

Brazil: FREEDOM OF EXPRESSION RESISTS

Executive Summary

On a list composed of 22 countries, Brazil is in position 15 (partial restriction), with an improved assessment compared to the previous report, when it was in position 19 (high restriction). Its worst performance continues to be in the realm of Informed Citizens Free to Express Themselves. Regarding the negative impact of institutional environments unfavorable to freedom of expression, the data again underscore that of the Executive, with an influence rated as strong, especially in the realm of Violence and Impunity.

Introduction

This report gives an account of the results of the Chapultepec Index of Freedom of Expression and the Press Freedom for Brazil between August 2021 and August 2022. The data shows the influence exerted by the institutional environments of the Executive, Legislative and Judiciary, 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). On a list of 22 countries, Brazil ranks 15th, with 44.26 points, on a scale of 0 to 100. The environment hostile towards freedom of expression in the country is strongly associated, primarily, to two conditioning factors: The political crisis starting in 2013 with a wave of street protests and the election of President Jair Bolsonaro in 2018.

In June 2013, a series of street protests known as *Jornadas de Junho* began in São Paulo (Harvey *et al.*, 2015; Bucci, 2016). Soon a mood of dissatisfaction spread across the country, marked by a fragmented agenda and hostility towards democratic institutions, such as political parties and the press (Rossi & Bedinelli, 2014). The context of political crisis lasted until the 2014 presidential elections, in which President Dilma Roussef, of the Workers' Party (Partido dos Trabalhadores, PT), was reelected.

However, two years later, she left office following a controversial impeachment process in which the media played a key role, especially in spreading what became known as *antipetismo* (the anti-PT trend) (van Dijk, 2017). This environment of rejection of the political class in general, but of the PT in particular, was also encouraged by extensive coverage of a series of corruption allegations stemming from the so-called Operation Car Wash (*Operação Lava Jato*) (Venceslau, 2014; Feres Júnior & Sassara, 2016; Baptista, 2018; Cioccarri, 2015).

From this context in the pre-election period, emerged the run of then-congressman and former Army Captain Jair Messias Bolsonaro, who already had a record of conflicting relationship with democratic principles, including freedom of expression. Bolsonaro was elected with a biased

discourse against the authoritarian system. His mandate has been marked by a constant institutional conflict between the branches of government, in a climate of permanent electoral campaign. The media, in general, and broadcasters have become the main targets of verbal aggressions, especially women journalists. It is not by chance that the data regarding the negative influence of the Executive on freedom of expression stand out in the set of numbers systematized by the Index, as highlighted in the following topics.

Although, for the period 2021-2022, Brazil shows an outlook of partial restriction on freedom of expression, it indicates a positive change compared to the period 2020-2021. At that time, the country ranked 19th, a period in which it was rated as having a high restriction on freedom of expression (32.86). It is understood that this relative change is a reflection of a mobilization of civil society entities and organizations to denounce on the constant attacks by the Executive, especially on freedom of expression and the press. This whistleblowing reached, for instance, the United Nations (*Brasil de Fato, 2021*).

The improvement in Brazil's position contrasts with declining overall indicators as the score went from 56.37 to 53.69. It should be noted that only two countries are in the group of those rated with full freedom of expression: The best position being held by Canada, with 80.42, followed by Jamaica, with 80.40.

Results Analysis

The Chapultepec Index of Freedom of Expression and the Press reviews the influence on freedom of expression exercised by three environments – legislative, judicial, and executive– as well as their relationship with four realms –Realm A: Informed Citizens Free to Express Themselves; Realm B: Exercise of Journalism; Realm C: Violence and Impunity; Realm D: Control over the Media.

As for the environments, they can be rated according to the types of unfavorable influence on freedom of expression on a scale of 0 to 10: Slight influence (0.1 to 2.5), moderate influence (2.51 to 5), strong influence (5.01 to 7.5) and very strong influence (7.51 to 10). In the case of Brazil, the Executive stands out as having the greatest negative influence on freedom of expression in the country. It has the highest unfavorable rating compared to the other environments, with 5.28 (strong influence), followed by the Judicial environment, with 4.3 (moderate influence) and, finally, the Legislative environment, also rated as exerting moderate influence, with 4.04.

In terms of the realms, Realm C: Violence and Impunity, stands out negatively, with 12 points on a scale of 0 (without freedom of expression) to 42 (full freedom of expression). In the realm Informed Citizens Free to Express Themselves, there is 8.1 on a scale of 0 (no freedom of expression) to 23 (full freedom of expression). In the Exercise of Journalism realm, there is 6.6 on a scale of 0 (no freedom of expression) to 10 (full freedom of expression). Finally, in the realm of Control over the Media, Brazil obtained a score of 17.6, on a scale of 0 (no freedom of expression) to 25 (full freedom of expression).

We elaborate on and illustrate the figures for each of the environments and realms by means of events occurred in the period surveyed on the following topics.

Environments: Influence of the Executive

The Executive stands out as the environment with the highest degree of negative influence on freedom of expression in Brazil. On a scale ranging from 0 (slight) to 10 (very strong), it has 5.28, which represents an influence viewed as strong. This fact had already been noted in previous reports. However, comparatively, there is a gradual reduction of this negative influence: in 2019-2020, the score was 8.39; and in 2020-2021, 6.13. It can be inferred that this decrease stems from the reaction of sections of society in defense of freedom of expression and in the face of the hostile behavior of the Executive and its allies. This response involved several groups, from the Brazilian Bar Association (*Ordem dos Advogados do Brasil*, OAB) to associations of news media companies, such as the Brazilian Association of Radio and TV Broadcasters (*Associação Brasileira de Emissoras de Rádio e Televisão*, Abert) (*Notícia Preta*, 2022; Froufe & Gayer, 2021; *Brasil de Fato*, 2021).

An important change is also noticed regarding the realms. In the two previous reports, the most negative influence was on that of the Exercise of Journalism: in 2019-2020, 9.3; and in 2020-2021, 8.0; both cases rated as having very strong influence. Now it scores 5.43, which equals a strong influence. For this report, in turn, the realm of Violence and Impunity stands out, which obtained the highest unfavorable rating: 6.9. However, also in relation to this realm, it is worth mentioning that a reduction is observed with respect to previous reports (7.94 in 2019-2020, and 7.29 in 2021-2022). The realm of Informed Citizens Free to Express Themselves obtained 6.14 as an unfavorable rating, which represents strong influence. When comparing the score of this realm with previous reports, there is a significant variation: 8.07 (very strong influence) in 2019-2020; and 4.21 (moderate influence) in 2020-2021.

This data on the negative role of the Executive regarding freedom of expression is not surprising. The President of the Republic, Jair Bolsonaro (Liberal Party [*Partido Liberal*]), has a 30-year record of conduct as a politician hostile to democratic values, including freedom of expression and freedom of thought. A report by the Abert, published in March 2022, reveals that a total of 230 professionals and media outlets suffered attacks of some kind in 2021, 22% more than in 2020 (*ABERT*, 2022).

Environments: Influence of the Judiciary

After the Executive, [the score] obtained by the Judicial environment for unfavorable degree of [influence on] freedom of expression, at 4.30, stands out, rating as moderate influence, a figure higher than that of the 2020-2021 report which reached 4.46, and even higher than that of the 2019-2020 period which was at 2.86. The realm of Informed Citizens Free to Express Themselves stands out as the most troublesome, with the highest unfavorable rating (5.14), which reflects a scenario of strong influence. It is worth mentioning that this figure is higher than in the previous report, when it was 3.57.

The role of the Judiciary in guaranteeing free speech gained wide visibility in the public debate, primarily because of the actions by the Federal Supreme Court (*Supremo Tribunal Federal*, STF), particularly those of Justice Alexandre de Moraes, towards groups accused of spreading hate speech against democratic institutions on social media. Among his rulings in July 2022, the justice ordered that 16 profiles of President Bolsonaro's allies remove certain content on former President Lula and the PT from their social media (Vettorazzo, 2021). Moraes's

decisions were viewed as controversial because, to some extent, they posed risks to freedom of expression and, therefore, drew criticism by jurists (*Correio do Povo*, 2022).

It is followed by the realm of Violence and Impunity, with 4.57, rating as moderate influence, a figure slightly higher than in the previous report, when it was at 4.48, also as moderate influence. The realm of Exercise of Journalism obtained an unfavorable score of 4.43 for freedom of expression, rating as moderate influence, a figure lower than in the 2020-2021 period (when it reached 5.86), at that time, an influence rated as strong. As for the realm of Control over the Media, the lowest level is noticed in the Judicial environment, with 3.07, a figure lower than in the previous report, which was 3.93. It is understood that this variation can also be attributed to the reaction of key players across the Judiciary in defense of journalistic activity and media companies following the attacks by the Executive (Nagaroli, 2022). Then-STF chief justice Luiz Fux was a defender of freedom of the press as an essential feature of democracy, as opposed to President Jair Bolsonaro (Pontes, 2022).

Environments: Influence of the Legislative

The Legislative environment has the lowest degree of negative influence on freedom of expression compared to the Executive and Judicial environments, with 4.04, which means a moderate influence. This number is lower compared to the previous report, when it scored 4.73. As for the realms, this environment stands out negatively in the Violence and impunity realm, with 4.95, an influence rated as moderate, however, very close to the strong influence bracket.

Then there is the realm of Informed Citizens Free to Express Themselves with 4.79, also rated as a moderate degree of influence to the detriment of freedom of expression. This figure is identical to the one obtained by this environment in the same realm in the 2020-2021 report. It is followed by the Exercise of Journalism realm with 3.86, a moderate influence and significantly lower also compared to the previous period, when it reached 6.0 in the unfavorable range regarding freedom of expression, at that time rated as having a strong influence. Finally, with 2.57, is the realm Control over the Media, also with a lower score compared to the last report, when it obtained 3.36.

Legislators were also pressured by organized civil society to take a stand against the hostile position of the Executive environment in relation to freedom of expression and the press. In this sense, the President of the National Congress, Senator Rodrigo Pacheco (Social Democratic Party – [State of] Minas Gerais [*Partido Social Democrático - Minas Gerais*, PSD-MG]), made a public address at an event with representatives of journalistic entities, in defense of freedom of the press and of broadcasters (*Senado Federal*, 2021).

In addition, the debate in parliament around the so-called "fake news bill" (*projeto de lei das fake news*), Proposal No. 2630/2020 (Prazeres, 2022), establishes rules on transparency for social media and private messaging services, especially regarding providers' responsibility in fighting misinformation and increasing transparency on the Internet, transparency regarding sponsored content and the actions of public officials. It also sets forth penalties for non-compliance with the law (Brazil, 2020).

Realm A: Society Mobilized

The index for the realm of Informed Citizens Free to Express Themselves reviews government actions or omissions regarding the right to information and free expression, and is formed by two sub-realms: Information Flow [from the media] and [Citizens'] Free Speech. On a scale ranging from 0 to 23, Brazil obtained 8.1, which reflects a better performance against the 2020-2021 report, when it obtained 5.0.

The improvement in the indicator for this realm reveals a significant increase in its two sub-realms. The item regarding Information Flow went from 1.86 in the previous report to 3.9 this year, on a scale of 0 to 11; and that of Free Speech went from 3.14 to 4.3, on a scale of 0 to 12. This change can be attributed, once again, to the mobilization of sections of society in defense of freedom of expression. An example is the joint actions performed by the Committee of Employees of [state-owned] Brazil Communication Company (*Empresa Brasil de Comunicação*, EBC) and the unions of journalists and broadcasters of the Federal District, [and the States of] Rio de Janeiro, and São Paulo (Karpov, 2022).

This group has regularly blown the whistle on instances of censorship and government meddling in EBC public media, namely *Rádio Nacional*, *Rádio MEC*, *TV Brasil*, *Agência Brasil*, *Rádio Agência Nacional*, and their social media. This initiative took the form of the Dossier on Censorship and Governance (*Dossiê de Censura e Governismo*) in EBC (Fenaj, 2022), which released its fourth edition with data collected from August 2021 and July 2022. In this period, 292 complaints of actions against freedom of expression went on record.

In comparative terms, however, it is possible to perceive how timid this improvement is. Canada, first in the Index, obtained a score of 20 out of a possible 23 in this realm, with 9 for Information Flow and 11 for Free Speech. Uruguay, Brazil's best ranked neighbor, in third place, scored 21.6, with 10.1 for Information Flow and 11.4 for Free Speech. The figures, consequently, indicate that Brazil has a long way to go.

Realm B: In Defense of Freedom of the Press

The realm of Exercise of Journalism reviews the regulation of other actions that compromise independence, plural information sources, and their protection. In this item, we can also notice an improved result. On a scale of 0 to 10, Brazil obtained 6.6; a higher figure in comparison with the period 2021-2022, when it achieved 5.14. In comparison, Canada showed a rate of 8.3 and Uruguay 9.1. It is understood that, in the case of Brazil, this improvement can be attributed to the response by institutions and civil society organizations to attacks on journalists and the press. Concurrently, hostilities on record have increased according to reports from various entities, and there has also been a greater mobilization of society in defense of freedom of the press.

In the period covered by this report, the head office of the STF, Brazil's highest court, was held by Justice Luiz Fux who, on several occasions, has publicly defended freedom of the press as a basic principle of democracy. At an event hosted by the National Association of Newspapers (*Associação Nacional de Jornais*, ANJ) he stated:

In a country where the press is not free, in a country where the press is intimidated, in a country where the press is muzzled, in a country where the press is regulated, the press being one of the

pillars of democracy, in this country, with so many restrictions on the freedom of the press, democracy is a lie and the Federal Constitution is a mere piece of paper. (Souza, 2022)

This stance of the chief justice of the STF was taken in a context of repeated attacks on the press conducted primarily by the president of the Republic and his allies, according to data systematized by different reports, such as that of the Brazilian Association of Investigative Journalism (*Associação Brasileira de Jornalismo Investigativo*, Abraji), which put on record 453 attacks on the press in 2021, with President Bolsonaro responsible for 20% of them (Felix, 2022). The National Federation of Journalists (*Federação Nacional dos Jornalistas*, Fenaj) and the Abert also gathered stats in this regard. According to Fenaj's report, there were 430 cases in 2021, with Bolsonaro being the main aggressor (Fenaj, 2022). Abert's report indicates 230 attacks in 2021, 21.69 % more than in 2020 (ABERT, 2022).

Realm C: Violence on Record

The realm of Violence and Impunity addresses government actions or omissions regarding protection of journalists, prevention of attacks or aggressions on media outlets and professionals, as well as initiatives to fight impunity for crimes against journalists and media companies. On a scale of 0 to 42, Brazil scores 12. Thereby, a gradual and significant improvement can be witnessed with respect to previous reports: in 2019-2020, Brazil scored 6.0; and in 2020-2021, 9.46. In this regard, Canada, first in the ranking, reported 29.3, and Uruguay, the best ranked neighbor, 25.

This realm is subdivided into four sub-realms. The Protection item went from 0.86 in the last report to 0 this year, on a scale of 0 to 5, which is remarkable. In the case of Canada, for example, it is at 3.4; and Uruguay, 1.5. The rating for the sub-realm of Persecution also decreased: It went from 1.0 in 2020-2021 to 0.6 in 2021-2022 on a scale of 0 to 7.5. On the other hand, this positive increase in the score responds to the other two items: Impunity went from 0.36 to 0.8 on a scale of 0 to 8; and Violence on record went from 7.24 in the previous report to 10.6 in this report, on a scale of 0 to 21.

It can be noticed, therefore, that the improvement in this realm would be associated mostly with the procedures to keep record of violence. Recurrent attacks ended up mobilizing entities in defense of freedom of expression and the press, mainly in reaction to the Executive environment. As underscored in the previous realm, several institutions dedicated themselves to systematize and disseminate reports with data on violence against journalists and media professionals in general. Fenaj, Abert, and Abraji, mentioned above, conducted a work in this regard, in which the figures associated with President Jair Bolsonaro and his allies stand out, as well as their target of choice, women journalists, indicating a significant gender bias in hostile behavior towards the press (*Agencia Bori*, 2022).

Realm D: A Significant Improvement

The realm of Control over the Media encompasses issues regarding actions or omissions linked to government control of the media, composed of two sub-realms: Direct Control and Indirect Control. In this sense, Brazil obtained a score of 17.6 on a scale of 0 to 25, a much better result compared to the 2020-2021 report, when the country achieved a rating of 12.

This positive increase stems from the significant improvement in the two items that make up this indicator: the one for Direct Control went from 8.57 to 12, on a scale of 0 to 16. This can be illustrated with the instances of meddling by the Executive in the production dynamics of EBC's public media - *Rádio Nacional*, *Rádio MEC*, *TV Brasil*, *Agência Brasil*, *Rádio Agência Nacional*. For example, a study prepared by EBC staff showed President Bolsonaro's on-air presence for 157 hours and 42 minutes of TV Brasil programming between August 2020 and July 2021. This report gained visibility beyond the scope of public communications, which may have caused some kind of determent on the Executive.

As for Indirect Control, it went from 3.43 in the previous report, on a scale of 0 to 9, to 5.6 in the current report. This type of control can be illustrated through the selective allocation of [public] advertising funds to media companies by the federal government. There is a significant distortion, for example, in the broadcasting scene, especially among TV networks. Despite having the largest share of the national viewership, TV Globo was relegated in terms of advertising funds in favor of channels that would be more aligned with the government, such as Record and SBT (VEJA, 2021).

Conclusions

The index indicates an improved performance of Brazil in terms of freedom of expression compared to previous editions. The country moved from 19th position in both 2019-2020 and 2020-2021, when it obtained, respectively, 37.2 and 31.6, to 15th spot in this report, with 44.26. In this way, from high restriction, the country moved to partial restriction on freedom of expression and the press.

There is a reduction in the influence of the Legislative, Judicial, and Executive environments, with the Executive having the greatest degree of unfavorable influence on freedom of expression, rated as strong. This finding is consistent with other studies mentioned in this report, which collect data pointing to President Jair Bolsonaro and his allies as the main perpetrators of attacks on journalists and media. Then there are the Judicial and Legislative environments, both rated as having a moderate influence.

As for the realms, a positive change is noticed in the scores of all of them. The realms of Control over the Media and Exercise of Journalism stand out as those with the best scores, followed by the realm of Informed Citizens Free to Express Themselves and the one for Violence and Impunity.

However, the possible reasons for this change, both in terms of environment and realms, are not evident, so an assertive inference would require further study. This is because, since 2013, the country has been immersed in a context of political crisis of which the election and government of President Jair Bolsonaro represent much more of a consequence than a cause. In the time elapsed between previous reports and this edition, there is no intervening variable that can be identified as a necessary or sufficient condition to effect this change.

During this period, democratic institutions continued to undergo constant attacks by the Executive, including the press, as indicated in this report and other similar studies. As highlighted on the previous topics, it is reasonable to posit that this improvement in Brazil's performance in the ranking is due to the reaction of civil society organizations and institutions in defense of freedom of expression and the press, in the face of a scenario of constant threat.

The recurrent publication of reports blowing the whistle on instances of hostility in significant numbers, prepared by both trade associations and professional guilds, contributes to educating public opinion. This initiative has served, to a certain extent, as a counteroffensive and, therefore, influenced perception regarding freedom of expression and the press in Brazil.

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