

## **EL SALVADOR HIGH RESTRICTION TO FREEDOM OF EXPRESSION AND THE PRESS**

### **Executive Summary**

In just one year, El Salvador went from being a country with partial restriction to a country with high restriction of freedom of expression and the press. The degree of strong government influence of the legislative, judicial, and executive environments keeps the country within an unfavorable environment for freedom of expression and the press. Compared to the results of the Index during 2022, it is observed that, in the realm of Citizens Free to Express Themselves, the unfavorable government influence has gone from being very strong to moderate for the case of the legislative environment; and strong for the judiciary and the executive. The "Exercise of Journalism" realm, however, maintains a strong unfavorable influence, particularly, for the executive. In the "Violence and Impunity" realm, the legislative and executive environment went from having a strong unfavorable influence to a very strong one by 2023. Finally, in the "Control over the Media" realm, the slight influence in the 3 environments (legislative, executive and judicial) ceased, and turned into "moderate".

### **Introduction**

Under the argument of reaffirming the "commitment to guarantee the security of Salvadorans" (Asamblea Legislativa de El Salvador, 2023), the Salvadoran legislature approved the nineteenth extension of the emergency regime. This measure, imposed by the Salvadoran government, has restricted, for a year and six months, four citizens' constitutional rights in this country (Sermeño, 2022): the freedom of assembly and association (Article 7 of the Constitution of the Republic), the right to defense (Article 12), the time limit for administrative detention (Article 13), and the inviolability of correspondence and telecommunications (Article 24).

According to the Washington Office on Latin America (WOLA), the measure implemented by the Salvadoran government, "has not only allowed the suspension of the constitutional guarantees, but has also eliminated legal controls over administrative procedures for the use of public funds and government contracts; as well as the right to access public information." (Méndez-Dardón, 2022).

In this context, a media outlet moved its administrative and legal structure into Costa Rica (El País, 2023), and an informative and entertainment television station ceased operations due to financial problems (Redacción ContraPunto, 2023). The Association of Journalists of El Salvador (2023) pointed out that there is a "permanent atmosphere of hostility towards journalists and media outlets that spreads the fear among them that at any moment they could be subject to arbitrary detentions or criminal proceedings that could end in imprisonment. Self-censorship is one of the most overwhelming effects of the emergency regime" (Page 47).

This measure has also been used to persecute human rights and environmental advocates and their families. Civil Society Organizations express that "it is an intimidating tactic targeted mainly at people working in rural areas" (Laínez, 2023).

Hence, El Salvador is classified as a country with high restriction to freedom of expression in the Chapultepec Index of Freedom of Expression and Freedom of the Press for the period 2022-2023. Globally, El Salvador consolidates its position with 34.25 points, however, it comes down 6.57 hundredths with respect to the previous year's measurement, in which it obtained 40.82 points. This places the nation below Honduras (36.5), and above Bolivia (33.8) and Guatemala (32.7). All of these countries, except Guatemala, were in the partial restriction range the previous year and - for the 2022-2023 measurement - they entered into the "high restriction" category.

## Results Analysis

The survey reveals the unfavorable influence of the legislative, judicial, and executive environments for Freedom of Expression and the Press in El Salvador.

With respect to the realm "Citizens Free to Express Themselves", the country only achieved 3.91 points out of 23.00. The analysis reveals that the flow of information has been drastically reduced (1.09 less than the previous year), and that freedom of expression only received 2.0 out of 12 points.

Although the difference in 2023 is only 0.27 tenths in the realm "Exercise of Journalism", the degree of influence of the government in all its environments is much more unfavorable for 2023 (4.73). An example of this is the statement made by the Ombudsman's Office for the Defense of Human Rights (Procuraduría para la Defensa de los Derechos Humanos) on its Twitter (now X) account as it describes the "contentious and unprofessional attitude" of journalist Fernando del Rincón during his interview with Attorney General, Apolonio Tobar (Procuraduría para la Defensa de Derechos Humanos El Salvador [@PDDHEISalvador], 2022). Also, the head of the New Ideas party (Nuevas Ideas), Christian Guevara, threatened the exercise of journalism by declaring that "I have the power to introduce a law and shut down the media" (Villarroel, 2022).

Impediments to the exercise of journalism have manifested through the confiscation of equipment (Redacción de Judicial, 2022), the elimination of photographs (Alfaro & Romero, 2023), the defamation of a journalist by calling him a "terrorist" (Beltrán Luna, 2023), the refusal of access to hearings (Velásquez, 2023), the digital harassment by a congressman (Parada, 2023), the self-censorship by community radio journalists (Barrera & Beltrán, 2023), and the obstruction of journalism (Alfaro, 2023).

The "Violence and Impunity" realm slightly changed with respect to the previous survey. In 2022, it was 15.0; and, in 2023, it attained 14.16. However, the degree of unfavorable influence of the legislative environment went from having a strong influence (2022) to a very strong influence in 2023. The influence of the judicial environment went from moderate to a strong unfavorable influence in 2023. The strong unfavorable influence of the executive environment increased 2.97 points from 2022 with 6.48, to 9.45 in 2023.

Evidence of the above can be observed in situations like the withholding of journalists from international news networks (Deutsche Welle, 2023), the holding of journalists for taking photographs (Redacción de Judicial, 2022), the prosecution of a Twitter (now X) user for reporting on the security protocol of the president's brother (Hompanera Y. 2022), the arrest of young

people for participating in a play about the armed conflict (Beltrán Luna, 2022), the detention of *Univisión* journalists by custodians of the Terrorism Confinement Center (Centro de Confinamiento del Terrorismo, CECOT) (López Vides, 2023), the prosecution of community journalist captured in the regime (Hompanera J., 2023), and the detention of journalists and demonstrators after a march (Alvarenga, 2023).

With respect to the “Control over the Media” realm, El Salvador went from 15.4 in 2022 to 11.45 for the 2023 measurement. In the 3 environments (legislative, judicial and executive), it went from having a moderate unfavorable influence, to a very strong one, especially in the latter (executive), which increased from 1.86 to 4.59; 2.73 points more than the previous year.

### **Environments: The Salvadoran executive exhibits the most unfavorable negative influence in freedom of expression and freedom of the press.**

El Salvador's results in the Chapultepec Index for the period 2022-2023 shows the long-term effects of the Territorial Control Plan (Plan Control Territorial), the implementation of policies that limit the transparency of public administration, and a continuous defamation of journalism. Due to the foregoing, the three government environments assessed by the Index keep a similar unfavorable influence on their scores.

The executive environment exhibits the highest score among all the realms with 6.59 points (an increase of 0.56 tenths from the previous year), followed by the judiciary with 5.91 (a decrease of 0.33 with respect to 2022), and the legislative with 6.48 (with an increase of 0.77 from the previous measurement).

For example, for the realm of “Citizens Free to Express Themselves”, there is a perception that the executive environment is the least tolerant of citizens' freedom of expression about government policies, and to provide access to the information required by the media. Although its degree of unfavorable influence decreased from "very strong" to "strong" from the period 2022 to 2023, it amasses 6.45 points on the degree of influence, in contrast to the judicial (5.55), and legislative (6.18).

Remarkably, in the case of the legislative environment, the unfavorable influence is rated as "moderate." The perception is that this environment is more tolerant of citizens' opinions but not of the access to information requested by journalists, as will be seen in the assessment of the respective realm.

With respect to the realm of “Exercise of Journalism”, the inclination to restrict access to the press increased from a "strong" to a "very strong" influence in all 3 environments. The executive reached 9.45 of unfavorable influence, followed by the legislative (9.18), while the judicial environment ended with a score of 8.91.

The general perception is that the media, with the exception of the ones that praise the president, are the "enemies." Although, President Bukele's attacks against independent media have diminished considerably, the statements that discredit the media is observed through the incessant criticism and discrediting by pro-government congresspersons and other officials of the President's public administration.

The greatest amount of statements of defamation is directed against the media outlet *El Faro* thanks to its investigative reports on gangs and its "ostensible link" with these illegal bands.

Other journalists are attacked through social networks for their media affiliation while female journalists experience discredit and expressions of sexual violence. In the words of Carmen Rodríguez (Alfaro, 2023), Salvadoran journalist based in New York, violence "towards female journalists has become normal thanks to the management and control of Bukele's government and the investment - made with public funds - to disseminate all these hate campaigns that are focused on dividing Salvadorans".

The "Violence and Impunity" realm also exhibits a rise in the degree of unfavorable influence of the 3 environments. The executive shows the highest score (8.03), followed by the legislative environment with 7.61 points and, the judicial environment with the lowest score of all at 6.88. For the executive and the legislative environments, the unfavorable influence rose to "very strong" and, for the judicial, it was rated as "strong." In all environments, at least for this realm, an increase of unfavorable influence is observed with respect to the previous year.

With respect to the "Control over the Media" realm, the Salvadoran government (executive environment) attained the highest rate. With an increase of 2.73 points with respect to the 2022 results, its unfavorable influence increased from "moderate" to "strong." Although Bukele's administration has not shut down media outlets, it does exert moderate pressure on the media to publish favorable coverage of his public administration. For instance, *Infodemia El Salvador* (Paises & Olivares, 2023) revealed that *YouTube* channels were used as propaganda machines in favor of Bukele's public administration.

### **Realm A: The strong unfavorable influence of the Executive Branch regarding Citizens Free to Express Themselves**

The Salvadoran Government only obtained 3.91 points out of 23 with respect to its performance to favor the flow of plural and timely information, and its role as guarantor of freedom of expression for its citizens.

A closer look at the scores obtained by the country in the aforementioned sub-realms, reveals that the country only obtained 1.91 out of 11 points for its role in favor the flow of information to citizens. The 2023 Active Transparency (Transparencia Activa 2023) evaluation report by *Acción Ciudadana* reveals that only 4 out of 10 government institutions meet the criteria of the Active Transparency Performance Evaluations (Evaluaciones de Desempeño de Transparencia Activa ).(Mondragón, 2023).

Alternatively, the Inter-American Commission on Human Rights, IACHR, reported (2023) that "El Salvador failed to comply with the recommendation elaborated by IACHR, regarding the adoption of measures to guarantee the right to public information following Inter-American standards; as well as removing the barriers that impede the right to information."

The score obtained in the sub-realm "Citizenship with Freedom of Expression" reveals that the Bukele's administration only obtained 2 of the 12 maximum points. Instead of strengthening citizens' expressions in the public space, the Salvadoran government restricts them when - within the framework of the emergency regime - agents of the National Civil Police detained journalists and demonstrators after a demonstration of the Movement of Victims of the Regime (Movimiento de Víctimas del Régimen) (Alvarenga, 2023). Additionally, Reuters (Kinosian, 2022) reported that there was a machinery of trolls attacking journalists and members of civil society with the purpose of keeping a favorable image of Bukele's administration in social media.

## **Realm B: Independent journalism: "The enemy" of Bukele's administration**

The realm "Exercise of Journalism" reached 4.73 of the 10 points assigned to this category. Although this realm covers other aspects such as the protection of the intellectual property of journalistic content, and the government demand of an academic degree to exercise the profession; this will be evaluated based on only two aspects because no evidence was found of the provision of guarantees with respect to these items.

Therefore, the items to be evaluated will be with respect to the restriction of access to sources and punitive actions, within the framework of the regime of exception, which have hindered the exercise of journalism, as well as access to sources.

The current Salvadoran administration has been characterized by the creation of restrictions to access government information, statements by officials at press conferences, and little transparency. The framework of the regime of exception has become the ideal scenario for the restriction of the exercise of the press in the Salvadoran territory.

For the 2023 measurement, the executive environment is rated as having a "very strong" unfavorable influence with respect to this realm. Only 0.25 hundredths separate it from obtaining the maximum score of 10 in this realm. With 9.75, Bukele's administration becomes the environment that most hinders the practice of journalism. The second environment that exerts a "very strong" unfavorable influence on the work of the media and journalists is the executive with a score of 9.18 out of a possible 10 points. Finally, the judicial environment exerts a "strong" unfavorable influence on media reporting with a score of 8.91.

If compared, in retrospect, with the 2022 measurement, this is one of the realms in which the "very strong" unfavorable influence has been maintained during this administration; however, for the 2023 period it has experienced an increase of almost 20 hundredths in all environments.

## **Realm C: Contrary to preventing attacks and aggressions against journalists and the media within the framework of the emergency regime, the Salvadoran government promotes them**

This realm takes into account the actions of the Government designed to protect journalists, prevent attacks and aggressions against newsmen and the media. It also includes increased penalties and legislation to prevent impunity in the cases of crimes against journalists and the media. It is developed based on 3 subrealms: Persecution, protection, and impunity, which together add up to 42 points of the total index.

With a total of 0.32 points out of a maximum of 5, the results reveal that the Salvadoran government does not consider or promote mechanisms for the protection of journalists, nor has it implemented actions with the objective of preventing attacks and aggressions against journalists and the media; nor is there evidence of the willingness to provide training to judges on aggressions, murders, and crimes against journalists and the media.

The subrealm of "Violence and Impunity" includes the "persecution" of journalists, utterances that cause an intimidation discourse, defamation and hatred against journalists and the media by the government. In this respect, based on these indicators, it assesses whether this directive favors the persecution of journalists and media, whose declarations (with or without intention) are considered a priori as an offense to officials or similar groups. In numbers, the realm can amass a total of 7.5 points in the Chapultepec Index.

The responses for the 2023 survey reveal that the perception of persecution of journalists is 0.18 points, and for the 2022 survey it was 0.3. Thus, it is evident a worse performance of the role of the Salvadoran government to protect journalists, and create actions aimed at preventing attacks and aggressions against the press. The evidence gathered like –the follow-up of cases reported by the media on obstruction to the exercise of journalism and the arbitrary withholding of journalists by personnel of the Armed Forces and the National Civil Police; the Report on Freedom of the Press and during the Exception Regime (Association of Journalists of El Salvador (APES), 2023); and the alerts from the Monitoring Center of Aggressions against Journalists (Centro de Monitoreo de Agresiones Contra Periodistas) - reveal government actions that are categorized as defamation, intimidation and hate speech against journalists in El Salvador.

The 2023 survey also reveals an increase by 1.55 (8.03) of the "very strong" unfavorable influence of the executive environment compared to the 2022 survey where it was reported as "strong" (6.48). In the judicial environment, a "strong" unfavorable influence increase of 6.88 is reported for 2023 with respect to the 2022 "moderate" unfavorable influence (4.62). Finally, with respect to this realm, the legislative environment also shows an increase. By 2022, the unfavorable influence was rated "very strong" (5.57) and, by 2023, as "very strong" (7.61) with 2.04 points difference.

#### **Realm D: Bukele's administration has increased its level of influence over the Salvadoran media**

This realm totals 25 points in the index. Of this score, the country reaches 11.45 points, 3.95 points lower than the previous year (15.4%). This realm is broken down into two subrealms: direct and indirect control over the media. Direct control registers whether the government has closed, expropriated or confiscated media outlets. It also includes the discriminatory use of tax provisions to generate tax privileges for those in favor of government positions and, conversely, to harm those media or their sectors contrary to the official line.

The survey reveals that for the year 2023, direct control over the media scores 7.27 out of 19. That is, the Salvadoran government favors those digital or traditional media that support its presidential administration with government advertising.

Indirect control scores 4.18 out of 6.0. In this regard, the survey revealed that Bukele's administration allows direct restrictions or blockages of the different digital information platforms which are perceived as contrary to the interests of political power agents. No evidence was found with respect to the impression of applying pressure on technology intermediaries, and restrictions on access to suppliers of resources.

The 2023 Index reveals an increase in the level of unfavorable influence in relation to this realm. By 2022, this exhibited a "moderate" level of influence in all environments; by 2023, the level of influence is perceived as "strong." The executive scored 4.59; the legislative, 3.73 and; the judicial, 3.32. In all cases and in comparative terms, the increase of influence from one year to the next, exceeds 2.5 points.

#### **Conclusions**

One year and 6 months after the 2022-2023 survey, El Salvador's current position evidences the consequences of the implementation of the emergency regime as a measure to

solve the problems of public security in the country, which directly affect access to public information, the work of the media, and the freedom of expression of the Salvadoran citizenry.

The comparison with the results of the previous period evidences the dominance of the executive environment as the area that exerts the most unfavorable influence in the assessed realms: citizens free to express themselves, the exercise of journalism, violence and impunity, and control over the media. The marked differences between the two periods are the increase in unfavorable influence from "strong" to "very strong" in the exercise of journalism and, likewise, the increase from "strong" to "very strong" in violence and impunity from the executive to the judicial environment. The increase in the unfavorable influence of the control over the media from "moderate" to "strong" should also be noted.

El Salvador's position in the 2023 survey should be evaluated based on the increase of Latin American countries that incorporate to the classification of countries with "high restriction" to freedom of press and expression (Honduras and Bolivia). This year's results detail the unfavorable influence of the incidence of the 3 Salvadoran powers, but above all, of the influence of the executive to the detriment of the citizens free to express themselves, the exercise of journalism, the persecution of the press and the impunity in cases of violence against the guild; and the indirect control over the media.

The foregoing shows the situation of the press when exercising its investigative work: the limited access to public information, the restriction to unofficial information by government institutions, the decline of requests from the Information and Response Offices (Oficinas de Información y Respuesta) and the lack of information in the government transparency websites, as well as access to official direct sources.

It also shows the consequences of the defamation of the journalistic profession, done directly by the president of the republic during the first years of his government and, in the following two years, by congresspersons, public officials and, currently, with the regime of exception, by officers of the Armed Forces and the National Civil Police.

For the Salvadoran case, the survey reveals that the Salvadoran government continues with its policy of delegitimizing instead of promoting policies and legal frameworks for the protection of male and female journalists. Bukele's administration also fails to respect international regulatory frameworks to which the country has signed to. Moreover, it appoints officials who rebut the reports by the people and journalists at international courts.

In May 2023, he appointed Colombian lawyer Andrés Guzmán Caballero as Presidential Commissioner for Human Rights and Freedom of the Press (La Prensa Gráfica, 2023). Two months later, in July 2023, when questioned by the International Commission on Human Rights (IACHR) in respect to human rights violations during the Emergency Regime and the harassment of journalists, Caballero rejected "in a general and clear way all the statements made by different people referring to the fact that - in El Salvador - there is torture, there are violations to freedom of expression, there is surveillance or some sort of harassment against journalists, because the truth has not been proven" (Quintanilla, 2023).

Related to the realm of direct and indirect "control over the media," the score of the subrealm "direct control" stands out. The imperviousness of the previous year's capture mechanisms has become evident through the consultation conducted.

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