarding deterioration of the professional practice of journalism since 2018, such situation has worsened this year in the midst of the COVID-19 pandemic and consequential health emergency, where the figures of loss of jobs have risen exponentially. In April this year, the Uruguayan Press Association reported the loss of over 300 jobs – layoffs or unemployment insurance remittals, a phenomenon that directly affects the conditions of the exercise of journalism, the quality of information accessed by citizens, and freedom of expression.

## **REALM D: Control over the media**

The assessment for the realm of control over the media in the nation showed a low restriction, achieving 20.80 points out of a possible 25. In the sub-realm of direct control, Uruguay scored 11.80 out of a theoretical maximum of 16 points, while no questionable action was reported in the realm of indirect control, scoring the maximum 9 points possible.

LSCA Article 139, still in force, sets an advertising time limit of fifteen minutes for broadcast services. Failure to comply with this article, as well as those related to ownership, be it misdemeanors or serious offenses, are punishable by a monetary fine that could reach a maximum of 10,000 UR ([Unidades Reajustables] Constant Value Units, currently equivalent to \$30 per unit)<sup>3</sup>. In view of the fact that enforcing agency URSEC has levied some fines to broadcast TV outlets for non-compliance with advertising time regulation, the National Association of Uruguayan Broadcasters (Asociación Nacional de Broadcasters Uruguayos, ANDEBU) points to the risks of high amounts of fines for media across the interior of the country, since payment thereof might result in their definitive closure (Banerrecche, 2019).

Civil society organizations such as CAINFO, as well as the IACHR Office of the Special Rapporteur for Freedom of Expression, and the APU note the need for the country to have

<sup>2</sup> According to the report, this category comprises intimidation to journalists and their families, as well as to media outlets, aimed at preventing the release of contents.

<sup>3</sup> UR rate, as of September 2019, at 1,167 Uruguayan Pesos or \$32.



a regulatory framework regarding the allocation of government advertising. In 2019, a draft regulation made it into the General Assembly but did not obtain the necessary votes for approval in the Senate. This result highlights another concerns pointed by the experts, which are the lack of constitutional autonomy of those bodies charged with enforcing the regulations regarding government advertising and their low degree of independence from the Executive. Currently, the allocation of government advertising is conducted under discretionary criteria. Its percentage is very asymmetrical between the capital and the inland regions, as the latter only receive 5% of the total (Centro de Archivos y Acceso a la Información Pública, 2019). These problems significantly disrupt the dynamics of the media ecosystem and the government has no qualms in exerting discretionary powers to reward or punish the media for their editorial policies, a situation that poses an even greater threat in the interior of the country due to the small allocation received from the total. The absence of clear rules in this regard undermines the plurality of the media ecosystem and freedom of expression insofar as government advertising may constitute a mechanism for censoring the media by encouraging self-censorship in the exercise of journalism. Although the new administration took office with the intention of changing some of the current game rules for the regulation of broadcast media, once again it withdrew this issue from its agenda.

The inauguration of the new government coalition after the October 2019 national elections brought developments in media regulation that were part of its campaign commitments. The planned changes were promptly included in the Law on Pressing Matters (Ley de Urgente Consideración, LUC) already in force, but articles related thereto were extracted from that text to prepare a standalone draft bill introduced to the General Assembly on April 24, 2020, and still under parliamentary debate (Montevideo Portal, 2020). The bill features changes in some issues with respect to the LSCA still in force. First, it raises current caps on possession of signals of the same band, which to date is two, to four (draft Article 16). Secondly, Article 28 (the LSCA's right to non-discrimination), which prevents the media from disseminating "content that incites hatred or advocates discrimination on the basis of race, religion, ethnicity, sex, gender, sexual orientation, age, disability, cultural identity, place of birth, or socio-economic status", would be removed (IMPO, 2014). So would Articles 29 and 30 thereof on the State's duty to protect the rights of all children and adolescents pursuant to the law of the land and international agreements. Thirdly, this bill would strike out current LSCA Article 142 on electoral campaigns, which establishes that "It is in the national interest to strengthen the republican democratic system to grant free advertising in broadcast radio and television services, Pay TV services for subscribers on their own signals, and television signals established in Uruguay that are broadcast or distributed by subscriber services licensed to operate in our country". The Executive initiative repeals this provision and Article 143 that governs the distribution of the minutes among the commercial breaks. Fourth, the draft bill repeals LSCA Article 40, which sets forth: "the assignment of the titleholder's rights shall authorize the National Public Radio and Television System to broadcast events of general interest free of charge." Fifth, the draft also repeals LSCA Article 55 that sets "limitations on the number of

television service subscribers to 25% of the number of households” and the first paragraph of Article 56 which makes it incompatible for those who provide audiovisual services to offer phone and internet services too. Sixthly, if approved, the draft bill would extend the terms of the license for the concessionary companies in Article 33 from ten to fifteen years. Radio stations may also have a 15-year extension (previously they were 10). For television, it will also be an automatic free renewal and the new term would run from the moment that the law is enacted.

## CONCLUSIONS

In the sections of the report, some issues have been raised that are of concern to the experts surveyed and that may become factors discouraging the right to freedom of expression in the country:

First, the regulation of government advertising, which is a subject yet to be included in the government’s agenda and greatly disrupts the dynamics within the media ecosystem, especially the reality of outlets outside the capital;

Second, the consolidation of the right of access to public information in light of the rating of security classification by government agencies that impairs the free dissemination of information to the citizenry as one of the sources of investigative journalism;

Third, in terms of institutional design in the regulation of the media ecosystem’s structure, Uruguay has yet to adapt it to the digital convergence and the preponderant leverage of the Executive over the regulatory bodies since it is the president who ultimately approves the granting of frequencies, the appointment of the members of oversight bodies, and the budget earmarked for these institutions, among other critical issues.

Another important issue on institutional design to be reviewed in upcoming studies is the current tax provisions that have a different impact among media located in the capital city with respect to inland regions of the country.

Finally yet importantly, there is a need for continued monitoring on the outcome of the draft bill currently under discussion in the General Assembly. If approved, it would amend the current law and could represent favorable or unfavorable changes in major issues relating to free speech.

## REFERENCIAS

Barreneche, E. (2019). Multas a canales cable alcanzarán US\$ 300.000. El País. Retrieved from: <https://www.elpais.com.uy/informacion/judiciales/multas-canales-cable-alcanzaran-us.html>

- Centro de Archivos y Acceso a la Información Pública (CAinfo). (2017). Índice de transparencia activa en línea (ITael). Retrieved from: <https://www.cainfo.org.uy/itael/>
- Centro de Archivos y Acceso a la Información Pública (CAinfo). (2018). A 10 años de aprobada ley de Acceso a la Información Pública – CAinfo propone discutir cambios. CAinfo. Retrieved from: <https://www.cainfo.org.uy/2018/08/a-10-anos-de-aprobada-ley-de-acceso-a-la-informacion-publica-cainfo-propone-discutir-cambios/>
- Centro de Archivos y Acceso a la Información Pública (CAinfo). (2019). Periodismo y libertad de expresión en Uruguay Quinto Informe de Monitoreo de Amenazas Montevideo, 3 de mayo de 2019. Retrieved from: <https://www.cainfo.org.uy/wp-content/uploads/2019/05/Informe-Monitoreo-2019.pdf>
- Centro de Archivos y Acceso a la Información Pública (CAinfo). (2019). CAinfo lamenta que Senado no aprobó proyecto sobre publicidad oficial. CAinfo. Retrieved from: <http://www.cainfo.org.uy/tag/publicidad-oficial/>
- Centro de Archivos y Acceso a la Información Pública (CAinfo). (2020). Periodismo y libertad de expresión en Uruguay Sexto Informe de Monitoreo de Amenazas Montevideo, 3 de mayo de 2020. Retrieved from: <https://www.cainfo.org.uy/wp-content/uploads/2020/05/Monitoreo-sexto-informe.pdf>
- Consejo Nacional de Autorregulación Publicitaria. (CONARP). (sf) Nosotros. Retrieved from: <https://conarp.proyectosnicestream.com/nosotros/>
- Economic Commission for Latin America and the Caribbean. Latin American Economic Outlook 2019: Development in transition. Retrieved from: <https://www.cepal.org/en/publications/44515-latin-american-economic-outlook-2019-development-transition>
- El Observador. (2017). Gobierno aplica la ley de medios y multa a canales por las tandas. Retrieved from: <https://www.elobservador.com.uy/nota/gobierno-aplica-la-ley-de-medios-y-multa-a-canales-por-las-tandas-2017627500>
- Gómez, G. (2017). Una Ley de Medios a medias. Análisis sobre la aplicación de la Ley de Servicios de Comunicación Audiovisual ¿Qué se hizo? ¿Qué no se hizo? ¿Qué se debería hacer? Montevideo, Uruguay: Friedrich-Ebert-Stiftung. Retrieved from: <https://library.fes.de/pdf-files/bueros/uruguay/14696.pdf>
- IMPO. (1989). Ley de prensa - Libertad en los medios de comunicación. Retrieved from: <https://www.impo.com.uy/bases/leyes/16099-1989/1>
- IMPO. Centro de Información Oficial. (2007). Ley N°. 18232. Derecho a libertad de expresión. Radiodifusión comunitaria. Retrieved from: <https://www.impo.com.uy/bases/leyes/18232-2007/7>

- IMPO. Centro de Información Oficial. (2008). Ley N°18381. Ley sobre el derecho de Acceso a la Información Pública. Retrieved from: <https://www.impo.com.uy/bases/leyes/18381-2008/9>
- IMPO. Centro de Información Oficial. (2010). Decreto reglamentario N° 232/010 Reglamentación de la Ley de Acceso a la Información pública. Retrieved from: <https://www.impo.com.uy/bases/decretos/232-2010>
- IMPO. Centro de Información Oficial. (2012). Decreto N° 153/012. Reglamentación de los procedimientos para conceder autorización para brindar servicios de radiodifusión de televisión digital. Retrieved from: <https://www.impo.com.uy/bases/decretos/153-2012/1>
- IMPO. Centro de Información Oficial. (2014). Ley N° 19307. Ley de Medios. Regulación y prestación de Servicios de Radio Televisión y otros servicios de comunicación audiovisual. Retrieved from: <https://www.impo.com.uy/bases/leyes/19307-2014>
- IMPO. Centro de Información Oficial. (2020). Declaración de estado de emergencia nacional sanitaria como consecuencia de la pandemia originada por el virus covid-19 (coronavirus). Retrieved from: <https://www.impo.com.uy/bases/decretos/93-2020>
- Índice de Percepción de la Corrupción. *Datos macro*. Retrieved from: <https://datosmacro.expansion.com/estado/indice-percepcion-corrupcion>
- Informe Latinobarómetro, Corporación Latinobarómetro, 2018 Retrieved from: <https://www.latinobarometro.org/latNewsShow.jsp>
- Inter American Development Bank. Inter-American Development Bank Annual Report 2019: The Year in Review. (2020). Retrieved from: <https://publications.iadb.org/en/inter-american-development-bank-annual-report-2019-year-review>
- Inter-American Commission on Human Rights. Annual Report of the Inter-American Commission on Human Rights 2018. OEA/Ser.L/V/II. Doc. 30. Retrieved from: <http://www.oas.org/en/iachr/expression/docs/reports/annual/IA2018RELE-en.pdf>
- Montevideo Portal (2020). Licencias y derogaciones: ¿qué se modifica y qué se mantiene en la nueva Ley de Medios? Montevideo Portal. Retrieved from: <https://www.montevideo.com.uy/Noticias/Licencias-y-derogaciones--que-se-modifica-y-que-se-mantiene-en-la-nueva-Ley-de-Medios--uc751049>
- Latin American Public Opinion (LAPOP) (2018). Year of Study: 2018/19. Retrieved from: <https://www.vanderbilt.edu/lapop/uruguay.php>
- Larronda, A. (2019). Más de 2.000 uruguayos ya ganan dinero con la venta de sus datos personales online. *El empresario*. Retrieved from: <https://www.elpais.com.uy/el-empresario/uruguayos-ganan-dinero-venta-datos-personales-online.html>

Lopes de Vassallo, M. Orozco, G. (2018). Observatorio Iberoamericano de Ficción Televisiva. OBITEL 2018. Brasil: Globo Comunicação e Participações S.A. Retrieved from: <https://ucu.edu.uy/sites/default/files/facultad/fch/capitulo-uruguay-anuario-obitel2018.pdf>

Unidad de acceso a la información pública (UIAP). (2018). Informe anual sobre el estado de situación del derecho de acceso a la información pública en Uruguay. Retrieved from: [https://www.gub.uy/unidad-acceso-informacion-publica/sites/unidad-acceso-informacion-publica/files/2019-10/Informe\\_Anual\\_2018.pdf](https://www.gub.uy/unidad-acceso-informacion-publica/sites/unidad-acceso-informacion-publica/files/2019-10/Informe_Anual_2018.pdf)

Unidad de acceso a la información Pública. (2020) Memorias Anuales. Retrieved from: <https://www.gub.uy/unidad-acceso-informacion-publica/institucional/informacion-gestion/memorias-anuales>

Universidad Católica del Uruguay. Departamento de Ciencias Sociales. (2015). El acceso a la información pública en Uruguay. Retrieved from: <https://ucu.edu.uy/es/el-acceso-la-informacion-publica-en-uruguay>

## URUGUAY

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Current regulations guarantee the confidentiality of journalistic sources in court actions against the media and journalists, and allow for conscientious objection. In the last ten years, there have been no instances of forced disappearance, aggravated threats, torture, murder, or persecution of journalists.
<b>WEAKNESSES</b>	The weaknesses of the current media ecosystem in Uruguay are linked to the institutional design of the regulations governing mainstream media, which concentrates powers in the Executive. This branch of government is in charge of vital aspects such as the final approval of license awarding or revocation, imposing fines, an authority that does not grant institutional autonomy to the oversight bodies, and the – not always open – possibility of accessing public information as a journalistic source.
<b>OPPORTUNITIES</b>	There are opportunities to strengthen freedom of expression in the Uruguayan media ecosystem and to promote a culture of transparency that guarantees the right of access to public information as one of the sources of investigative journalism. Another possible approach to freedom of the press would be to allow for new sustainable business models, with forms of funding alternative to advertising, which would contribute to reducing media dependence on sponsors.
<b>THREATS</b>	The main threat to freedom of expression in the current media ecosystem is the growing decline of working conditions for journalists. The increasingly precarious labor conditions and economic vulnerability of the media can translate into a threat to free speech and the emergence of self-censorship scenarios. The lack of a regulatory framework for the allocation of government advertising allows the State, under discretionary criteria, to use it to reward or punish the media for their editorial policy.



## 2.21.2 URUGUAY 2020-2021

URUGUAY	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>84,10</b>
<b>REALM A: "Citizens free to express themselves"</b>	<b>23,00</b>	<b>21,29</b>
Information flow	11,00	9,86
Free speech	12,00	11,43
<b>REALM B: "Exercise of journalism"</b>	<b>10,00</b>	<b>9,43</b>
<b>REALM C: "Violence and impunity"</b>	<b>42,00</b>	<b>29,81</b>
Protection	5,00	1,57
Persecution	7,50	7,00
Impunity	8,50	1,43
Registered violence	21,00	19,81
<b>REALM D: Control over the media</b>	<b>25,00</b>	<b>23,57</b>
Direct control	19,00	17,57
Indirect control	6,00	6,00

**Chapultepec Index on Freedom of Expression and the Press 2021**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>URUGUAY</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	0,29	0,03	0,20
REALM A: "Citizens informed and free to express themselves"	0,71	0,07	0,71
REALM B: Exercise of Journalism	0,00	0,00	0,00
REALM C: Violence and Impunity	0,43	0,05	0,10
REALM D: Control over the media	0,00	0,00	0,00

### Type of Influence Points

<b>SLIGHT INFLUENCE</b>	0,1 - 2,50
<b>MODERATE INFLUENCE</b>	2,51 - 5,00
<b>STRONG INFLUENCE</b>	5,01 - 7,50
<b>VERY STRONG INFLUENCE</b>	7,51 - 10,00

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1ST, 2021

## Uruguay: towards a new media law

### Executive Summary

Uruguay leads the ranking in the Chapultepec Index with a value of 84.10 points out of 100 point of the global index.

It can be considered as a country with a favorable climate for freedom of expression, with certain partial restrictions associated by experts with the slight influence of the legislative environment..

There is little clarity in the rules for the allocation of official advertising; some obstacles in the level of compliance with access to public information; and a new draft of the guidelines, subject to parliamentary discussion at the moment, which promises changes in aspects related to freedom of expression developed in this report.

## INTRODUCTION

The report comprising this 2021 edition of the Chapultepec Index covers the discussion in the lower house of the bill presented by the Executive Branch –chaired by the President of the Republic Luis Lacalle Pou– before the General Assembly, and which includes modifications to Law No. 19307, Media Law: Regulation of the Provision of Radio, Television and Other Audiovisual Communication Services, still valid. The project, which was presented in April 2020, in the second week of September 2021, does not achieve consensus among the party forces with parliamentary representation after a year and a half of discussion.

This debate is framed in a country where the support of its citizens to democracy as a political regime leads at the end of the 2020 pandemic; it does not present great complaints regarding democracy and how it works. There is a perception that freedom of expression is guaranteed; it presents the highest level of trust towards the Congress, the political parties and the Judicial branch as institutions of democracy (Latinobarómetro, 2020).

By August 2020, six months after the beginning of the pandemic and the inauguration of President Luis Lacalle Pou, in general the media and journalists work in a climate of freedom. The arrival of the pandemic recorded the first annual fall (-5.9%) since the 2002 crisis (-7.7%) with negative growth rates. While the contribution of the country's social protection system is valued internationally as one of the measures in response to the pandemic, the national poverty rate increased from 8.8% in 2019 to 11.6% in 2020 (World Bank, 2021). With a

score of 71 out of 100, Uruguay is perceived as the most transparent country in Latin America (Corruption Perception Index, 2020).

Despite these favorable indicators regarding freedom of expression as a human right, the Office of the Special Rapporteur for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS) has indicated some concerns about the approval of some recent normative provisions, as well as about the economic vulnerability that the pandemic represented for the media. This vulnerability resulted in significant increases in layoffs or in sending workers to collect full or partial unemployment insurance. All this is perceived as a situation that can have an unfavorable impact on the theme of this index.

## Analysis of results

### General classification

For this year 2021, Uruguay rises from third place in the previous measurement to lead the list of the 22 countries studied by the Chapultepec Index. With a value of 84.10 points out of a total of 100, it exhibits numbers of 28.49 points above the regional average (55.61). With this score, the scales of the instrument qualify Uruguay as a country with full freedom of expression with the exception of realm C “Violence and impunity”, where it presents certain partial restrictions. This situation is shared with Chile, which scores similarly –82.06 percentage points– and which, like Uruguay, exhibits an increase in the index from one year to the next. However, it moves away from its neighbor Argentina by 30.87 percentage points, with whom it also shared position in past measurements. In the analysis of the Legislative, Judicial and Executive environments, these appear with a record of “slight” influence that in none of the cases exceeds 0.29 points. In relation to the realms analyzed, according to the experts consulted, the environment that influences the restrictions to a greater degree is the Legislative, specifically regarding the actions of the State to hinder, or on the contrary favor the plural and timely information flow to the citizenship and if it generates possibilities for citizens to express in the public space.

About the right of access to public information, the need to extend the use of the law, which continues to be an instrument mostly for journalists and parliamentarians, is maintained. This demonstrates an elitist nature of its use. With regards to the Governments’ compliance on active transparency, there is a worsening of the situation with respect to the last measurement of 2017 according to the report (CAINFO\_UCU, 2021). By 2021, 57% of the entities covered by the access law, publish less than 40% of the information required by law, demonstrating a loss of the citizens to almost 20 percent points in the right of access to public information.

The 2020 report of the Office of the Special Rapporteur for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS), makes some warnings about the Law of Urgent Consideration (LUC), approved in July 2020, which may mean a restriction on freedom of expression.

The second environment of greater influence in levels of restriction on freedom of expression, according to the experts, is the Executive, specifically with regard to actions to hinder or favor the flow of plural and timely information to citizens. In April 2020, the Executive Branch presented the draft to the Bill on Audiovisual Content Dissemination Services that would modify the current law, approved in 2014. Some of the modifications proposed by this new project are seen as restrictive for freedom of expression by some human rights organizations in the country.

## **Environment analysis**

### **Executive Environment**

The Executive environment shows a slight influence on realm A, Citizens free to express themselves, and C, Violence and impunity. The sources interviewed point out the main cause of obstruction to freedom of expression: access to official sources, lack of regulation in the allocation of official propaganda, non-regulation of Internet by the current law, the draft of the bill of media in current discussion and the use of personal database under the rules of the market. The discussion regarding the influence of the Executive has focused on the debate on the advances and setbacks that the new media law could imply – if approved this year – in terms of media concentration, freedom of expression and citizen participation.

### **Legislative Environment**

The Legislative environment shows a slight influence. It appreciates some objections in realm A, sub-realm information flow, and within the realm C, the sub dimension protection of journalists and impunity. Some civil society organizations point out that the new bill on media control presented to the chamber in 2020 could have a negative impact on media concentration, citizen participation in frequency assignment processes and monitoring spectrum use. The numbers in realm C can be explained by the increase in the precariousness of journalistic work from March 2020 with the arrival of the pandemic and the crisis that it implied in the media. By May 2020, more than 300 media workers were counted in total or partial unemployment insurance.

## Judicial Environment

The environment of the Uruguayan Judiciary was rated with a slight influence on realm A, Information flow, and realm C, Violence and impunity. Uruguay has registered, according to the national monitoring report on threats to freedom of expression, a new increase in cases of mild threats. From 26 cases in 2020 to 49 in 2021 and 30 of them represent a restriction of access to public information by the Government. From March 2020 to March 2021, the report records three cases of civil and/or criminal proceedings against journalists, two of them ending in favor of the media or the journalist and the third is still ongoing.

### REALM A. Informed citizens free to express themselves

The experts' rating for this realm was 21.29 points out of 23 (2 points above the past measurement), the sub-realms, "information flow", with 9.86 out of 11 possible points and 11.43 out of 12 possible points in "free expression".

Access to public information by citizens are mostly attributed to different problems of Government agencies to provide this service. In 2019, according to the regulatory body "Unidad de Acceso a la Información Pública" (UAIP), the subjects obliged by law received a total of 1.942 requests for access to public information (less than 1% of the country's total population); the entity recorded a high level of response (1.882); 129 were denied on grounds of confidentiality or confidentiality (UAIP, 2019). With regard to active transparency compliance levels, the ITAeL 2021 report points to a break in the overall upward trend with respect to the last report of 2017; we see that the level of global compliance is *low*, representing that 56% of law-bound bodies fail to publish more than 40% of the information on their websites, and only 2% of them are at high levels of compliance (ITAeL, 2021). The country's inability to give effect to the right of access to public information twelve years after its regulatory framework was approved, generates an unfavorable circumstance for freedom of expression to the extent that investigative journalism is hindered and the possibility of citizens to make their decisions based on access to quality information.

With regard to access to the Internet by citizens, Law 19,307 (IMPO, 2014) on the Regulation of Audiovisual Services (LSCA) approved and regulated in 2014, is not binding on the Internet, as is the draft law of the new government still under discussion in the chambers. In this sense, the purchase and sale of personal databases remains no-regulated and responds to free market laws (Larronda, 2019).

Law No. 19,899 on Urgent Consideration (LUC) presented in April 2020 by the Executive Branch and approved in July of the same year, amended the Criminal Code and established a penalty of three to eighteen months in prison for anyone who "aggravates", "attempts", "threatens" or "insults" the police in the exercise of its functions or on the occasion of these (article 11). On the other hand, it declares illegitimate "pickets that impede the free move-



ment of persons, goods or services, in public or private spaces of public use” (article 468) and empowers the police to use force when “they must dissolve meetings or demonstrations that seriously disturb public order, or that are not peaceful, insofar as they involve persons who have their own or improper weapons or who externalize violent behavior” (article 45 F). The Office of the Special Rapporteur for Freedom of Expression, through the sending of a letter to the State, requested information on the provisions of the LUC stating that it could affect the guarantees for the exercise of freedom of expression (RELE, 2020). In August 2020, different social organizations and unions from various sectors demonstrated in favor of the realization of a referendum to repeal the 135 articles of the LUC. In the month of July 2021, as established by the Constitution, the Pro Referendum Commission delivered the signatures to the Electoral Court to be controlled. As of the date of delivery of this report, the signatures are still in the process of verification by the Electoral Court.

## **REALM B. Exercise of journalism**

The assessment of the experts consulted for this dimension, gave Uruguay 9.43 points out of 10, meaning almost the top of freedoms for the line.

In the Uruguayan reality, there are not many mechanisms of self-regulation of the profession of journalism or the media. It is worth mentioning the existence of the National Council of Advertising Self-Regulation (CONARP), a non-profit organization whose objective is to ensure free and responsible commercial communication. With regard to the professional practice of journalism, the existence of a Code of Journalistic Ethics stands out, whose recommendations aim to strengthen quality journalism as a voluntary self-regulation mechanism. This code is the product of a consensus in the Uruguayan Press Association (APU) that involves workers linked to the sector such as journalists, cameramen, photographers, producers, presenters, drivers, broadcasters, communicators and civil society organizations linked to the sector since 2012.

The current media law incorporated in 2014, as a novelty in its article 42, the conscientious objection of journalists suggested in the code of ethics. This article was intended to be eliminated in the original draft of the new media law of the present government and, after parliamentary discussion, was maintained. The current law also recognizes the articles of the former Press Law of the Constitution of the Republic, Law 16.099 (IMPO, 1989) of 1989, which guarantees the non-dissemination of the journalist’s sources and the freedom of expression enshrined in the Human Rights Declaration and the Convention, as well as Law 18,515, which recognizes the promotion of journalistic activity as of general interest. However, intellectual property measures to protect journalistic content from plagiarism and misuse are not incorporated into the law.

## REALM C. Violence and impunity

In dimension Violence and impunity, the valuation obtained by Uruguay was 29.81 out of a maximum of 42, presenting the lowest figures with respect to the other dimensions. The subdimensions that contribute the most to this rating are “Protection” 1.57 points in a total of 5 and “Impunity” with a score of 1.43 in 8.5 maximum points.

CaINFO’s seventh report on Monitoring and Threats to Journalism and Freedom of Expression 2021, recorded from April 2020 to March 2021, 49 cases of threats to the freedom of expression of journalists, 23 cases more than the 2019 measurement. In the distribution of cases, 30 represent “rejections of requests for access to public information” There were no cases of murder, enforced disappearance, arbitrary detention, kidnapping and torture or restrictions on the Internet. There were eight attacks and attacks on journalists and three civil and criminal proceedings had rulings in favor of the media or the journalist denounced. (CAINFO,2021)

On the other hand, the same report highlights another important fact: although Uruguay dragged some problems of precariousness in the professional practice of journalists since 2018, these deepened in the context of the COVID-19 pandemic and the health emergency. The number of job losses rose exponentially. In April 2020, the Uruguayan Press Association reported the loss of more than 300 jobs with dismissal or sending to total or partial unemployment insurance. For the current year 2021, the situation of journalists of the National Audiovisual Communication Service (SECAN) is added with the non-renewal of 40 contracts on Channel 5 and 49 on public radios as of December 2020. The director of SECAN, Gerardo Sotelo, said that this measure responded to the fact that there was an “imbalance in the assignment of functions and some dramatic operational situations, he said that of 220 contracts there were about 150 doing radio, just over forty doing television and 8 on digital platforms”

## REALM D. Control over the media

The assessment for the Control over the media realm, according to the experts consulted, expressed a slight influence by yielding 23.57 points out of 25 possible. The sub-dimension that could be understood as some objection to the current situation for presenting a lower rating is that of “Indirect Control”, a realm that includes knowing if the Government has incurred in restrictions or direct blockades of the different digital platforms or applies pressures to technological intermediaries in order to avoid the dissemination of certain contents.

In the 2020 report of the Office of the Special Rapporteur for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS), it is stated that in December 2020, within the Budget Law proposed by the Executive Branch and approved in Congress in the same month, a provision was in-

cluded where it enabled the Communications Services Regulatory Unit (URSEC) to block and download audiovisual content on the Internet without a court order. Understanding that the defense of copyright with disproportionate measures that penalize users without appropriate judicial guarantees adversely impacts freedom of expression, a group of more than 20 organizations dedicated to the study of Internet public policies and the defense of fundamental rights sent a letter to the Senate warning of their concern. Although the provision was voted on and approved (artículo 712 of the law N° 19924 of the National Budget), it included some modifications. While the original article established the blocking of audiovisual content in an extended way, the final article limits television services for subscribers through Internet; secondly, while the original text enabled any natural or legal person to make the complaint, the final wording limited it to owners of television services for subscribers licensed to operate in Uruguay and, finally, the notification of the URSEC to the denounced before carrying out a blockade was established.

At the same time, article 774 of the Budget Law established that 20% of the total amount of official advertising of national scope must be allocated to media based in the interior of the country, as a way of discouraging the concentration of resources in the capital's media. We had warned in the previous report that the allocation of official guidelines, in addition to responding to discretionary criteria, was very asymmetrical in the percentage between the capital and the interior of the country that only obtains 5% of the total (Center for Archives and Access to Public Information, 2019). The proposal, which has been approved, received criticism from the Uruguayan Association of Advertising Agencies (AUDAP) which called it a "Covert Subsidy" due to the lack of audience measurements in the media of the interior that would allow this allocation to be distributed more fairly. Similarly, the rector of OBSERVA-COM, Gustavo Gómez, expressed the need to establish clear rules for the allocation of official advertising that are fairer and more transparent.

The allocation of official propaganda continues to be a sensitive issue in the dynamics of the media system, since discretionary mechanisms do not prevent governments from rewarding or punishing the media based on their editorial line.

The entry of the new coalition government to power, following the national elections of October 2019, brought with it novelties in terms of media regulation that were part of its campaign commitments. The planned changes were included, at first, in the Law of Urgent Consideration (LUC) that is still valid, but these articles were extracted from that text to constitute an independent project presented to the Parliament on April 24, 2020 and that is still under parliamentary discussion.

This instance of discussion in the lower house has had the participation of civil society organizations and some international organizations that have sent letters to the Parliament voicing certain concerns. The original project: a. Extended the limit of radio and television licenses that can acquire a natural or legal person from three (current) to eight, proposal

that changed to four maximums in Montevideo and six in the interior; b. Eliminated the articles related to the rights of children and adolescents that currently reincorporated them; c. Eliminated the current article 42 of the right of journalists to conscientious objection that was reinstated; d. The original bill eliminated the articles of the current law on the rights of people with disabilities now also reinstated. Finally, the original project obliged public operators that own infrastructure to provide wholesale services on infrastructure and networks to cable television companies, a measure that has also now been modified and the state company ANTEL will not be forced to share infrastructure. One of the changes that has not yet been modified is the elimination of the Honorary Advisory Commission of Audiovisual Communication Services (CHASCA), and the holding of public hearings for the assignment of frequencies.

The draft of the new Bill on Media Law has been under discussion in the lower house for a year and a half. It is important to note that the new bill indicates, like the current one, that services and the dissemination of audiovisual content that use the Internet protocol network as a platform are excluded, and also leaves out of the regulation the allocation of official advertising.

## CONCLUSIONS

Despite the fact that Uruguay exhibits an improvement in the scores of all the dimensions that place it in a leading position with respect to the other countries analyzed, in the development of the report some issues have been raised that generate some concern in the experts consulted, and that may be unfavorable to the right of freedom of expression in the country in a future scenario; that is why they should be to be followed up in the next report.

Within Realm A “Citizens free to express themselves”, the main obstacle to the exercise of freedom of expression remains access to official sources. The 2021, second year of pandemic, registers –on average– decline of 19 percentual points puntos in the levels of compliance of active transparency of the subjects obliged by law, this represents a loss of information for the citizenship, and also an obstacle to investigative journalism. In the same dimension, the need to continue monitoring the final vote on the new media law – now under discussion – to measure the favorable or unfavorable impacts with respect to freedom of expression as a right is highlighted. Also follow up on the final opinion of the Electoral Court at the end of the process of supervision of the signatures of the Pro Referendum Commission for the Referendum of the LUC.

The relevance of monitoring the labor situation of journalists and how the labor rights are complied in the transitional context for media to go from traditional to Information and Communication Technology (TIC) is set within Realm C “Violence and Impunity”.

Within dimension D “Control of the media” the allocation, from the Budget Law, of 20% of official advertisement to media in the interior is rescued with the aim of reducing the



great asymmetry of access to resources. Advertising remains a genuine way to ensure the existence of the media as companies to make effective the labor rights of their workers. Despite this, experts note the need to find efficient and effective mechanisms for the implementation of this item or allocation and also the transparency of the official advertising allocation system, since the role of the State as an advertiser alters the dynamics of the media system and its regulation remains outside the governmental agenda. A second aspect within this same dimension, with regard to the institutional design proposed by the new media law – under parliamentary discussion – leaves out of its regulation the media that use the Internet platform. The adaptation of this regulation to digital convergence is pending.

## REFERENCES

- Banco Interamericano de Desarrollo (2021). Informe anual del Banco Interamericano de Desarrollo <https://www.iadb.org/en/about-us/annual-reports>
- Centro de Archivos y Acceso a la Información Pública (CAinfo). (2021). Índice de transparencia activa en línea (ITael). Recovered from <https://www.cainfo.org.uy/itael/itael2021/>
- Centro de Archivos y Acceso a la Información Pública (CAinfo). (2021). Periodismo y libertad de expresión en Uruguay 7° Informe de Monitoreo de Amenazas Montevideo, 3 de mayo de 2021. Retrieved from <https://www.cainfo.org.uy/wp-content/uploads/2021/05/Monitoreo-Informe-Mayo-2021.pdf>
- Comisión Económica para América Latina y el Caribe (CEPAL). Perspectivas Económicas de América Latina 2020: transformación digital para una mejor reconstrucción. Retrieved from <https://www.cepal.org/es/publicaciones/46029-perspectivas-economicas-america-latina-2020-transformacion-digital-mejor>
- (RELE) Comisión Interamericana de Derechos Humanos (2020). Informe Anual de la Comisión Interamericana de Derechos Humanos. OEA/Ser.L/V/II Doc. 28 30 marzo 2021. Retrieved from <http://www.oas.org/es/cidh/docs/anual/2020/capitulos/rele.PDF>
- Consejo Nacional de Autorregulación Publicitaria (CONARP) (sf). Nosotros. Retrieved from <https://conarp.proyectosnicestream.com/nosotros/>
- IMPO (1989). Ley de prensa - Libertad en los medios de comunicación. Retrieved from: <https://www.impo.com.uy/bases/leyes/16099-1989/1>
- IMPO Centro de Información Oficial (2007). Ley N°. 18232. Derecho a libertad de expresión. Radiodifusión comunitaria. Recovered from <https://www.impo.com.uy/bases/leyes/18232-2007/7>
- IMPO Centro de Información Oficial (2008). Ley N°18381. Ley sobre el derecho de Acceso a la Información Pública. Recovered from <https://www.impo.com.uy/bases/leyes/18381-2008/9>

IMPO Centro de Información Oficial (2010). Decreto reglamentario N° 232/010 Reglamentación de la Ley de Acceso a la Información pública. Retrieved from: <https://www.impo.com.uy/bases/decretos/232-2010>

IMPO Centro de Información Oficial (2014). Ley N° 19307. Ley de Medios. Regulación y prestación de Servicios de Radio Televisión y otros servicios de comunicación audiovisual. Retrieved from <https://www.impo.com.uy/bases/leyes/19307-2014>

IMPO Centro de Información Oficial (2020). Ley N° 19889, Ley de Urgente Consideración. Retrieved from <https://www.impo.com.uy/bases/leyes/19889-2020>

Índice de Percepción de la Corrupción (2021). Datos macro. Retrieved from <https://www.latinobarometro.org/lat.jsp>

Larronda, A. (2019). Más de 2.000 uruguayos ya ganan dinero con la venta de sus datos personales online. El empresario. Retrieved from <https://www.elpais.com.uy/el-empresario/uruguayos-ganandinero-venta-datos-personales-online.html>

Proyecto de Ley de Medios abril 2020 Retrieved from <https://www.montevideo.com.uy/Noticias/Conoce-el-nuevo-proyecto-de-la-Ley-de-Medios-que-ingreso-este-viernes-al-Parlamento-uc751041>

Unidad de acceso a la información Pública (2020). Memorias Anuales. Retrieved from <https://www.gub.uy/unidad-acceso-informacion-publica/institucional/informacion-gestion/memoriasanuales>

Universidad Católica del Uruguay. Departamento de Ciencias Sociales (2015). El acceso a la información pública en Uruguay. Retrieved from <https://ucu.edu.uy/es/el-acceso-la-informacion-publicaen-uruguay>



## URUGUAY

PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

### Strengths, weaknesses, opportunities and threats analysis

<b>STRENGTHS</b>	<p>For this period, Uruguay has strengthened its the level of support for democracy as a political regime, according to international barometers. It leads in the perception that freedom of expression is guaranteed (Chapultepec); it presents the highest level of trust on the part of citizens towards the Congress, political parties and the Judiciary as institutions of democracy (Latinobarómetro). Current regulations continue to guarantee the reservation of journalistic sources in lawsuits against media or journalists; conscientious objection and freedom of expression and, in practice, in the last ten years there has been no cases of enforced disappearance, aggravating threats, torture, murder or persecution of journalists.</p> <p>The parliamentary discussion of the draft for the new Media Law -presented by the incoming government in April 2020-, enabled the participation of different social organizations whose observations have made possible changes in very important aspects of the original document; this contributes to the strengthening of freedom of expression as a right: the assignment of frequencies, maintain conscientious objection as the rights of journalists and the rights of children, adolescents and persons with disabilities. While still under discussion, the process is a sign of the strength of democratic institutions. There are still concerns about the possible elimination of citizen participation bodies that were present in the current law; this could mean a loss of spaces for the representation of citizen interests.</p>
<b>WEAKNESSES</b>	<p>Its weaknesses are linked to access to official sources and the allocation of official advertising. The right of access to public information is guaranteed by law, but presents compliance difficulties in the practice. This tool is essential for investigative journalism and citizen monitoring of public policies, but the law has a fundamentally elitist character. On the other hand, there is a decrease in the national report of the levels of active transparency or public information available to the citizen. The allocation of official advertising continues to be a sensitive issue in the dynamics of the media system since discretionary allocation mechanisms do not prevent the government from rewarding or punishing the media based on their editorial line.</p>

<b>OPPORTUNITIES</b>	<p>For the strengthening of freedom of expression in the Uruguayan media system, it is important to secure the culture of transparency. Making effective the right of access to public information as one of the sources of investigative journalism and citizen participation in public policies, represents an opportunity for new sustainable business models to emerge, with alternative forms of financing to advertising, which contribute to the reduction of the dependence of the media on their sponsors.</p> <p>Media regulation remains on the political agenda as the draft of the new media law is still under parliamentary discussion; this can represent an opportunity for the incorporation of civil society, of academia, in the debate on the media.</p> <p>In relation to official propaganda, the approval that twenty percent of the total amount be allocated to the media of the interior makes it necessary to monitor the implementation of the law, in order to know if this measure represented –in practice– an opportunity to balance the asymmetries of access to the resources between the media of the interior and the capital.</p>
<b>THREATS</b>	<p>The main threat to freedom of expression in today's media system is the increasing precariousness of journalists' working conditions. Since the declaration of a health emergency in March 2020 to the present, there has been a considerable number of workers sent to collect unemployment insurance, a situation that in 2021 was also transferred to the public media where no more than 40 contracts were renewed in the national public channel, and 49 in the radios of the same condition. To the job insecurity you need to add the economic vulnerability of private media which are still in the process of transitioning from the traditional model to the digital, testing types of sustainable businesses (subscription, advertising, mixed) that do not finish crystallizing and keep them – mostly – dependent almost exclusively on advertising revenues.</p> <p>Job insecurity and the economic vulnerability of the media can translate into a threat to freedom of expression and the emergence of self-censorship scenarios.</p>

## 2.21.3 OVERVIEW

### Uruguay

**Uruguay** obtained the best score for 2020-2021, with 84.10 points, thereby rising to the top of the Index in the group of countries enjoying full freedom of expression. In the previous period (2019-2020), it ranked 4<sup>th</sup> with almost 10 points less. Because of these results, the Oriental Republic of Uruguay is considered a country with a favorable climate for free speech and one showing slight influence from the different branches of government.

According to the results obtained in Realm A, Informed Citizens Free to Express Themselves, Uruguayans enjoy full access to information and are free in their self-expression. The few existing restrictions stem from the capacity of government agencies to reply to the requests submitted; some provisions contained in contempt laws remain; and the greatest influence comes from the executive environment in both periods of study.

Regarding Realm B, Exercise of Journalism, the results were similar in both study periods. There is no evidence of regulatory mechanisms for the [journalistic] profession. Therefore, in general, it is perceived as a country where the practice of the profession is respected. For 2019-2020, Uruguay obtained 9 out of 10 points and in 2020-2021, 9.43 out of 10. In this realm, for the 2020-2021 edition, no unfavorable influence from the different branches of government went on record.

Realm C, Violence and Impunity, was the one obtaining the lowest results compared to the other realms, both in 2019-2020 and 2020-2021. There persist unmet challenges with respect to creating protection mechanisms and minimizing impunity. Instances of aggressions against journalists increased from 23 in 2019-2020 to 49 in 2020-2021, which were primarily linked to obstruction of access to information.

Finally, in Realm D, Control over the Media, unfavorable influence from the branches of government subsided from one period to another, since such influence was deemed non-existing for 2020-2021. The regulatory framework encourages the independent activity of the media, although there are still challenges regarding the establishment of advertising quotas of public agencies in private media.

Upon results analysis of both editions of the Index, the advances are represented by those obtained regarding the influence of the [institutional] environments in situations unfavorable to freedom of expression. For 2019-2020, they all remained at slight, even moderate influence levels for Realm A and the sub-realm of Direct Control in Realm D, from the Executive in both instances. As for 2020-2021, only two realms showed results that placed the country in the range of slight influence (Realms A and C), but even with scores below 1

point. Meanwhile, for Realms B and D, there was practically no influence of any kind on the part of the different environments, thereby guaranteeing the full exercise of free speech in the country.

## 2.22. VENEZUELA

### 2.22.1 VENEZUELA 2019-2020

VENEZUELA	Theoretical Maximum	Index
<b>Chapultepec Index</b>	<b>100</b>	<b>3.8</b>
<b>REALM A: "Citizens informed and free to express themselves"</b>	<b>23</b>	<b>0.8</b>
Flow of information	11	0.8
Free Expression	12	0.0
<b>REALM B: Exercise of Journalism</b>	<b>10</b>	<b>1.8</b>
<b>REALM C: Violence and Impunity</b>	<b>42</b>	<b>1.2</b>
Protection	10	1.2
Persecution	15	0.0
Impunity	17	0.0
<b>REALM D: Control over the media</b>	<b>25</b>	<b>0.0</b>
Direct control	16	0.0
Indirect control	9	0.0

**Chapultepec Index of Freedom of Expression and Press**  
**May 2019-April 2020**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

VENEZUELA	LEGISLATIVE ENVIRONMENT	JUDICIAL ENVIRONMENT	EXECUTIVE ENVIRONMENT
Degree of Unfavorable Influence	3.93	6.51	7.44
REALM A: "Citizens informed and free to express themselves"	4.65	8.05	8.95
Flow of information	4.35	7.81	8.90
Free Expression	4.95	8.30	9.00
REALM B: Exercise of Journalism	4.70	5.85	5.69
REALM C: Violence and Impunity	3.35	5.67	6.40
Protection	2.65	4.00	4.40
Persecution	4.60	8.00	9.20
Impunity	2.80	5.00	5.60
REALM D: Control over the media	3.98	6.97	8.90
Direct control	3.90	6.80	8.60
Indirect control	4.07	7.13	9.20

Type of Influence	Points
SLIGHT INFLUENCE	1 - 2,50
MODERATE INFLUENCE	2,51 - 5,00
STRONG INFLUENCE	5,01 - 7,50
VERY STRONG INFLUENCE	7,51 - 10,00



MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

## Venezuela: Blindfolded and Muzzled amidst a Humanitarian Crisis

### Executive summary

Venezuela is ranked at the bottom of the Chapultepec Free Speech & Press Index, scoring 3.8 points. Not only does institutional action, especially in the Executive and Judiciary environments, ostensibly fail to protect journalists and the media and punish crimes against them, but it also defines a strategy that is contrary to a modicum of communication rights: The government and the courts act in an attempt to crush journalism and media companies contrary to the hegemonic interests of Nicolás Maduro's regime.

## INTRODUCTION

The study period comprehends Nicolás Maduro's second term in office, after being re-elected on May 20, 2018, at a contest regarded as fraudulent by his opponents. Such entities as the Organization of American States (OAS) and authorities from over 50 countries recognize as legitimate ruler National Assembly Speaker Juan Guaidó, sworn in on January 24, 2019, as interim president.

The press is overwhelmed by attacks, arrests, court actions, and exile amidst political turbulence. [The rights of] seven journalists and at least 35 media outlets were violated in January 2020 (IPYS Venezuela, 2020), while they were covering events in which military detail prevented Juan Guaidó from presiding over a session in the Federal Legislative Palace, as part of a skirmish whereby congresspersons allegiant to the Maduro regime tried to convene a parallel parliament. In spite of what had happened, Guaidó was confirmed as head of the National Assembly, thereby continuing as interim president of the Republic, without this resulting in Maduro's removal.

According to International Monetary Fund (IMF) estimates, the country experienced an economic contraction of 35% in 2019. The country surpassed Haiti's misery index: 96.2% of the population is in poverty, 79.3% in extreme poverty, and life expectancy of Venezuelans born in the five-year period from 2015 to 2020 decreased 3.7 years to 72.2 years (ENCOVI, 2020). Electrical power disruptions, unreliable access to water, fuel and medicine shortages, mobility problems due to poor public transportation, activity of rogue groups in border states, growing digital divide, censorship, communication hegemony, and indirect control of private broadcast media signal public affairs in Venezuela. It is the country currently undergoing the largest exodus of refugees and migrants to Latin America and the Caribbean, with 4.8 million refugees and migrants as of February 5, 2020 (UNHCR, 2020).



## Report

With 3.8 points, out of a maximum possible of 100, Venezuela is the country with the worst status of institutional actions regarding freedom of expression in the hemisphere, placing it among the nations without freedom of expression from an institutional standpoint. As perceived by the experts inquired, most of this situation is directly attributed to the environment in the Executive branch, as strongly influential (7.44) over the actions and omissions in the field of freedom of expression among the branches of government.

## Environments: Institutional action against freedom of expression

On April 30, 2019, the National Telecommunications Commission (Comisión Nacional de Telecomunicaciones, CONATEL), [media regulatory body] used as a political operator by the Maduro administration, shut down the country's oldest private radio station, *Radio Caracas Radio* (RCR). This station sister to RCTV, a television network shut down in 2007 by Hugo Chávez, was covering events at Generalísimo Francisco de Miranda Air Base (dubbed La Carlota) in Caracas, when opposition supporters were trying to hasten political change, but failed to do so by the end of the day.

The following day, May 1, 2019, the beginning of the study period for this first Chapultepec Index edition, 12 instances of freedom of expression violations took place in the coverage of anti-Maduro protests. Journalist Mauricio Cruz reported that National Guardsmen, under the Executive branch, shot at him and his colleagues in Caracas. Among those wounded with pellets were photojournalist John Quintero, journalist Gregory Jaimes, photographers Juan Carlos Neyra and Rafael Ramírez, as well as camera assistant Rubén Brito. Apart from the newsmen injured in Caracas, others were assaulted and injured while exercising their news gathering work in inland regions of the country (Espacio Público, 2019).

The bureaucratic apparatus, the military, and law enforcement, as well as the entire public infrastructure remain in president Nicolas Maduro's hands. The experts inquired herein elaborate on his power. He has used the Special Action Forces (Fuerzas de Acciones Especiales, FAES), a [tactical law enforcement] body feared for its practices, to detain journalists and dissidents, singled out in the report by UN High Commissioner for Human Rights Michelle Bachelet for conducting thousands of executions in low-income areas on alleged "resistance to arrest" (OHCHR, 2019).

Claiming to enforce the Constitutional Anti-Hate Law for Peaceful Coexistence and Tolerance, also known just as the Anti-Hate Law, passed in 2017 by the National Constituent Assembly<sup>1</sup>, sponsored by the government to counter an adversary Legislative branch, the

<sup>1</sup> Translator's Note (TN): A regime-engineered parallel constituent and legislative congress, which is not recognized internationally, established as a travesty of the constitutionally sanctioned mechanism by means of a non-competitive electoral contest. This body thus formed was denounced by the Venezuelan opposition, its legitimate Legislative, the US Department of State, the Organization of American States, the Inter-Parliamentary Union, among others.

Executive initiated arrests of journalists and was followed suit by actions from the Judiciary in the form of charges pressed and restrictions imposed on freedom. The Judiciary appears to be the second environment deeply involved in the abysmal rating for institutional actions regarding freedom of expression in Venezuela, significantly impacting, with 6.51 points, on the assessment made by experts of those responsible for this low score in the Index.

For example, the imprisonment of journalist Darvinson Rojas, conducted on March 21, 2020 comes to mind. 15 FAES officers raided his home after he posted on social media a report on the number of [COVID-19] cases that showed a five-people discrepancy between the 42 confirmed by the federal government and the 47 announced by local authorities.

The tactic ops team stormed his home under the guise of looking for a COVID-19-positive person, and ended up taking Rojas and his parents into custody. His parents were freed a few hours later; the newsman, twelve days later, on April 2. The case is still open and he is subject to periodically reporting with the court, after he was charged with counts of instigation to hatred and public instigation at a hearing held on Monday, March 23, in night hours, after being assigned a counsel by the Attorney General's Office, despite the fact that Rojas had already retained counsel who was not notified of his [client's] appearance in court, even while being at the courthouse along with the journalist's relatives. His case led to statements of concern by the Inter-American Commission on Human Rights (IACHR), the Office of the Special Rapporteur on Freedom of Expression (SRFE), the Victims Monitoring Observatory (Observatorio Monitor de Víctimas), and Human Rights Watch (HRW). The case against him remains open (IPYS Venezuela, 2020).

Just as it could be noticed that the Executive Branch did not act alone in violating freedom of expression, instead it was followed by the Judiciary, the Legislative environment is not exempt from influencing the omissions or actions measured in this study either.

According to the experts inquired, the Legislative environment appears with a moderate 3.93 points influence in the country's Index. Although the agency most mentioned by respondents is CONATEL, its role is empowered by the Law on Radio, Television and Electronic Media Social Responsibility, enacted in 2004, but with effects on actions involving penalties and media shutdowns ordered by the institutional control of the Nicolás Maduro regime.

Despite advisory efforts of the National Assembly Committee on Media, which has turned to scholars and NGOs in pursuit of public policy plans regarding the restoration of freedom of expression, the pressure exerted by the Maduro regime has not made any of the possible reforms in this field possible. Within Juan Guaidó's administration, in January 2020, a board of directors was appointed to take over [multi state-owned] Telesur channel, currently a tool of the communication hegemony wielded by Nicolás Maduro's administration. Other than the impact of the announcement, there has been no major activity by this interim board.

## REALM A: Venezuela is a misinformed and muzzled society

Venezuelan citizens are far from being a society experiencing the fulfillment of their right to self-expression and information. The people, hungry for news regarding utilities, has lost the ability to access information on the status of the electric power grid, the water supply situation, and the condition of fuel supply, while journalists trying to gather information are vilified or imprisoned during news coverage, harassed, intimidated, and sometimes prosecuted.

The score for institutional action in the realm “Citizens informed and free to express themselves” is at 0.8 out of 23 possible points. This perception stems from such cases as the one which took place on March 17, 2020, when officials of the Bolivarian National Guard detained Julio Molina, MD, in Monagas State, for reporting critical conditions at Manuel Núñez Tovar, MD, University Hospital (Hospital Universitario Dr. Manuel Núñez Tovar). He was charged with counts of incitement to hatred, to panic, and community fearmongering, and then placed under house arrest (Espacio Público, 2020).

A worker at a state-owned steel company in southern Venezuela also felt the force of Venezuela’s institutional measures against the free flow of communications. Elio Mendoza, 53, serving at Sidor (Siderúrgica del Orinoco Alfredo Maneiro) for over three decades, was placed under house arrest after a short stint in prison on April 1, 2020 for chain texting on WhatsApp that he allegedly questioned the qualifications of Maikel Moreno, Chief Supreme Court Justice and Maduro’s ally. He was charged with counts of incitement to hatred and slander, and is being held in custody, not for writing, as what he did was to forward the message (Siverio, 2020). The sub-realm associated with free expression is rated at the lowest level possible: 0.

On the other hand, it has been the practice of the Maduro administration to block and restrict the Internet, by means of [state-owned telecom and ISP] *Compañía Anónima Nacional Teléfonos de Venezuela* (CANTV). At times of rallies called by the opposition, while addresses are being delivered by such personalities as Juan Guaidó, it has been a practice to conduct blockades on certain digital platforms. On November 16, 2019, during a protest called by the head of the Legislative, NGO *Venezuela sin Filtro* (Venezuela Unfiltered) reported that CANTV had blocked YouTube for 55 minutes, starting the disruption right at the beginning of Guaidó’s speech that day (Efecto Cocuyo, 2019).

Other blockades making evident a strategy to misinform and curtail citizens’ right to information took place on March 18, when, per NGO *Venezuela sin Filtro*, the *coronavirusvenezuela.info* site was blocked; and, on April 16, with two instances of DNS blocking [interim president’s office related] *pvenezuela.com* and *teleconsulta.presidenciave.org* sites.

Days before closing the study period, on April 26, the above NGO also uncovered the cloning of the *heroesdesaludve.info* website, whereby the National Assembly, headed by Guaidó, was seeking to provide economic support for healthcare workers. When users attempted to enter the site via ISP CANTV, they were redirected to another website and deceived into entering their data (Espacio Público, 2020). The sub-realm free flow of information are rated at a very low position for Venezuela in this assessment: 0.8.

## REALM B: No conditions for exercising journalism

In Venezuela, not only does the Government deny access to public information, banning locations by deploying troops, but it also perpetuates opacity by preventing certain kinds of coverage so that journalists cannot get to gather downstream information. Out of 10 possible points at the positive end in this realm, the score from sample respondents for institutional action regarding conditions of the exercise of journalism in the country was very low: 1.8 points.

An example of why the rating is meager in this regard was the events on March 9, 2020 involving journalist Karen Aranguíbel, who was videoing a protest by citizens demanding that spots in fuel supply lines be respected. She was harassed by Military Counterintelligence Bureau (Dirección de Contrainteligencia Militar) and Bolivarian National Guard (Guardia Nacional Bolivariana) officers, as well as by civilians, who even physically attacked her (EVTV Miami, 2020).

In this case, institutional action on newsmen involves the systematic destruction of their media. After radio host José Mercedes Muñoz was arrested in Monagas on April 30, 2019, and held in a prison, Bolivarian National Guard officers seized the transmitter, a console, a monitor, and a computer keeping his radio station, *Oestereo* 99.7 FM, on the air. Local authorities announced this as “the occupation” of the station (Espacio Público, 2019).

Venezuela’s National Union of Press Workers (Sindicato Nacional de Trabajadores de la Prensa) has reported that, since the beginning of COVID-19-related lockdown measures in Venezuela, censorship and terrible conditions for exercising journalism continue, including the detention of newsmen (as of May 3, 2020, the union had totaled 22 journalists being temporarily held).

## REALM C: Violence against journalists unpunished

On May 1, 2019, attacks against journalists intensified, without, as in previous cases, the authorities investigating the events or imposing sanctions on the officials responsible for brutality against journalists and citizens amidst protests held in various locations of the country (Córdova, 2019; Tal Cual, 2019). Also, there has not been any further investigation into theft of media equipment, such as that perpetrated against radio stations Éxitos 100.9 in



Mérida State and *Radio Nacional de Venezuela*, reported by journalist Leonardo León (Espacio Público, 2020).

In the study period, the bureaucratic apparatus is the main source of violence against journalists. It is a constant that no complaints are filed or investigations launched on any aggressions against injured journalists, as there has been none in previous years, nor regarding the coverage of the April 30, 2019, events, one day before the study period; nor are there any investigations into the equipment stolen and/or seized from stations and journalists in the following days. Authorities, on the contrary, try to involve officials at various levels, including the Attorney General's Office and the courts, in prosecuting newsmen.

Hence, the experts inquired gave Venezuela a score of 1.2 out of 42 possible points for actions aimed at preventing violence and punishing crimes against newsmen. Not only are there no protection mechanisms for such profession, but there actually are mechanisms of persecution including undercover actions of law enforcement along with civilians who, under the guise of alleged supporters of the regime, engage totally unpunished, in advance of law enforcement, by physically or psychologically attacking media workers.

This is what happened to the journalists assaulted at Simón Bolívar International Airport at Maiquetía [serving Caracas], in full view of its authorities, at a time when they were covering Bolivarian Republic of Venezuela National Assembly Speaker Juan Guaidó's return into the country. This politician, his entourage, and members of the press who were covering the events were attacked by regime supporters, without any preventive or punitive actions being taken by airport authorities, which is under the Federal Executive (IPYS Venezuela, 2020).

In two of the sub-realms in this realm, impunity and persecution, Venezuela did not score any points in favor, standing at the minimum possible: 0. This realm barely reached 1.2 points in the sub-realm regarding the protection of journalists, a rating also far below the continental average.

## **REALM D: Mainstream media, under Maduro's control; online media, under siege**

Various private Venezuelan broadcast media had been critical long before the study period. The fallout on them is yet being felt. A few still persevering in their critical stance have lowered their standards or been shut down as in the case of RCR, just one day before the study period. But online media have been under increasing pressure from the regime's favorite mechanism: imprisonment and further partial restrictions on freedom.

On November 19, 2019, online media *Entorno Inteligente* manager Ana Belén Tovar was arrested during a raid, conducted by officials of the General Directorate of Military Counter-Intelligence (Dirección General de Contrainteligencia Militar, DGCIM), at said media's main office, after allegedly posting information regarding the defense minister of Nicolás Madu-





ro's government. During this operation, journalists covering the events for two other media were held for hours. Tovar remained imprisoned for the remainder of the study period, as reviewed by respondents, and was released on May 6, 2020 (Tal Cual, 2020).

Another method is the economic destruction of the media by means of lawsuits filed by officials for alleged defamation and slander. This is what happened with *La Patilla* website which, under a ruling issued on June 4, 2019, by Nicolás Maduro-allegiant Criminal Appeals Chamber of the Supreme Court of Justice, shall pay National Constituent Assembly Head Diosdado Cabello the equivalent of US \$5,000,000 for "moral damages".

Actions restricting newsprint deliveries to various dissident media by means of *Corporación Editorial Alfredo Maneiro*, under the Communication and Information Ministry of Nicolás Maduro's government, as a mechanism to monopolize this supply's imports, are still in force. On May 14, 2019, 104-year-old Zulia State local newspaper *Panorama* ran its last print resulting from the precarious situation caused by restrictions to procure newsprint. Zulia was the fourth state in the country left without any kind of print media since the inception of this method to deliver such supply thereby favoring regime-allegiant newspapers.

Under this situation, it comes as no surprise that respondents would score the Media Control Realm at 0 in its two sub-realms – actions to avoid direct or indirect controls, given the ample repertoire of schemes to directly or indirectly pressure the media as part of Nicolás Maduro's political practices.

## CONCLUSIONS

The terrible actions performed during the study period in the field of freedom of expression have not been the only ones that have deteriorated the right to information and the free dissemination of ideas in Venezuela's society. This muzzling has been organized upon the systematic use of unpunished violence against journalists, starting with Hugo Chávez's inflammatory discourse during the presidential campaign at which he rose to power in 1999, and has continued by means of controls, threats, imprisonment, harassment, direct violence, and forced exile of citizens and journalists.

The situation could worsen in the period following this report. People have continued to be arrested for using social media to issue messages uncomfortable to the regime, and quarantine restrictions have laid ground for authoritarian practices against journalists and citizens in general.

It could be stated that, under Venezuela's current climate, with a deep economic downturn, reduced development of business initiatives, and high levels of poverty, few independent media will have little chance of survival. It is imperative that the international community continues to support communication initiatives from overseas to keep whistleblowing for the restoration of democracy in Venezuela.



The Maduro administration and its political allies appointed a National Electoral Council (Consejo Nacional Electoral, CNE) board after their lust for clinging to power, for the purpose of calling for legislative elections and thereby taking a hold of the branch of government that has not been within their reach. We cannot make broadcasts; but Venezuela's independent journalism, still present on social media, could further dwindle, if a change bringing about new reforms and more persecution in the field of social media comes to pass. Although the Anti-Hate Law, with its arbitrary and discretionary makeup, already attempts to lay enough ground to further gag the population and fix their gaze upon its supposed achievements. Venezuela's society is muzzled and blindfolded.

## REFERENCES

- Córdova, E. (2019). SNTP: 9 periodistas fueron agredidos y hay un detenido. *Noticiero In: Digital.com*. Retrieved from: <https://htr.noticierodigital.com/2019/04/800-pm-sntp-9-periodistas-fueron-agredidos-y-hay-un-detenido/>.
- Espacio Público. (2019). Jornada del primero de mayo: se agudizan agresiones contra periodistas. *Espacio Público*. Retrieved from: <http://espaciopublico.org/jornada-del-1ro-de-mayo-se-agudizan-las-agresiones-contra-periodistas/>.
- Espacio Público. (2020). El virus de la desinformación. Situación del derecho a la libertad de expresión. Enero – Abril de 2020. *Espacio Público*. Retrieved from: <http://espaciopublico.org/situacion-general-del-derecho-a-la-libertad-de-expresion-enero-abril-de-2020/>.
- EVTV Miami. (2020). Régimen amenaza a periodista de EVTVM en Zulia. *EVTVM*. Retrieved from: <https://evtvmiami.com/regimen-amenaza-a-periodista-de-evtv-en-zulia/>.
- Instituto de Investigaciones Económicas y Sociales de la Universidad Católica Andrés Bello - UCAB (2020). Encuesta Nacional de Condiciones de Vida (2019-2020).
- Instituto Prensa y Sociedad de Venezuela. (2020). Alerta IPYSve | Prensa agredida durante cobertura en la Asamblea Nacional. *IPYS Venezuela*. Retrieved from: <https://ipysvenezuela.org/alerta/alerta-ipysve-prensa-agredida-durante-cobertura-en-la-asamblea-nacional/>.
- Instituto Prensa y Sociedad de Venezuela. (2020). Alerta IPYSve | En presencia de cuerpos policiales agredieron a periodistas en Maiquetía. *IPYS Venezuela*. Retrieved from: <https://ipysvenezuela.org/alerta/alerta-ipysve-en-presencia-de-cuerpos-policiales-agredieron-a-periodistas-en-maiquetia/>.
- Instituto Prensa y Sociedad de Venezuela. (2020). Alerta IPYSve | Periodista Darvinson Rojas fue excarcelado luego de 12 días de detención. *IPYS Venezuela*. Retrieved from: <https://ipysvenezuela.org/alerta/periodista-darvinson-rojas-fue-excarcelado-luego-de-12-dias-de-detencion/>.

- Rodríguez, R. (2019). Venezuela Sin Filtro denuncia bloqueo de YouTube por 55 minutos este #16Nov. In: *Efecto Cocuyo*. Retrieved from: <https://efectococuyo.com/la-humanidad/venezuela-sin-filtro-denuncia-bloqueo-de-youtube-por-55-minutos-este-16nov/>.
- Siverio, J. (2020). Privan de libertad a sitorista detenido arbitrariamente por reenviar un mensaje en WhatsApp. In: *Diario Correo del Caroní*. Retrieved from: <https://www.correodelcaroni.com/laboral/4935-privan-de-libertad-a-sitorista-detenido-arbitrariamente-por-reenviar-un-mensaje-en-whatsapp>.
- Tal Cual. (2020). Excarcelan a periodista Ana Belén Tovar tras cinco meses de prisión. In: *Tal Cual*. Retrieved from: <https://talcualdigital.com/excarcelan-a-periodista-ana-belen-tovar-tras-cinco-meses-de-prision/>.
- The United Nations High Commissioner for Refugees (UNHCR). (2020). Informe mensual de las Américas. Retrieved from: [https://www.acnur.org/op/rep\\_am/5e5598334/informe-mensual-de-las-americas-enero-2020.html?query=venezuela%20informe](https://www.acnur.org/op/rep_am/5e5598334/informe-mensual-de-las-americas-enero-2020.html?query=venezuela%20informe).
- UN Human Rights. (2020). UN Human Rights report on Venezuela urges immediate measures to halt and remedy grave rights violations. Retrieved from: <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=24788&LangID=S>.

## VENEZUELA

MEASUREMENT PERIOD: MAY 2019 - APRIL 2020

### Strengths, weaknesses, opportunities, treats

<b>STRENGTHS</b>	Albeit forcibly and struggling for economic sustainability, journalists and media outlets penalized or harassed by the Nicolas Maduro regime have successfully migrated to the digital domain, finding the possibility of disseminating critical information over the Internet, in an online ecosystem sustaining blockages, but with fewer probabilities of full restriction by the government. Citizens have persisted in using social media as a means of criticism, despite arbitrary arrests.
<b>WEAKNESSES</b>	The regime has continued to persecute citizens and journalists who voice their criticism. Having as allies a National Constituent Assembly with a questioned legitimacy and a Judiciary subdued by the ruling party, the Executive persecutes newsmen and individuals by means of trials, jail, and rigged probation sentences, pressing against them charges for infringing regulations in place to avoid criticism, such as the Anti-Hate Law. The severe political, economic, and social crisis has weakened the media and pushed news organizations to a precarious situation or bankruptcy, as well as subjected them to direct and indirect controls. Law enforcement terrorizes citizens, restricting their free speech day after day in entities part of the public administration.
<b>OPPORTUNITIES</b>	Venezuelan journalists and media companies have made some impact on the Internet. An open digital media ecosystem offering the possibility of dissent continues to exist, even on platforms blocked by the regime. The activity of non-governmental organizations defending free speech rights in Venezuela has drawn attention from bodies inside the country and abroad. Some startups and personalities have emerged with relative success amidst adverse conditions to communicate the severe crisis that exists in the country.
<b>THREATS</b>	One threat remains latent in Venezuela, and that is the persecution of all dissidents in the digital ecosystem. After closing down media outlets and revoking licenses to radio and TV stations on political grounds, the Venezuelan regime has already persecuted journalists for critical content disseminated on the Internet, and forced entrepreneurial journalists in the digital domain into exile, which makes the disappearance of the remaining information channels feasible. Universities could also be in the bull's eye for new controls by Maduro. The pandemic has given the regime an excuse to conduct new arrests.

## 2.22.2 VENEZUELA 2020-2021

<b>VENEZUELA</b>	Theoretical Max	Index
<b>Chapultepec Index</b>	<b>100,00</b>	<b>5,71</b>
<b>REALM A: "Citizens free to express themselves"</b>	<b>23,00</b>	<b>1,57</b>
Information flow	11,00	1,57
Free speech	12,00	0,00
<b>REALM B: "Exercise of journalism"</b>	<b>10,00</b>	<b>3,43</b>
<b>REALM C: "Violence and impunity"</b>	<b>42,00</b>	<b>0,71</b>
Protection	5,00	0,00
Persecution	7,50	0,50
Impunity	8,50	0,21
Registered violence	21,00	0,00
<b>REALM D: Control over the media</b>	<b>25,00</b>	<b>0,00</b>
Direct control	19,00	0,00
Indirect control	6,00	0,00

**Chapultepec Index on Freedom of Expression and the Press 2021**



## Influence of environments on unfavorable situations to freedom of expression

(Scale 1 to 10, where 10 is very influential)

(Value "0" for cases where there is no unfavorable influence)

<b>VENEZUELA</b>	<b>LEGISLATIVE ENVIRONMENT</b>	<b>JUDICIAL ENVIRONMENT</b>	<b>EXECUTIVE ENVIRONMENT</b>
Degree of Unfavorable Influence	7,05	6,70	7,59
REALM A: "Citizens informed and free to express themselves"	7,21	4,94	5,06
REALM B: Exercise of Journalism	8,00	8,43	9,00
REALM C: Violence and Impunity	6,33	6,57	7,29
REALM D: Control over the media	6,64	6,86	9,00

Type of Influence      Points

<b>SLIGHT INFLUENCE</b>	0,1 - 2,50
<b>MODERATE INFLUENCE</b>	2,51 - 5,00
<b>STRONG INFLUENCE</b>	5,01 - 7,50
<b>VERY STRONG INFLUENCE</b>	7,51 - 10,00



PERIOD SURVEYED  
JULY 31, 2020 – AUGUST 1<sup>ST</sup>, 2021

## Venezuela: violence, persecution and arbitrary shutdowns

### Executive Summary

For the second consecutive year, Venezuela reaches the last position in the Chapultepec Index of Freedom of Expression and Press of the Inter American Press Association. With 5.71 points out of 100, Venezuela is regarded as the country with the worst score among the group of nations with no freedom of expression. The period under study was marked by murders in connection with media activity; two of them committed by government special forces agents in the very facilities of a media outlet. Furthermore, detentions for voicing personal opinion and information continued, as well as the alignment by branches of government against flagship outlets like *El Nacional* newspaper.

## INTRODUCTION

The humanitarian crisis affecting Venezuela worsened between July 2020 and August 2021, with an annual inflation rate estimated at 2,719.5% for May 2021. No decrease has been noticed regarding measures imposing restrictions in a difficult climate for freedom of the press and expression that has been unfolding for more than 20 years of a political process started by late President Hugo Chávez Frías in 1999, and continued by Nicolás Maduro since 2013.

Many regulations have been questioned by human rights organizations. Part of this controversial outlook is the “Law against Hate” (Ley contra el Odio), passed in 2017, and the provisions of government entities, among these, the National Telecommunications Commission (Comisión Nacional de Telecomunicaciones, Conatel).

Venezuela is seen as a nation without institutional stability, uninformed about the actual government funds, and about the current status of utilities and its health system. It is also regarded as a country with a diaspora of around 7 million people and 2,000 executions committed between January and September 2020 by forces under the Executive - according to reports received by the Office of the United Nations High Commissioner for Human Rights, OHCHR (Amnesty International, 2021).

The immediate past to this period has, as its main background, the actions by the Executive and Judicial branches against journalists and independent press since the arrival of the

coronavirus in the country. In 2020, COVID-19 brought restrictions over access to information, and measures against the independent dissemination of information related to the virus.

According to estimates reported by the non-governmental organization Espacio Público, there were 250 violations of freedom of expression linked to the pandemic in 2020. Among these violations, it is noteworthy the intimidating statements from officials against directors of the National Academy of Physics, Mathematics, and Natural Sciences (Academia Nacional de Ciencias Físicas, Matemáticas y Naturales), issued after this institution released its projections on the pandemic in the country in May 2020, shortly before the beginning of this report's study period (Espacio Público, 2021).

Other noteworthy incidents may be cited as an immediate background to this period which determined the perception of the experts surveyed in the nation is the seizure of *El Nacional* on May 14, 2021, a newspaper founded in 1943. The seizure of the journal's headquarters resulted from a lawsuit filed at the Supreme Court of Justice (Tribunal Supremo de Justicia) by the senior representative of the ruling party, president of the United Socialist Party of Venezuela (Partido Socialista Unido de Venezuela, PSUV), and current congressman, Diosdado Cabello. The court ordered payment of more than USD 13 million for alleged defamation and moral damage against Cabello. The fine, unpayable for the newspaper, led to the seizure of the newspaper's facilities.

## **Analysis over the influence of institutional environments through actions against freedom of the press**

The Venezuelan Executive, headed by Nicolás Maduro Moros, was rated as the institutional environment with the greatest impact regarding unfavorable actions against freedom of expression and the press during the period under study. Experts averaged a shocking score of 7.59 points out of a possible 10. These results show a very strong influence for this category.

The figures on the perception of the Executive's actions are especially high with regards to the exercise of journalism and control over the media (9 points out of a possible 10 in both indicators), and perceived as having strong influence in relation to Violence and Impunity against journalists and the media (7.29 out of 10), also, on issues regarding contexts negative to citizens' ability to obtain news (5 points out of 10).

This outcome can be explained since the main violations committed against freedom of expression and the press came from law enforcement institutions under the Executive. The organizations more closely linked to actions of violence, intimidation or obstruction of information, are the Special Action Forces (Fuerzas de Acciones Especiales, FAES) - responsible for the two murders that took place in the main offices of a media outlet in August 2021 - the Bolivarian National Guard (Guardia Nacional Bolivariana, GNB), the General Director-

ate of Military Counterintelligence (Dirección General de Contrainteligencia Militar, DGCIM) and Scientific, Penal, and Criminal Investigation Service Corps (CICPC).

It is also important to understand the role played by companies or institutions of the Executive, such as the National Telephone Company of Venezuela (Compañía Anónima Nacional Teléfonos de Venezuela, CANTV), the National Electricity Corporation (Corporación Eléctrica Nacional, Corpoelec), and the National Telecommunications Commission (Comisión Nacional de Telecomunicaciones, Conatel). Far from their services reliably, the former two have allowed failures, disruptions, and blockades on Internet access, whereas the latter has denied the country of particularly critical contents by blocking information sources in digital media and banning channels in broadcast television and private providers.

Towards the end of the period under review, the Executive implemented a strategy to control NGOs receiving foreign funds. On May 1, 2021, President Nicolás Maduro announced the entry into force of the Administrative Ruling 001-2021, for the Unified Registration of Individuals Subject to the National Office against Organized Crime and Financing of Terrorism (Registro Unificado de Sujetos Obligados ante la Oficina Nacional Contra la Delincuencia Organizada y Financiamiento al Terrorismo). This executive order means pressure over NGOs in the country, and some of these organizations are connected to the news and communications sector.

The second government branch with the highest degree of negative influence over freedom of expression and the press in the country is the Legislative, with 7.05 points out of a possible 10. The continuous use of laws to devise mechanism for media censorship has not ceased, and although there were no new laws in this regard during the above period, skepticism remained in reason of the announcements for plans to control social media. A draft bill on this matter has not been made public until now.

There has been no proposal in the Legislative for any amendments to reverse restrictions on freedom of expression and the press. On the contrary, politically-motivated mechanisms in place to curb the functions of media outlets are still in force, like the Law of Social Responsibility over Broadcast and Online Media (Ley de Responsabilidad Social en Radio, Televisión y Medios Electrónicos), issued in 2004; and amended in 2010), the Organic Law on Telecommunications (Ley Orgánica de Telecomunicaciones) amended in 2010, the Organic Law on Citizen Oversight (Ley Orgánica de Contraloría Social) (2010), and the Constitutional Law against Hate or for Peaceful Coexistence and Tolerance (Ley Constitucional contra el Odio o por la Convivencia Pacífica y la Tolerancia) (2017).

Although the judicial environment appearing as the one with the least influence over aspects adverse to freedom of expression, its impact on them is still strong (6.70 points out of 10). It is noteworthy the impact of this environment on the exercise of journalism through actions that include indictments and rulings against journalists and media outlets. Some examples will be presented in the analysis below.



## **REALM A: Venezuela does not have “Citizens free to express themselves”**

For this realm, Venezuela only attained 1.57 points out of 23, making it clear that, according to the opinion of the experts inquired, the country lacks free information flow at citizen level. The main causes for this are poor Internet service – largely disregarded by the government and with no possibilities of becoming massive – which serves as a marginalizing instrument due to its high costs that contrast with the low income of the vast majority of the people, along with arbitrary blockades as ordered by agencies at the behest of the Executive.

The foregoing is supported by stats from the Open Observatory of Network Interference (OONI), revealing that more than 4,000 blockades in 153 media outlets – among national and foreign – were reported in Venezuela throughout 2020, mainly through DNS, HTTP and TCP/IP blocking from private and state-owned Internet Service Providers (ISPs).

There were also about 80 reports of violations of the digital rights of Venezuelans during the period reviewed in this release. According to data gathered by the Press and Society Institute (Instituto de Prensa y Sociedad, IPYS) (IPYS Venezuela, 2021), these reports corresponded to, firstly, online attacks against journalists and news websites; secondly, blockings to news websites and social media; and, thirdly, restrictions to online expression.

Restrictions on matters related to the pandemic – the Executive designated the Executive Vice President of the Republic, Delcy Rodríguez, as the sole spokesperson on this issue – caused censorship and self-censorship among citizens, public officials, and journalists. Gasoline shortage was another issue typical of government opacity and people and journalists were arrested and harassed in June 2020 for disseminating photos of the events happening around gas stations. (Torrealba, 2021)

## **REALM B: Exercise of journalism amid arrests and restrictions**

The evaluation by the experts consulted gave realm B on the exercise of journalism a low score of 3.43 out of 10, reaching a highly restrictive range. Since the beginning of the pandemic, the conditions for journalists in the country have remained risky.

The main guilds of journalists in Venezuela – the National Association of Journalists (Colegio Nacional de Periodistas, CNP) and the National Union of Press Workers (Sindicato Nacional de Trabajadores de la Prensa, SNTP) reported the detention of 18 media staff in 2020 for publishing content regarding COVID-19. Some of these detentions included the temporary arrest of journalists' relatives to put more pressure on journalists because of the information they could broadcast with regards to the pandemic.

The director of digital media outlet Punto de Corte, Nickmer Evans, is among the journalists arrested. Evans, a sociologist and political scientist, was arrested on the night of July 13, 2021, and given an arrest warrant for the alleged offense of “hate speech” in accordance to the controversial “law against hate” mentioned above.

The arrest warrant was issued by Judge José Márquez of the 21<sup>st</sup> Trial Court for the Metropolitan Area of Caracas. Earlier, Evans’ family was held under custody for four hours by CICPC and DGCIM, both corps under the Executive. Evans was released on September 3 and he reported that, during the time he was in prison, he was tortured, exposed to COVID-19, and his belongings stolen.

Ronald Carreño, journalist and communication consultant to opposition leader Juan Guaidó, was subjected to forced disappearance on October 26, 2021 for more than 12 hours on October 27, 2020, before the Attorney General’s Office announced that he was being charged with conspiracy and *in flagrante delicto* for allegedly carrying weapons. Carreño is still under arrest at the moment of writing this report.

Obstructions on media employees are applied on a regular basis in Venezuela nowadays. On July 30, 2020, members of the National Bolivarian Police (Policía Nacional Bolivariana, PNB) intimidated Franklin Rodríguez, journalist from NotiPascua and El Nacional, when he was taking photos of an event at a gas station in Guárico, a central state in the country.

Obstacles to the exercise of journalism have also taken place during electoral processes. According to data from IPYS, during the elections on December 6, 2020, when representatives to Venezuela’s Legislative were elected, there were 10 reports of restrictions on news coverage. (IPYS Venezuela, 2021)

## **REALM C: Violence and impunity against journalists**

The ruling party has exploited the alignment of the branches of government to attack the media and journalists in Venezuela. However, this year, three media workers were murdered, two of them by FAES agents in the very facilities of the media outlet. This influenced over the evaluation provided by the experts surveyed on the realm Violence and Impunity for which the country barely obtained 0.71 points out of 42.

On August 21, 2020, in Cabimas, Zulia State, western region in the country, FAES officers broke into the household of a man who was then the director and owner of the community channel La Guacamaya TV, a pro-government media outlet. At that time, FAES murdered cameraman and journalist Andrés Eloy Nieves Zacarías, and Víctor Torres, son of the channel’s director.

The event occurred only three days after the murder of José Carmelo Bislick, a university professor and member of the ruling party who hosted a radio program at Omega 94.1 FM radio station where he had reported wrongdoing. The day after being reported missing, on



August 18, his body was found in the wilderness in Güiria, a town in Sucre state, northeastern Venezuela (Unesco, 2020).

A murder attempt was also perpetrated on December 2, 2020. Jamel Louka, photojournalist at *La Antena* newspaper was cut off by a man and a woman who shot him as he was arriving home in Guárico State, central region in the country. He was hit in the left arm in the attack that also involved a grenade being thrown. Louka reported having received threats prior to the incident. (IPYS Venezuela, 2020).

The Venezuelan Government has also allowed attacks against journalists by government officials and groups of government supporters at demonstrations and instances of social unrest. During the period under study, this correspondent's office counted at least 100 aggressions against journalists and the media clearly committed by agencies at the behest of the Venezuelan Executive.

## **REALM D: Tight control over the media in Venezuela**

Venezuela continues to exert a tight control over the media. Therefore, the experts surveyed allocated a score of 0 points out of 25, the lowest figure in terms of direct and indirect control over the media on record in this study. Actions by government institutions during the period reviewed included shutdowns and expropriation of media assets.

At 7:30 p.m. on July 31, 2020, Conatel officials, alongside GNB officials, shut down Pura Candela 93.3 FM16 radio station in Carúpano, Sucre State, for alleged violations to telecommunications regulations. Also, on November 13, 2020, a Conatel delegation also closed radio station Rumbera Network 94.7 FM18 in Cojedes State, a central state in the country, alleging irregularities concerning the broadcast license. The station's computers, microphones and a transmission console were also confiscated. Prior to the event, the media outlet had received threats from local authorities (Espacio Público, 2020).

On Friday, January 8, 2021, Venezuelan authorities seized computers and other equipment belonging to online television channel, VPI TV. The procedure was carried out without a court order, as the station reported to the public. The action ended with the shutdown of the station that had criticized the regime leaving more than 100 workers unemployed. On the same date, newspaper *Panorama*, from Zulia State, with a moderately pro-government position, was forced to close for five days on alleged tax non-compliance grounds. During January 2021, blockings to websites like Efecto Cocuyo, Tal Cual and Roman Catholic radio station Fe y Alegría, among others, was also reported.

After the confiscation of *El Nacional* newspaper in May 2020, shortly before the period under study by this year's Index, actions against the Venezuelan newspaper continued. The fine for alleged defamation against Diosdado Cabello rose from USD 13.5 million to USD 30.05 million. Authorities stated that the decision was conveyed to them on June 11, 2021,



by the Third Trial Court on Civil, Commercial, Transport and Banking Matters of the Caracas Metropolitan Area court district (Hernández, 2021).

## CONCLUSIONS

It is clear that there is a tendency toward the violation of the freedom of expression and the press in Venezuela's government circles. There is an alignment of the Executive, Legislative, and Judicial branches in the country intended to silence independent and critical press, persecute opposing voices, obstruct the labor of journalists, and reduce information flow among citizens.

Most of the institutions that have exerted pressure and censorship over the media are part of the Executive, which uses not only public forces but also government bodies to operate as gatekeepers while imposing upon citizens blockings to websites, content restrictions, and intermittent service failures affecting Internet access.

The exercise of journalism does not enjoy the guarantees of a democracy; on the contrary, critical newsmen suffer arbitrary detentions, sometimes in the form of forced disappearances and the intimidation of journalists' closest family members. The institutional actions include pressing of charges and protracted imprisonment in some cases.

During the period under review, the murder of three media workers was reported, two of them during an incident involving the Executive's special agents. Even though, in some cases, arrests for these crimes have been conducted as in the case of FAES officers imprisoned for the murder of two people in the premises of a media outlet in Zulia State (mentioned in this release), there are still many more attacks committed against Venezuelan journalists that have gone unpunished.

The direct and indirect controls imposed over media outlets in the country also included shutdowns. The strategy applied by the Government is one of continuous institutional orchestration against flagship media, like the one used in 2007 against Radio Caracas Televisión (RCTV), on top of a list that has been adding VPI TV and El Nacional during the period of study of this publication.

As a whole, the actions described above support and illustrate the fact that Venezuela is at the bottom of the Chapultepec Index of Freedom of Expression and the Press of the Inter American Press Association for the second consecutive time with mere 5.71 points out of a total 100.

## REFERENCES

Amnistía Internacional (2021). *Venezuela, Informe 2020-2021*. Consultado el 10 de octubre de 2021. Disponible en: <https://www.es.amnesty.org/en-que-estamos/paises/pais/show/venezuela/>.



Espacio Público (2021). *Situación general del derecho a la libertad de expresión en Venezuela, informe 2020*. Consultado el 12 de octubre de 2021. Disponible en <https://espaciopublico.org/informe-2020-situacion-general-del-derecho-a-la-libertad-de-expresion-en-venezuela/>

Instituto Prensa y Sociedad de Venezuela (2020, 28 de diciembre [2020b]). Seis meses de agresiones y abuso de poder. Consultado el 10 de octubre de 2021. Disponible en: <https://ipysvenezuela.org/2020/12/28/reporte-especial-ipysve-seismeses-de-agresiones-y-abuso-de-poder/>.

Hernández, O. (2021) *La justicia venezolana aumenta a más del doble la multa contra diario “El Nacional” a favor de Diosdado Cabello, según el periódico*. Consultado el 12 de octubre de 2021. Disponible en <https://cnnespanol.cnn.com/2021/06/11/juzgado-duplican-multa-diario-el-nacional-diosdado-cabello-orix/>

Torrealba, L. (2021) *Venezuela: hostigamiento, detenciones arbitrarias, censura y dificultades en la cobertura informativa prevalecieron como principales restricciones al derecho a la libertad de expresión durante 2020*. Consultado el 10 de octubre de 2021. Disponible en <https://www.medianalisis.org/wp-content/uploads/2021/03/LIBERTAD-DE-EXPRESSION-EN-VENEZUELA-2020.pdf>

UNESCO (2020). *La directora general condena los asesinatos de los periodistas Andrés Eloy Nieves y José Carmelo Bislick en Venezuela*. Consultado el 10 de octubre de 2021. Disponible en <https://es.unesco.org/news/directora-general-condena-asesinato-periodistas-andres-eloy-nieves-zacarias-y-jose-carmelo>

## VENEZUELA

PERIOD SURVEYED

JULY 31, 2020 - AUGUST 1<sup>ST</sup>, 2021

### Swot Analysis

<b>STRENGTHS</b>	The Constitution of the Bolivarian Republic of Venezuela establishes that communication in the country must be free and with a plurality of voices. Although compliance with this has been violated by the government itself, it is an important reference for any process in defense of this right. Social media activity, although threatened and sometimes penalized, still allows citizens to share criticism on the government. Journalists and companies penalized by the regime continue reporting in the digital sphere, facing, however, blockings and challenges to sustainability.
<b>WEAKNESSES</b>	Violence against journalists has included homicides, imprisonment, and arbitrary judicial processes. Censorship and self-censorship in the country, in the form of direct and indirect instruments of control over the media, keep the media docile and weak. Journalists do not enjoy minimum guarantees for coverage and critical media professionals are not granted access to official sources. Citizen's demonstrations barely revolve around issues regarding freedom of expression as Venezuelans suffer from a serious economic and social crisis that keeps their attention busy to a great extent.
<b>OPPORTUNITIES</b>	Investigative journalism has overcome obstacles and unveiled corruption schemes that reach beyond public opinion in digital media. Independent journalism initiatives have overcome blockades thanks to technology alternatives that have been disseminated among the public, but also due to the efforts in favor of face-to-face communication and the use of direct messaging between said initiatives and users. Information about what is happening in Venezuela crosses borders and allows gathering international support in favor of freedom of expression. Journalists' fact-checking initiatives have raised awareness of the anti-democratic effects of disinformation in the country through information posted on websites and digital literacy campaigns.

<b>THREATS</b>	<p>Communication is still in the crosshairs of the Executive. The opposition and even moderately pro-government media are still monitored by national, provincial, and local authorities. Unceasing statements by spokespersons of the branches of the government against social media activity suggest that actions will continue to silence citizens and journalists who disseminate information and opinions on issues deemed sensitive for the regime of Nicolás Maduro. The regulations that have turned the National Telecommunications Commission (Conatel) into a ideology-based political operator remain unquestionable. The possibility of further seizure measures and arbitrary media shut-downs remains open, also, by means of a recent regulation governing the registration of NGOs.</p>
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## 2.22.3 OVERVIEW

### Venezuela

**Venezuela**, the nation remaining last in the two editions of the Chapultepec Index of Freedom of Expression and the Press, did not vary significantly in Realm A, Informed Citizens Free to Express Themselves. For the first study, the score awarded in this category by the experts was 0.8 points out of a possible 23; while in the second, 1.5 points out of a possible 23. The opacity of public affairs does not allow citizens to get informed from broadcast media, censored under political criteria. The gaps in access to stable internet service marginalize people with lower income. These limitations are compounded by the arrests of those who have blown the whistle on irregularities via social media.

For the second period, the country's institutional actions towards Realm B, Exercise of Journalism, remained very poor, going from 1.8 points in the first study to 3.43 points in the second, out of a possible 10 points. Harassment from public order officers, primarily military, towards media professionals during news coverage, as well as arrests and prosecution of journalists, left a clear negative balance that continues to this day.

In Realm C, Violence and Impunity, the score was even worse in the second edition of the Chapultepec Index, going from 1.2 to 0.71 points out of a possible 42. The assessment worsened owing to an escalation of violence in which there were not only aggressions by law enforcement but also by civilian supporters of the government. For instance, during the period for the second edition, there were murders of two people working for the media, as well as an assassination attempt. Amid the conflicting relationship between the government and independent journalism, no mechanism has been established for the protection of media professionals.

In Realm D, Control over the Media, Venezuela's score remained stable on the negative end, with 0 points in both editions. Restrictions on granting of licenses, orders to seize media equipment and assets, pressures on technology suppliers for the media – such as pay TV systems, actions against the editorial policies of digital media companies, as well as court rulings detrimental to freedom of the press remain.

The environment most prominently influential on actions against freedom of the press continues to be the executive, due to actions of the entities part of this institutional environment with authority over communications, such as the National Telecommunications Commission (Comisión Nacional de Telecomunicaciones, Conatel), an agency responsible for closing and penalizing media outlets, which has also acted as a political operator regarding control of editorial policies, as well as the granting and revoking of broadcast licenses. As for the other two branches of government, the Judiciary and Legislative, they alternated in second place, in this order. Rulings against newsmen, some of whom must abide by orders to period-

ically appear in government offices, continue; as well as the laws attempting to legitimize censorship, such as the Law on Social Responsibility in Radio, Television, and Online Media (Responsabilidad Social en Radio, Televisión y Medios Electrónicos), enacted in 2004; and the Constitutional Act against Hate or for Peaceful Coexistence and Tolerance (Ley Constitucional contra el Odio o por la Convivencia Pacífica y la Tolerancia), in force since 2017.



**CHAPULTEPEC INDEX**  
of Freedom of Expression and Press



3

**CHAPULTEPEC INDEX:  
AN INTER-AMERICAN  
LEGAL CHALLENGE  
IN DEFENSE OF  
FREEDOM OF  
EXPRESSION**

CHAPULTEPEC INDEX:  
**AN INTER-AMERICAN LEGAL CHALLENGE  
IN DEFENSE OF FREEDOM OF EXPRESSION**

Jaiber Alberto Núñez Urdaneta<sup>1</sup>  
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## INTRODUCTION:

From the early meetings held by the team tasked with the Chapultepec Index, the enormous scientific-methodological challenge involved in designing and deploying an instrument for appraising freedom of expression at the Inter-American level became clear, moreover one based on such disparate and often contradictory socio-political contexts existing across the Americas.

In this regard, assuming that the reality within a single country is often very complex because of the interaction of multiple historical, political, economic, and social variables, the task of analyzing the yearly performance of 22 countries so different from each other underscores the commitment made by the IAPA in conjunction with the UCAB (Venezuela) to defend and promote freedom of expression throughout the continent.

Now, this chapter aims to provide an overview of the legal reference framework that served for developing and subsequently implementing the Index by means of common indicators that were capable of objectively assessing the institutional actions occurring in the hemisphere in accordance with the principles of the Declaration of Chapultepec<sup>3</sup> and the Declaration of Salta,<sup>4</sup> adopted by the IAPA in 1994 and 2018, while offering the reader a selection of the dilemmas and difficult choices that had to be made by the research team to confer rigor and scientific validity to the instrument.

To this end, it seeks to provide an approximation to an Inter-American notion of freedom of expression, based on international agreements and Inter-American jurisprudence as

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3 Available at <https://www.oas.org/en/iachr/expression/showarticle.asp?artID=60&IID=1>

4 Available at <https://en.sipiapa.org/notas/1212853-declaration-of-salta>



points of reference in building a narrative on Freedom of Expression that is embraced by all parties involved.

Secondly, it analyzes the main institutional challenges that were present in devising the Index and the responses given to them to conduct this research in an efficient and scientifically valid manner.

Finally, it contributes a series of conclusions that, far from closing the legal debate, seek to encourage the continuation of the study on a subject of cardinal importance for the future of democracy throughout the Americas.

## **Approximation to an Inter-American notion of Freedom of Expression**

Undoubtedly, freedom of expression belongs to that category of legal concepts that, although we may have an intuitive notion thereof and can easily perceive when it is impaired, we still find difficult to define as accurately as it deserves to encompass its essence and not leave anything out.

Some refer to it as freedom of the press. However, this designation is surpassed, at least in this context, since the progressive development of the concept has expanded this freedom to formulations stretching beyond the written text, owing this initial designation to the abuses of monarchical regimes involving prior censorship exercised on the printing presses of those times. Subsequently, this constituted a decisive factor in the independence wars seeking to reverse such injustices. Therefore, old Constitutions refer to this right only as freedom of the press<sup>5</sup>.

Another interesting precedent is found in German law, where it is defined as that portion of freedom dedicated to the expression of each individual's opinion, so much so that its Fundamental Law and extensive dogmatics<sup>6</sup> use the term "Meinungsäußerung" which literally translates into English as "free expression of one's opinion".

Moving further into the Americas, in 1986, Argentina's Supreme Court provided an initial concept of freedom of expression in the landmark Campillay case, stating succinctly that it "is the freedom to give and receive information"<sup>7</sup>.

Similarly, the doctrine across the Americas has pointed out the following on the subject: "In general, for local courts, the constitutional clause meant that everyone enjoyed the right to publish ideas, information, facts or opinions without prior official authorization, remaining subject to subsequent liability"<sup>8</sup>.

5 Gregorio Badeni (2005). *Doctrina de la Real Malicia*. Buenos Aires: Academia Nacional de Periodismo, p. 18.

6 Robert Alexy (2002). *Grundrechte, Abwägung und Rationalität*. In: *Ars Interpretandi Journal of Legal Hermeneutics*, No. 7, pp. 113-125.

7 As quoted by Jorge Carpinzo (2011). Los Derechos Humanos: Naturaleza, denominación y características. In: *Revista Mexicana de Derecho Constitucional*, No. 25, July-December, p. 27.

8 Gregorio Badeni (2005). *Doctrina de la Real Malicia*. Buenos Aires: Academia Nacional de Periodismo, p. 18.



Notwithstanding the above, thanks to the development of Inter-American protection bodies of human rights, it has been acknowledged that freedom of expression is not only the right to disseminate information or ideas, but also “freedom of investigation and the right to receive information and opinions”<sup>9</sup>.

Thereby, this right is of utmost importance for modern society, leading thinkers such as John Milton to elevate it as he asserted: “Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties”<sup>10</sup>.

The relevance of the foregoing is mainly based on two reasons: a) Freedom of expression is an inherent human right; and b) Freedom of expression promotes democratic values within a society.

## 1.1. Freedom of expression is an inherent human right

This right is of vital importance for the appropriate development of human life, both from an individual and a collective perspective; it is essential for the suitable development of the individual’s personality within a democratic society.

This closeness to human nature means that this particular right entails a legal *gravitas* whereby it fits in the legal category of right inherent to the human being. It is evident and does not merit explanation that a society where authorization is required to express one’s own ideas – where freedom of expression does not exist – ends up being a dystopian universe. This issue has tormented the mind of humankind in works such as *Nineteen Eighty-Four* (Orwell, 1949), and the closest human experience assimilates it to authoritarian or totalitarian regimes suppressing any trait of individuality.

In addition to the above, it is worth reminding that freedom of expression is a form of freedom and nothing is more human than this. This is how the famous professor of jurisprudence H. L. Hart put it when he said that:

I have two reasons for describing the equal rights of all men to be free as a natural right; both of them were always emphasized by the classical theorists of natural rights. (1) This right is one which all men have if they are capable of choice: they have it *qua* men and not only if they are members of some society or stand in some special relation to each other. (2) This right is not created or conferred by men’s voluntary action; other moral rights are.<sup>11</sup>

From a collective point of view, it is also clear that freedom of expression is an essential element for humanity. This is explained by the fact that it makes the search for truth effective, as well as it contributes to strengthening tolerance and coexistence.

9 Daniel O’Donnell (2004). *Protección internacional de los derechos humanos*. Bogotá: Oficina en Colombia del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, p. 662.

10 Gregorio Badeni (2005). *Doctrina de la Real Malicia*. Buenos Aires: Academia Nacional de Periodismo, p. 18.

11 H. L. Hart (1955). Are there any natural rights? In: *The Philosophical Review*, Vol. 64-1955.



## 1.2. Freedom of expression promotes democratic values within a society

Furthermore, freedom of expression has an important justification insofar as it constitutes an essential element of the democratic system, since it allows overseeing public officials and government activity.<sup>12</sup> As Rafael Chavero states: “The need for lively debate on public affairs undoubtedly represents the essential core of the right to free expression of thought”<sup>13</sup>.

This has been recognized by international bodies, for example, the Human Rights Committee has referred in the following terms: “[...] the freedoms of information and of expression are cornerstones in any free and democratic society”<sup>14</sup>. Meanwhile, the Inter-American Court of Human Rights has confirmed: “As the cornerstone of a democratic society, freedom of expression is an essential condition for society to be sufficiently informed”.<sup>15</sup>

Citizens have the right to express themselves on political issues free from danger of severe reprisal, i.e., “to be able to criticize public officials, the government, the political regime, the socio-economic order, and the prevailing ideology”<sup>16</sup>.

## II. The value of the Declarations of Chapultepec and Salta as references in devising the Chapultepec Index

The Declaration of Chapultepec was adopted by the Hemisphere Conference on Free Speech on March 11, 1994, and reflects the continent’s commitment that no law or act of government may limit freedom of expression or of the press in its multiple and diverse expressions. To this end, it acknowledges a series of principles that, as stated above, are worth recalling and recognizing as a significant contribution.

In this regard, this declaration of principles recognizes an Inter-American framework for action in favor of freedom of expression, which includes a series of clear parameters regarding institutional action in favor of or against this human right.

All this was reflected in the methodological proposal of the Chapultepec Index by means of the development of institutional performance indicators for the executive, legislative, and judicial environments capable of measuring the perceptions of the experts inquired about the different topics presented.

In this sense, degrees of political discrimination, legislative hurdles to the full exercise of the profession of journalist or to the promotion and financial management of independent

12 Charles Tilly (2007). *Democracy*. New York: Cambridge University Press, p. 10.

13 Rafael J. Chavero Gazdik (2006). *El reino de la intolerancia. El problema de la libertad de expresión en Venezuela*. Caracas: Editorial Æquitas, C.A., p. 31.

14 UN Human Rights Committee (1996, July 12). *Aduayom et al v Togo*, §7.4.

15 Inter-American Court of Human Rights (2001, February 5). *Judgement of The Last Temptation of Christ (Olmedo-Bustos et al.) v. Chile*, §68., The IACtHR ruled in *Kimel v. Argentina* similarly.

16 Robert A. Dahl. Democracy. In: *Encyclopaedia Britannica* (Ed. 2004), p. 100.



media, as well as the conceptualization of indirect control mechanisms such as, for example, obstacles to newsprint imports are underscored. These issues were included in the Index.

For its part, the Salta Declaration on Principles of Freedom of Expression in the Digital Era is the natural evolution of the Chapultepec Declaration, incorporating the challenges of the digital era into the scope of protection of free speech at the Inter-American level.

All this was included in the methodological design of the Index. The basis for such incorporation was the recognition of the importance of the digital ecosystem as part of the scope for institutional protection of freedom of expression required from governments. Unfortunately, they often end up abusing their position of dominance of digital communication networks and systems, as well as their powers of oversight and control over technological intermediaries to influence public debate or directly block access to content deemed uncomfortable to the political groups in power.

This threat has materialized in many countries through sophisticated electronic surveillance and censorship systems with a clearly negative impact on access to information. Therefore, this constitutes an important study subject for the Index.

Similarly, disinformation policies, often promoted from the institutional sphere in the form of indiscriminate attacks on the free and independent press, pose a serious threat to freedom of expression in the continent, as they prevent citizens from accessing accurate and relevant information for public debate. Consequently, the Chapultepec Index rightfully addresses this phenomenon.

### **III. Considerations regarding the impact of the systems of government and forms of state present in the continent on the Index**

The implications that the different systems of government and forms of state existing across the continent would have on the study was a recurring theme in the discussions prior to the preparation of the methodological proposal for the Chapultepec Index. In this regard, one of the main challenges of the project – but at the same time one of its main virtues – was to conceive it from an Inter-American perspective that consequently includes a variety of States with traditions, political systems, legal systems, and historical processes with similarities, but at the same time many differences to reckon.

In the first place, when conducting a comparative legal study of these proportions, it is necessary to address the diversity of systems based on the legal tradition to which each State adheres. This is summarized in two main categories which have the greatest extent of acceptance around the world.

The first category is called the Anglo-Saxon system (derived from England's "common law"), while the second is called the continental system (from "civil law", originating in conti-



mental Europe, hence the name)<sup>17</sup>. The background of this division stems from historical and social reasons beyond the scope of this chapter. However, it can be accurately stated that they have emerged outside the Americas and were adopted predominantly during the process of conquest and colonization of the 15<sup>th</sup>-19<sup>th</sup> centuries.

Thereby, common law has primacy among those States originating in areas of the continent colonized by the English, essentially in the Caribbean and North America. Notwithstanding, this school of legal thought is not predominant across the entire American continent.

On the contrary, continental law had a greater impact in America. It is present in a greater number of States due to the expansionism of the Spanish, Portuguese and, to a lesser extent, French conquests, which spread their dominion mainly in the center and south of the Americas.

To make the situation more complex, it is worth noting that even within one nation state, both continental and Anglo-Saxon systems can converge (as is certainly the case in Canada and the United States). However, it is natural that, in these States, one system is more predominant than the other.

Therefore, in this comparative analysis, it should be considered that there are structural differences from country to country in the establishment of their legal frameworks. However, the tendency usually leans towards continental law, at least as far as this study is concerned.

The action of placing a given State in one category or another translates into a strategic decision for the Index. The reason is that a given legal system may put greater emphasis on court rulings, bestowing a binding nature on judicial precedent as in common law, or on the contrary, the law may predominate as in continental law.

In other words, the value of pieces of legislation and court rulings as sources of law varies considerably from the Anglo-Saxon concept of Common Law to the predominant notion in the realm of Civil Law. In the first case, it can be said that the consolidation of a system of binding precedent decisions represents one of its paradigmatic features; in the second case, the law, as a general expression of constituents' will concurrently conveyed through its representatives in Parliament, represents the center of public debate and therefore of many of the challenges and threats to freedom of expression.

It is therefore noticeable how the study of freedom of expression in the Americas sometimes focuses on developments in the Legislative, while at other times it focuses more on developments in the Judiciary. Likewise, *in comento*, the Index also assesses the development shown by the Executive, considering the important role it plays in protecting the law, although it sometimes represents a threat when it acts against pre-established legal standards.

It is also worth mentioning the multiple legal systems that may coexist in one same federal country. This circumstance is an added difficulty for a better understanding of the

<sup>17</sup> See: Tom Ginsburg and Rosalind Dixon (2011). *Comparative Constitutional Law*. UK: Edward Elgar Publishing Limited.



phenomenon of freedom of expression in the entirety of such nation, since the reception of apparently contradictory data may respond precisely to the diversity among the different local or departmental jurisdictions, where certain regions show a better institutional performance compared to the regression seen in others.

Evidently, all scientific research sets boundaries on the study subject so as to achieve results in an agreed time and manner, being materially impossible to cover everything, which does not mean that these criteria were not factored in. An example of this occurred when selecting the sample of experts to be surveyed, giving priority to geographic diversity of the sample within each country analyzed, so that the study could capture different sensibilities on such a complex subject. This is how this Index is built on a comprehensive outlook for freedom of expression in the Americas.

#### **IV. The notion of separation of powers as a key feature when defining the legislative, executive, and judicial environments**

From its inception, the Chapultepec Index was proposed to ascertain the degree of freedom of expression resulting from institutional action in three clearly defined environments: (i) Legislative Environment, (ii) Judicial Environment, and (iii) Executive Environment. From there, the concept of “institutional action” was assumed as a framework of reference for this study, understanding such action as the provisions in force and the legislative, judicial, and executive policy measures, as well as the omissions in such environments regarding freedom of expression occurred within a yearly study period.

However, as described above, the influence of each of the environments on the others varies depending on the legal system in each case. Therefore, upon deep reflection supported by a series of instruments designed for a quali-quantitative analysis through the concepts of motricity and dependence provided by experts in methodology, it was possible to devise the following working hypotheses:

The executive environment was identified as the most influential, which is consistent with a classic framework of separation of powers in which both the Legislative and the Judiciary, in the exercise of their duties, set boundaries on the actions of the Executive;

There is also a greater degree of direct impact of the legislative environment as compared to the judicial environment. In this regard, it is possible to determine that the legislative environment shows a higher extent of mobility and a lower degree of dependence compared to the other environments reviewed;

However, in the full picture of high influence, that of the Executive over the other branches is seemingly underestimated, which, although in a classic framework of separation of powers should be the norm, it may not correspond to the reality occurring in weak institu-

tional environments, where the influence of the executive environment is usually perceived to be much greater;

It is also observed that the behavior of the executive environment constitutes the best indicator when assessing the degree of freedom of expression in a country, as it ultimately mirrors what happens throughout the entire system. It radiates relationships of mutual involvement with the other environments, which is seen in the increased motricity of the different indicators;

The most independent sphere turns out to be the legislative environment, which also influences decisively on the other environments. It would then seem that long-term institutional efforts should be aimed at strengthening capabilities first within the legislative environment and then in the judicial environment;

There is a greater degree of interdependence between the judicial and executive environments, creating networks of mutual impact across realms and indicators;

The Executive gains greater prominence both in displaying and dynamizing short-term changes, while the Legislative and Judiciary are viewed as environments geared towards structural changes with a rather permanent nature over time.

These premises or working hypotheses were fundamental for conceptualizing and analyzing the institutional environments, allowing a uniform and coherent assessment across different realities under the methodological proposal of the Index. Resulting from the above analysis, it was possible to propose each of the definitions of the environments described above.

In this regard, it is worth underscoring the notion of “institutional dynamics” used by the Index as the expression encompassing both the formal action of the government in the exercise of its constitutional duties, as well as the deviations noticed on grounds of authority by different stakeholders who seek to further their parochial agenda through the public office they exercise.

Within the concept of institutional dynamics, it is possible to analyze: (i) The quality of the provisions and actions by each of the environments towards every realm being reviewed; (ii) the sufficiency, *i.e.*, the completeness of the provisions and actions by each of the environments towards every realm being reviewed; and (iii) the relevant omissions regarding the provisions and actions by each of the environments that may explain their influence on the realms proposed in the Index.

## **V. Definition of the four major realms composing the Index**

Defining the realms was the other great challenge from the legal and methodological standpoints of the Index, which sought at all times to achieve a neutral conceptualization of



the realms, so as not to influence the analysis of the experts surveyed regarding a greater or lesser degree of freedom of access, production, and dissemination of information, a greater or lesser level of controls restricting or encouraging the plurality of views and criticism; a greater extent of incentives or hindrances to abiding by ethical criteria of journalism.

Based on the above, the four realms that make up the Index were defined, namely (i) Realm A: Informed Citizens Free to Express Themselves; (ii) Realm B: Exercise of Journalism; (iii) Realm C: Violence and Impunity; (IV) Realm D: Control over the Media.

Following careful debate and deliberation, the working hypotheses below were proposed regarding the possible behavior of the different realms within the Index:

- With respect to the realms, we can notice that the most important and dynamic points revolve around institutional controls over the media, since they have the highest rate of interaction within the system, in addition to being a priority matter of focus when it comes to proposing public policy in reason of their major influence within the system. That is why it is necessary to underscore their level of multiple influence in several directions, seemingly demonstrating that they would have the greatest impact within the system;
- As for the realm focusing on informed and free citizens, it seems to be on a middle ground, since it receives much influence from the issue of institutional controls. It is interesting to note the case of informed citizenry in the executive environment where it shows a significant external dependence, being an element to be monitored very closely;

Finally, issues regarding the ethical exercise of journalism seem to be on the back of the system, serving as the highest and most dependent expressions of respect for free speech. Based on this framework of reference, the identification of indicators became the next objective in the team's discussions, since they would be the fundamental tools for understanding the behavior of the specific attributes in each of the realms above.

These original indicators evolved over time, thanks to lessons learned from the various editions of the Index and valuable input and suggestions made by the experts inquired. This is a testament to the open and dynamic nature of the instrument so as to ensure its continuous improvement and maintain its relevance in the face of the profound changes that are taking place in the Inter-American context.

Proof of this occurred at the time of the subsequent evaluation of the Index results, when there became apparent the need to include a fourth realm not originally envisioned, regarding events of violence and impunity on record during the period under analysis. The purpose of this was to include actions such as the murder of journalists, arbitrary detentions and kidnappings, aggressions or threats by government officials or organized groups acting

under their patronage, as well as other forms of impunity involving violations of freedom of expression.

One of the challenges in this regard was to define the way to measure this new realm, starting from the option of inquiring experts by using new indicators, or conducting an appraisal by collecting documented information on acts of violence and impunity against journalists or the media, which implied managing and systematizing statistical data in each of the nations composing the Index.

In the end, the decision was to develop a new tool specifically aimed at measuring the realm of violence and impunity. This undoubtedly enriched an instrument that, on the one hand, combines the criteria of leading experts on the subject from each of the countries included in the sample, along with a more comprehensive and systematic overview of the statistics on acts of violence and impunity, all of them understood as manifestations of the institutional weaknesses still occurring across the continent.

## CONCLUSIONS:

Based on the considerations and arguments elaborated above, it has been possible to reach the following conclusions:

- The Chapultepec Index of Freedom of Expression and the Press constitutes a unique contribution to the debate on and defense of freedom of expression in the Americas, thanks to the periodic follow-up work conducted through easy-to-understand indicators which provide a rigorous and updated diagnosis of institutional behavior viewed from its different realms and environments;
- In this sense, the information provided by the historical series of the Index constitutes a valuable comparative precedent allowing us to measure trends both in those locations where freedom of expression is gaining ground and in those where it is severely threatened;
- In this regard, it is worth noting that the lessons learned during the last few years of implementing the Index have made it possible to refine its initial design, achieving a greater understanding of the phenomenon of freedom of expression and how threats to it take increasingly sophisticated and indirect forms so as to achieve greater degrees of impunity;
- An example of the above became clear following the recent incorporation of the realm of violence and impunity, which was based on the need to measure and understand different forms of aggressions and threats as tangible consequences of the institutional weaknesses existing throughout the continent. This enriched the analysis by including new quantitative indicators capable of measuring the – oft-times perverse – effects of actions or omissions by government bodies;

- On the other hand, it is necessary to conclude that, despite the coexistence of different systems of government and forms of state across the continent, there is a common space for an institutional understanding of freedom of expression, based on its importance for the development and defense of democracy as a form of social organization;
- At this point, it is inescapable to refer to the immensely valuable jurisprudence from the Inter-American Court of Human Rights in the development and progressive evolution of a common narrative around the defense of free speech and its interdependence with the rest of the human rights repertoire. All these aspects have been clearly reflected in the design and execution of the Chapultepec Index of Freedom of Expression and the Press.

## Sources:

Charles Tilly (2007). *Democracy*. New York: Cambridge University Press.

UN Human Rights Committee (1996, July 12). *Aduayom et al v Togo*.

Inter-American Court of Human Rights (2001, February 5). *Judgement of The Last Temptation of Christ (Olmedo-Bustos et al.) v. Chile*

Daniel O'Donnell (2004). *Protección internacional de los derechos humanos*. Bogotá: Oficina en Colombia del Alto Comisionado de las Naciones Unidas para los Derechos Humanos.

Gregorio Badeni (2005). *Doctrina de la Real Malicia*. Buenos Aires: Academia Nacional de Periodismo.

Herbert. L. Hart (1955). Are there any natural rights? In: *The Philosophical Review*, Vol. 64-1955.

Héctor Faúndez L. y Jorge L. Suárez (1993). *Aspectos jurídicos de la libertad de expresión en Venezuela*. Caracas: UCAB.

Jorge Carpinzo (2011). Los Derechos Humanos: Naturaleza, denominación y características. In: *Revista Mexicana de Derecho Constitucional*, No. 25, July-December. Mexico.

Jaiber A. Núñez (2018). *The right of freedom of expression in the constitutions of the Americas*. IAPA-UCAB.

Rafael J. Chavero Gazdik (2006). *El reino de la intolerancia. El problema de la libertad de expresión en Venezuela*. Caracas: Editorial Æquitas, C.A.

Robert A. Dahl. Democracy. In: *Encyclopaedia Britannica* (Ed. 2004).

Robert Alexy (2002). Grundrechte, Abwägung und Rationalität. In: *Ars Interpretandi Journal of Legal Hermeneutics*, No. 7, pp. 113-125.





Tom Ginsburg and Rosalind Dixon (2011). *Comparative Constitutional Law*. UK: Edward Elgar Publishing Limited.

A satellite-style map of the Americas, showing North and South America in shades of blue and green, set against a dark background of space with stars. The map is centered and occupies the upper two-thirds of the cover.

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