

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 *cadena*s 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.

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