

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, FECl), 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 photojournalist 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*¹. 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-

¹ 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.

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 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 officers²– 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.

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

² 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”.

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 APG, 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 (APG, 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 Giammattei'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 (APG, 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.

Dimension 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.

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