

## **UNITED STATES**

### **Freedom of expression not without challenges**

#### **Executive Summary**

The Chapultepec Freedom of Expression and Press Index has granted the United States a score of 68.53, out of a possible one hundred. The country ranks fourth among twenty-two nations. In general, the population can access information and express themselves freely. Journalists will not risk reprisals or censorship for doing their job, and the government keeps its hands off influencing the media. However, journalists can be subject to some risk of violence and be the target of legal actions that limit or hinder the exercise of journalism and freedom of the press.

#### **Introduction**

In the United States, exercise of journalism, free speech and free access to information are safeguarded by the Constitution's First Amendment, which specifically limits the power of Congress to pass laws restricting freedom of the press and expression. In general, citizens can express themselves freely, will not risk reprisals, and are able to access unrestricted sources of information. Journalists also enjoy the right to do their job without falling victims to censorship or serious consequences.

However, freedom of the press and expression in the United States is not totally exempt from challenges. There are ongoing cases of lawsuits filed to force journalists to disclose their sources of information; on several occasions, reporters and photographers have been physically assaulted and even temporarily detained by police officers while covering protests; and in circumstances that have escalated, there are reports on journalists being gunfire target from ordinary citizens or criminals.

When it comes to political coverage, there have been no reported incidents of confrontation between the press office of President Joe Biden (2021-2025) and correspondents at the White House. This represents a drastic change compared to the relationship that former President Donald Trump (2017-2021) had with journalists, as the president frequently criticized the coverage he received from some media outlets, and was harsh with some journalists and even suspended some reporters' credentials.

Taking this background into account, the Chapultepec Freedom of Expression and Press Index has granted the United States a score of 68.53, so the country ranks fourth among twenty-two nations, and rates the country as one where restriction to freedom of the press and expression is low. The United States comes after Chile (1), the Dominican Republic (2) and Canada (3), and is above Brazil (6), Argentina (11) and Mexico (13).

Among the examples of aggression or intimidation towards journalists and the exercise of freedom of the press, we count journalist Catherine Herridge's case. She was declared in contempt by a judge after refusing to reveal a source of information. Dozens of reporters,

photographers and cameramen were also beaten by police officers, and in some cases temporarily detained, while covering protests over Israel-the Islamist group conflict in Gaza. The rallies took place across much of the country, while the largest ones took place in the states of New York, California and Arizona.

## Results Analysis

Regarding the influence of the executive, legislative and judiciary environments in situations unfavorable to freedom of expression, the Chapultepec Index determined that in the United States' case the degree of unfavorable influence was slight in the four areas analyzed.

In general, the "degree of unfavorable influence" of the Executive Branch scored 0.72 out of a maximum of ten. This is a relatively low figure; however, it had a higher degree of influence in the area of Violence and Impunity against Journalists and the Media, where it scored 1.39. This result, although on the mild side, reflects the dozens of aggressions endured by journalists while covering various events, mainly the pro-Palestinian demonstrations in Gaza.

For example, there were at least twenty-four reports of police violence and aggressions by some individuals in April and May 2024 against journalists, several of them during rallies at Columbia University in New York City. There were attacks such as journalists being thrown down to the ground, video and photo cameras being hit and damaged, and temporary detentions. In one specific case, an individual pepper-sprayed a reporter while covering a demonstration at Oregon State University in Portland. (U.S. Press Freedom Tracker. (2024, April 24). The executive environment also had a slight influence on Citizens Free to Express Themselves (0.50 points), and Control over The Media and Journalism (0.28 points).

The extent of the Legislative Branch's influence in situations unfavorable to freedom of expression and the press was slight and scored 0.61 out of a maximum of ten; in Violence and Impunity against Journalists and Media it scored a slight 0.64; in Citizens Free to Express Themselves, 0.33; and in Control over The Media and Journalism it got 0.22.

An example of the legislative environment's influence to be mentioned is in the state of Michigan, where a bill was introduced to expand the Freedom of Information Act (FOIA). FOIA is a federal law that allows any citizen to request information from the Executive Branch, but it can only be applied to the federal government. State widely, most states have passed similar laws. As to Michigan, the Senate passed a statewide FOIA submission in March 2024, and it is now up to the House of Representatives to sign the bill into law. Then, the governor will sign it (McBroom, 2024).

Another example of the Legislative's influence is the PRESS (Protecting Reporters from Being Spied on by the State) Act. This bill safeguards journalists and limits the government's ability to compel disclosure of news sources and investigative materials. It protects journalists' disclosures from being seized by the government, and prevents federal agents from spying on journalists' phones, messages, or emails. The submission was unanimously approved by the Federal Congress' House of Representatives in January 2024, but remains stalled in the Senate and it is unknown when it will be discussed. (Freedom of the Press Foundation. 2024, January 18).

The Judiciary achieved the lowest score in this analysis. Overall, this environment's "degree of adverse influence" was also mild, 0.59 out of a possible ten. A landmark instance of the Judiciary's influence of was journalist Catherine Herridge's case. She was found in contempt by

a district court for failing to disclose a source of information (Associated Press. 2024, February 29).

Another important court case involves independent journalist Tim Burke, who was charged with fourteen felony counts alleging conspiracy, wiretapping, and violations of the Wiretap Act. Burke published videos showing an interview by journalist Tucker Carlson with rapper Kanye West (now known as Ye) in which the artist made anti-Semitic remarks. The indictment alleges that Burke accessed information stored on computers without authorization and posted it. FBI agents raided his Florida home and seized computers, hard drives, cell phones, and notebooks with news notes. His defense attorney claims that the charge is a violation of the Constitution's First Amendment and could make well-known investigative journalism strategies a felony in the future (U.S. Press Freedom Tracker. 2024, February 21).

Another example includes the lawsuits filed in November 2023 by Truth Social, the social network created by former President Donald Trump, against twenty media outlets. The lawsuit sought "\$1.5 million in damages against those organizations for allegedly misrepresenting certain figures in the company's financial reports". (SIP Report). In March 2024, Trump himself sued an ABC News journalist for defamation for conducting an interview in which false information about the former president was allegedly given (Pitts. 2024).

## **Realm Citizens Free to Express Themselves**

### **Sub-realms (information flow, free speech and government efforts against disinformation)**

In general, United States residents can unrestrictedly access sources of information and are free to express their opinions without major limitations. At Citizens Free to Express Themselves, this country scored 23.33 out of a maximum of thirty, thereby ranking in the low restriction category. The scores of the following subdimensions reaffirm the result of this dimension: information flow 8.17 out of eleven; free expression, 7.83 out of nine; and State action against misinformation, 7.33 out of ten.

One way to see this realm could be the index of internet users in the country. According to the digital platform Statista, which specializes in collecting statistical data, currently 97.1% of the population of the United States access the internet. This implies a consistent growth from 2013, when the percentage clocked in at 71%. (Statista, 2024). In 2022, 299 million internet users represented 86.41% of the total US population, estimated at nearly 346 million inhabitants (Worldometer. 2024).

Another aspect regarding where information flow, free expression and disinformation can be discussed is the role played by social media. Specifically, we get at the regulation of violent, racist, sexist, and hateful content that some users express through these media. Social media companies have attempted to implement strategies to moderate content on their platforms but they have been mostly inconsistent and ineffective. Moreover, no law requires this type of moderation (Vanegas. 2022, March).

A specific incident of efforts from the government regarding disinformation was the posting of a report by a special prosecutor who investigated President Joe Biden's handling of classified documents. According to the report, although some classified documents were found in Biden's residence, this action did not warrant pressing formal charges of document mishandling. In the report, the prosecutor outlined a forgetful, old Biden, with memory problems. The White House

legal team responded by a written demand that this description should be changed in the report as it did not reflect the American president's status (Watson, Freiman. 2024, February 8).

## **Realm Violence and Impunity Against Journalists and Media**

### **Sub-realms (protection, persecution and impunity)**

At Violence and Impunity against Journalists and Media, the United States scored 10.93 out of a maximum of twenty, which ranks it in the "in restriction" category. This was the United States' least favorably scored realm. To understand the extent of violence journalists are at risk of in this country, we can look at the scores in the following sub-realms: protection, two out of five; persecution, 3.84 out of seven; impunity, 1.59 out of eight.

During this report's period (August 2, 2023-August 1, 2024), organization U.S. Press Freedom Tracker recorded twenty-eight instances of arrest and incarceration for journalists while covering news. In May 2024, fourteen arrests were recorded, of which thirteen took place while covering student rallies against the war in Gaza. For example, journalists were arrested during student manifestations in New York City, Los Angeles, and the states of New Mexico, Oregon, and New Hampshire (U.S. Press Freedom Tracker. 2024, June 23).

Journalists also risked violence by individuals with no clear link to government agencies or political parties. During the analyzed period, at least nine acts of violence against reporters and photographers were recorded. For instance, an individual hit investigative journalist Kate Burns while she was covering a demonstration by pro-Palestine and pro-Israel groups on June 23, 2024 in Los Angeles. The individual also damaged her camera and stole her iPhone (U.S. Press Freedom Tracker. 2024, June 23).

Another kind of persecution U.S. journalists can be victims of are lawsuits to halt or even penalize the publication of news. An example is news organization ProPublica's report on how some millionaires leverage their money in order not to get higher taxes to pay. ProPublica reporters used IRS-sourced tax information to show examples of several millionaires, including investor Ken Griffin, and how he tried to reduce his tax contribution. Griffin sued ProPublica and five reporters were served with subpoenas to disclose the information source. ProPublica declined to disclose the source (U.S. Press Freedom Tracker. 2023, August 23). However, the IRS conducted an internal investigation and was able to find the person who submitted these millionaires' tax returns, information which must be kept confidential. The agency apologized to Griffin, and a subcontractor named Charles Littlejohn (the information source) was sentenced to five years in prison for the felony (Picchi, 2024).

## **Realm Control Over The Media and Journalism**

### **Sub-realms (direct control, indirect control, exercise of journalism)**

At Control over The Media and Journalism, this country scored 23.33 out of thirty, thereby ranking in the "low restriction" category for freedom of expression and press. In the following sub-realms, it scored these results: direct control over the media, 11.17 out of fourteen; indirect control over the media, 5.67 out of six; and control over the exercise of journalism, 6.50 out of ten. These indicators show that the government exerts little influence over the media, does not try to influence the approval of licenses for television broadcasting stations, or manipulate printed and digital media for a favorable coverage.

However, one challenge facing the United States is the disappearance of local newspapers, a process that has accelerated in the last ten years and that directly affects the community's ability to stay informed. It is estimated that some 2,100 local newspapers have closed since 2004, which has affected some 1,800 communities. (Konopliov, 2024) The total number of newspapers in the U. S. has gone down from 8,891 in 2005 to about 6,000 in 2023 (Fischer, 2023).

As local newspapers decline, hedge funds which have been buying up newspapers in the U. S. have taken off. The concern about these new owners is that they focus on making these media companies profitable. To achieve that goal they sacrifice product quality, cutting down the number of staff journalists and limiting the scope of their coverage. However, because these hedge funds have not achieved the expected profits, they have begun to sell the media they recently purchased (Fischer, 2023).

## **Conclusions**

According to the Chapultepec Index, the United States scored 68.53 out of a hundred, ranking as a “low restriction” country on freedom of expression and the press. This rating ranks the U. S. fourth out of twenty-two nations analyzed. In general, the government exerts little influence on the ability of citizens to access information and be free to express themselves, as well as on the control over the media and the exercise of journalism. However, at Violence and Impunity against Journalists and Media, several instances of aggression and arrests of journalists while covering news events have been reported, as well as the applying of lawsuits to force journalists to disclose their sources.

According to the Index, the executive, legislative and judiciary environments' influence on situations unfavorable to freedom of expression is mild. The Executive Branch had a mild influence when it comes to violence and impunity against journalists and media. This was the most cumbersome aspect for the United States, since although restriction on freedom of expression and the press is low, police forces still hit and abuse journalists when they do their job. Reports of citizens and criminals who have attacked reporters are also available.

It is important to monitor the US presidential election outcome on November 5, 2024, and the impact it may have on the Chapultepec Index. Former President Donald Trump is running up again for the Republican Party, and if he wins the presidency, he may be confrontational to the press, as he was during his previous term in office (2017-2021). Such an administration would directly impact the executive environment.

Regarding the Legislative Branch's influence, the State of Michigan exemplifies efforts to broaden free access by the citizens to state's government information. And at the federal level, Congress is considering a law to ensure the protection of journalists so that they cannot be forced to disclose their sources or deliver information and audiovisual materials. However, these laws have not yet been passed, and it would be important for the next analysis of the United States' Chapultepec Index to follow up on these cases.

The Judiciary's influence remains mild, even though that does not prevent courts from being leveraged to try to force journalists to disclose their sources. In this report we brought up journalist Catherine Herridge, who was found in contempt for refusing to disclose her source's identity. Equally important is to follow up on Tim Burke's case. He is an independent journalist charged with fourteen felony counts for alleged conspiracy, wiretapping, and violations to the

Wiretapping Act. The decision on Burke's case could impact investigative journalism in the United States greatly.

In conclusion, the Chapultepec Index determined that freedom of expression and press is guaranteed in the United States, and journalists can do their job without risking retaliation or even losing their life. However, risks and challenges exist and journalists can still fall victim to violence and attempts at forcing them to disclose their information sources.

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