

GUATEMALA

CONSOLIDATION OF AUTHORITARIANISM

Executive Summary

In Guatemala, during 2022 and 2023, the return to authoritarianism and the autocratic regime were consolidated. The development of general elections led to an increase in violence against the journalistic union, within the framework of a general increase in political violence and criminalization against human rights defenders. Exile has increased because, for some journalists, it is the only possible way out from the attacks of those who hold political power. Freedom of expression has been deeply affected, due to practices such as imposed silencing, closure of sources and opacity regarding access to public information.

Introduction

Guatemala preserves, on the formal level, a democratic regime, and although it is multi-party, the personalist, caudillist and populist model prevails. During the government of Alejandro Giammattei (2020-2024), a severe democratic recession has occurred with a high concentration of political power supported by a conservative business elite, a reviled democratic institutionality and wide lags in the exercise of human rights. Democratic development is one of the lowest in the region, according to the Economist Intelligence Unit –EIU– in its 2022 measurement (Foundation for the Development of Guatemala, s/f), which qualifies it as “hybrid democracy” and the same for the Latinobarómetro (2023) according to which Guatemala registers the lowest rate of support for democracy in the entire region (29%), with a decline of eight percentage points since 2020.

The 2023 electoral period was intricate and convulsive. The highest electoral body, through controversial decisions, left three candidates out of the race, even those that were leading in the voting intention surveys. In this scenario, citizens, in the first electoral round, on June 25, used the null vote (24%) to show their discontent with the process and the democratic system. In this first round, the “Rompe el Miedo Guatemala” network (2023) recorded twenty-seven violations of communication rights, thirteen occurred against male journalists and fifteen against female journalists. On twenty occasions there was obstruction of journalistic work, on four occasions there was denial of information and three cases of intimidation. A third of the cases occurred in the department of Guatemala, and the remaining ones in other departments (Alta Verapaz, Quetzaltenango, Sacatepéquez, Sololá, San Marcos and Quiché).

Throughout the period of measurement of the index, the criminalization of journalistic practice continued, especially against those who publish investigations that expose cases of corruption of public officials, the use of the justice system to silence journalists and the

imprisonment of those people whom deterrence cannot be achieved through threats and coercion. Furthermore, although there is no exhaustive record, the #NoNosCallarán (We will not be silenced) journalist collective has counted almost thirty journalists and communicators who have had to forcibly leave the country during Alejandro Giammattei's government period, eleven of whom left in March. 2023 –the electoral period has already begun–. Meanwhile, José Rubén Zamora, in an absolutely flawed trial, was sentenced to six years in prison and the media outlet that he directed for years, *elPeriódico*, had to close (Selser, June 21, 2023).

For all this, Guatemala continues to be located as a country with high restrictions on freedom of expression, it once again occupies the nineteenth place out of twenty-two countries, with 32.07 out of one hundred points in the Chapultepec Index, much lower than the global regional average (47.84), almost eight points below the previous measurement (2022) that placed the country at 38.40 points and 16 points below the 2021 measurement.

Analysis of the Environments

With co-opted powers, the orders that criminalize the press come from the Executive Branch

The systematic criminalization of journalists, especially those who maintain a critical line towards the government, begins in the Executive, in the figure of the president of the republic, who has not only persisted in his belligerent attitude towards the press, but also, he has dispersed that attitude and the stigmatizing messages towards other entities that have been co-opted by the president and the interests he represents. The alignment of the three branches with the interests of economic networks and organized crime has been denounced by previous governments, and in the current administration it has been increasingly explicit (Dudley, Papadovassilakis and Gutiérrez, June 21, 2023; Shuldiner, June 24 May 2023; Alcántara, March 30, 2022).

In fact, the Observatory of Journalists of Guatemala –OPG– (2023-a) ruled that the highest authorities of the Public Ministry (MP) and the Judicial Branch (OJ) maintain “a submissive attitude and complete obedience towards the president” with respect to to the criminal persecution carried out against journalists and human rights defenders (p.2). They affirm this because it is from the Executive that the orders emanate for the justice system to act against any person interpreted as a dissident, or against those who try to defend their rights against the abuses of power, as well as for the repressive apparatus of the State to be deployment against those who defend their territories from the dispossession of extractive companies.

For this reason, of the three branches of government, it is the Executive that receives the worst rating; It obtained a score of 6.08, that is, it is in the strong influence range. In the dimension “Journalism practice”, due to all the persecution that journalists receive, it was rated 8.30 in the very strong influence range. In this regard, the OPG established that:

[...] The Executive's intentions are clear: to suppress the social audit, public criticism and journalistic investigations that reveal acts of corruption, nepotism, and payment of favors, which proliferate under his mandate. With this, it also aims to impose the official version of the news as an irrefutable truth and only respect the freedom of expression of the media that they use as public relations platforms, which do not investigate and do not question the acts of the public administration. (2023 a: p. 2)

Due to the reduction of civic space and the restrictions placed on the press, in the dimension “Informed citizens and free to express themselves” the country was also rated in the range of very strong influence with a weight of 6.55; while in “Violence and impunity” it obtained 6.20; that is, strong influence. This, above all, because the three rights most violated in this period were the right of access to information, the right to integrity and the right to freedom and security. The “Media Control” dimension was considered to have moderate influence (4,30).

In the country, opacity is assumed as a daily practice, violating the content of the Law on Access to Public Information, approved in 2008 (Voces del Sur, October 19, 2022). Among the most frequent problems are non-compliance with deadlines or delivery, excessive use of extensions, high turnover of those who work in the units of access to public information, slowness in the management of complaints and the justice system does not apply the sanctions established by law for those who fail to comply with deliveries (Red Rompe el Miedo Guatemala, 2022).

The APG (2022) has denounced that the National Civil Police –PNC– attached to the Ministry of the Interior, harasses journalists, requests their identity documents and takes photographs of them. That was, among others, the case of the community journalist from the municipality of El Estor, in Izabal, Juan Bautista Xol, who on March 22, 2023 was intercepted and harassed by a group of six agents from the National Civil Police arguing that there was a complaint against him. However, when the journalist asked them about an order or any legal document against them, they did not have it (NoNosCallarán, March 25, 2023).

The APG observatory noted that “... it is unknown which government agency safeguards this information, but it is highly probable that it is collected by civil and military intelligence apparatuses, which could later use it to plot actions against them.” (2022: pág. 6)

Judicial Branch: executor of harassment and criminal persecution against journalists

If the Executive Branch is the intellectual author, the Public Ministry (MP) acts as the executing arm of the criminalization and harassment against journalists. In fact, their actions are so serious that the OPG (2023) qualifies the situation as “judicial terrorism” that puts journalistic activity at extreme risk, with the aggravating factor of violating work that should be protected by its public interest. The same OPG draws attention and warns that “...judicial terrorism carried out by the central government, through its operators in the justice system, is one of the weapons to persecute and muzzle uncomfortable journalists” (p. 6). Likewise, the president of the Inter-American Press Association –IAPA–, Michael Greenspon, referred to these actions against journalists as “judicial harassment” (IAPA, March 1, 2023).

One of the most worrying cases of criminalization is the one carried out against the journalist and president of elPeriódico, José Rubén Zamora, whom the Eighth Court of Criminal Sentencing sentenced to six years of incommutable prison for “money laundering.” In addition, on June 14, 2023, the tenth criminal judge, Jimi Bremer, added a second process against him for alleged obstruction of justice. At the same time, it is important to mention the accusation for the crime of obstruction of justice that the Special Prosecutor's Office against Impunity (FECI) of the Public Ministry (MP) made against six journalists and two columnists of the same media, precisely for carrying out news coverage of the case. penalty against Zamora. The FECI requested it and the head of the Tenth Criminal Court, violating the judicial process, accepted the prosecutor's request and gave way for an investigation to be initiated against those indicated (Sas, July 20, 2023).

Given this action, the Office of the Special Rapporteur for Freedom of Expression (RELE) of the Inter-American Commission on Human Rights (IACHR) explained in its press release dated March 29, 2023 that:

[...] It is concerned that the State presumes that journalistic coverage of issues that are transcendental for the democratic life of Guatemala could constitute the crime of Obstruction of Justice. For the Rapporteurship, the simple fact of opening a criminal investigation against the press following various publications of public interest has severe consequences for the right of reporters to inform, and the right of society to be informed. (para. 4)

Other forms of judicial harassment materialized in attempts to hinder professional practice by FECCI (Fiscalía Especial contra la Impunidad or the Special Prosecutor's Office against Impunity) personnel. A worker from said prosecutor's office, on July 13, during one of the raids carried out at the Supreme Electoral Tribunal, threatened a reporter from the media La Hora and prevented him from recording (La Hora, July 13). Furthermore, on July 21, during another raid promoted by the FECCI at the headquarters of the Semilla Movement, members of the Special Directorate of Criminal Investigation (DEIC) of the PNC took photographs of the reporters and requested personal information, claiming that it would serve to their "reports". Prosecutor's office personnel made a video and took photographs of the journalists and protesters who showed up at the scene (Ramón, July 22, 2023).

On the other hand, the same Public Ministry fails to investigate serious crimes against the union such as the murder of community journalist Eduardo Fernando Mendizábal Gálvez that occurred on March 18, 2023 in the Colmenas village in the municipality of Villa Canales. As of this writing, there has been no update on the case. There is also no progress in other complaints that journalists have made, many of which have been dismissed by the Prosecutor's Office for Crimes against Journalists; There is no perceived political will to investigate the defamatory campaigns of which countless communicators in the country have been subjected.

Regarding the obstruction of the work of the press, the Judicial Branch has systematically prevented access to information, either by refusing to provide statements to journalists or by preventing their entry into the courtrooms. They have used discretionary criteria to argue the reasons. In some cases they have excused themselves saying that it is due to the small size of the rooms and, in others, because the cases are declared reserved (including the legal criteria to declare such an extreme). To cite two examples, in April 2023, the president of the Supreme Court of Justice (CSJ), Silvia Patricia Valdés, sent a circular to judges and other personnel of the Judicial Branch, through which she prohibited the sharing of information to the media communication (White, April 4, 2023). Likewise, on July 14, Judge Juan José Jiménez Texaj, of the High Risk Court D, ordered the press out of a hearing, although the case was not under confidentiality. The judge's argument was that a child, the son of a defendant, was present at the scene (Spain, July 15, 2023).

Due to this negligent role towards journalists and communicators by criminalizing them, opening judicial proceedings for crimes that they have not committed and by the omission of investigation for serious crimes against journalists, the Judiciary obtained a rating of very strong influence in the exercise of journalism. (7.70). The other dimensions of this category had a strong influence on "Free and informed citizenship" (5.80), "Violence and impunity" (5.53), while "Media control" was rated as moderate influence (4.15).

The Legislative Branch is also obedient to the mandate of the Executive Branch

The legislative environment was rated as having moderate influence (4.40); Of the three powers, it is the one that generated the fewest negative ratings. However, in this environment, the dimension “Practice of journalism” was the worst rated (7.00), which means a strong degree of influence, while “Informed and free citizenship” obtained 4.25; For its part, the dimension “Violence and impunity” (4.67) was weighted with moderate influence. The “Media Control” dimension was considered to have a slight influence from the legislature (2.85).

With regards to the “Practice of journalism” obstacles persist in accessing sources in that environment. In May 2023, three journalists, Andrea Domínguez, Miguel Salay and Verónica Orantes, were attacked and prevented from carrying out their work by Congress workers and members of the Guatemalan Education Workers Union (STEG), when they tried to cover the meeting between the president of Congress, Shirley Rivera, and the leader of the teachers' union, Joviel Acevedo. Finally, the meeting was held behind closed doors (Blanco, May 4, 2023).

The regressive agenda in Congress is evident because it promotes legal frameworks that are harmful to freedom of expression. On August 4, 2022, a hundred deputies from the ruling party and its allies made possible the approval of the Law on Prevention and Protection against Cybercrime. It violated constitutional guarantees and hid the danger of criminalizing publications and criticism on digital platforms since it established that, in the event of a conviction against a media outlet, its assets could be confiscated, making it impossible for it to obtain public contracts, the closure of related companies, or the media itself (López, August 24, 2022). Although three weeks later, in the session on Wednesday, August 24, the initiative was archived, it generated an increase in the negative perception that Guatemalan citizens already have with respect to Congress.

Another evidence of the legislature's complicity with the attack on the journalistic union is its participation in campaigns to discredit journalists. On October 25, 2022, when the conviction was issued against the police officers who physically attacked journalist Sonny Figueroa in 2020, César Alberto Alvarado Morales, advisor to deputy Rubén Barrios Galindo, of the Valor party, published a series of insults and defamations on social media towards the journalist, calling him a “drunk” and insinuating that he was a false journalist (APG, 2022). Neither Congress nor the deputy made public statements on the matter and, much less, sanctioned the advisor.

Finally, the Legislative Body continues to act by omission by not promoting legal frameworks to criminalize digital violence and to democratize the media ecosystem. To evidence this omission, the Red Rompe el Miedo Guatemala (RRMG) denounced, on October 6, 2022, that one year after the resolution of the Inter-American Court of Human Rights (CoIDH) was issued on October 6, 2021, the State had made no effort to comply with the right of indigenous peoples to “... access to obtaining and exploiting frequency bands of the radio spectrum, to promote the defense, development and dissemination of their languages, traditions, spirituality and any cultural expressions”, as the Constitutional Court had also already pointed out, in a 2012 ruling (RRMGt, 2022: p. 1).

Realm A: attempts to silence citizens

In the weighting for access to information and freedom of expression of citizens, the Executive Branch (6.55) and the Judicial Branch (5.80) were placed in the range of strong influence, and the Legislative Branch of moderate influence (4 ,25). The measurement is due, above all, to the persistence of intimidating actions and attacks by public entity personnel towards people who express their discontent, as well as actions against journalistic coverage as already described.

The attempts to silence the press, as well as other forms of attack on freedom of expression, constitute an attack on democracy and send citizens a message of opacity and fear of knowing the truth, as well as of expressing themselves, which limits or denies their participation.

The joint mission of international organizations that visited Guatemala in March 2023, made up of the American Jewish World Service, Article 19, Be Just, Center for Justice and International Law, Foundation for Due Process, Guatemala Human Rights Commission, Impunity Watch, Jotay – Acting Together Guatemala, Latin American Working Group, Robert F. Kennedy Human Rights and the Washington Office on Latin America (WOLA), explained it as follows:

[...] The work of journalists must be highlighted, since they play an essential role in informing citizens about judicial processes where human rights violations are alleged and criticizing the performance of authorities or individuals with public exposure. Without effective freedom of expression, democracy fades and space open up for authoritarian practices such as criminalizing and silencing the work of human rights defenders. (WOLA, March 9, 2023)

The political persecution deployed against human rights defenders, as well as against civil society organizations, shows that there is a high risk for their work, which is carried out without protection because the government of Guatemala has failed to comply with the commitment to develop a public protection policy. for human rights defenders.

Realms B and C: red flag for the practice of journalism

The “Journalism practice” realm was the worst weighted in the three environments. In the executive (8.30), the judicial with 7.70 while the legislative 7.00. The data emerges from the extremely complex conditions in which journalists work in the country. In the period analyzed, the data was collected from the observatories that emerged from the journalistic union since the records of the Prosecutor's Office for Crimes against Journalists are not reliable. On the one hand, because they dismiss many complaints and, on the other, because as a result of the criminalizing approach that the Public Ministry has, the union has decreased the frequency of complaints in that entity, therefore there is a high number of cases underreported.

The Observatory of Journalists of Guatemala (2023) recorded 521 attacks from January 2020 to July 2023 and 120 attacks from January to July 2023, exceeding, in the first seven months, the number of attacks for the entire year 2022 (105 registered). If the trend continues, the 149 cases recorded in 2020 would be exceeded, which was considered by civil society observatories and the Association of Journalists of Guatemala as the most violent year against the press in the so-called democratic era.

The electoral process, without a doubt, meant a peak in the frequency of the *continuum* of violence against the union. There has been an increase in attacks, restrictions and harassment against journalists, already recorded in previous electoral processes, but exacerbated in this situation by the climate of political crisis and authoritarian regression. Of the attacks recorded by the Rompe el Miedo Guatemala Network, from January 1 to July 31, just over two-thirds of the attacks took place between the months of June and July. Most of them were carried out last June, in the days before or on June 25, the day of the first electoral round.

On the day of the first round of the general elections, the increase in attacks occurred around the time of closing of the polling stations and during the counting of votes. In the weeks leading up to election day, acts of harassment, destruction of equipment (in Cobán, Alta Verapaz and Guatemala City), threats and smear campaigns against journalists and media outlets due to coverage, or comments made about the electoral process or about the candidacies.

Most of the attacks were carried out to prevent journalists from freely carrying out their work at the Voting centers. The Supreme Electoral Tribunal did not issue clear instructions to the Departmental and Municipal Electoral Boards regarding journalistic practice, giving rise to discretionary treatment in each place by those who coordinated the voting centers.

According to the records of the RRMGt, the three rights most violated from January to July are the right of access to information in 69 of the cases, the right to integrity in twenty-eight of the cases and the right to freedom and security. in twenty-three of them. Public officials along with the National Civil Police remain the main perpetrators.

It is important to highlight that violence has sexist and racist biases when it affects women journalists. On July 9, María Guarchaj, a community communicator who at that time worked for the Guatemalan Federation of Radio Schools (FGER) and was a member of the Jun Na'oj Network of Indigenous Communicators, reported having received a racist message on her Facebook page, on behalf of an account that identified itself as “Estuardo Montis Arévalo.” Said message read: “Ridiculous revolted India, you have no say in social networks, stay in your town making tortillas” (OPG, 2023: p. 9). On that occasion the RRMGt issued an alert for discrimination (RRMGt, July 11, 2023). The other attack was experienced by a female journalist from a channel with national reach who suffered insults and sexual harassment through private messages on a social network. An individual who identified himself as “Jaime Medina” sent him insults and images of penises. The situation was repeated several times, on different social networks (OPG, 2023b). The State has not promoted any punitive measure in these cases of digital violence.

There is no official data that allows impunity to be counted, but in this particular issue it is necessary to emphasize that the State acts by omission when it does not take the necessary measures for journalists to work in safe conditions. There are no protection plans, no specific measures have been implemented to provide support in the cultural and gender sphere. Journalists continue to work amid siege and impunity.

Realm D: media under attack

The “Media Control” dimension was the best weighted in the three environments. For the executive, the index is 4.30, while for the legislative it was 4.15 and the judicial was 2.85. In all cases, the figures are higher than in the 2021-2022 period.

Despite the low weighting, we must highlight the closure of the media outlet *elPeriódico*, which occurred within the framework of the criminalization and imprisonment of its director, José Rubén Zamora. On Monday, August 1, 2022, the Public Ministry (MP by its acronym in Spanish) requested the seizure of his bank accounts and this measure was accepted by the Seventh Criminal Court of First Instance. That same day, WOLA issued a statement establishing that these actions by the State of Guatemala not only constituted acts of censorship, but “retaliation” as well, alluding to the critical position of the outlet and its director with respect to the government. The judicial harassment continued with the imprisonment of some people who worked in the media and, months later, with the accusations of obstruction of justice against several journalists and collaborators of *elPeriódico* (Julia Corado, director of the media; Edgar Gutiérrez and Gonzalo Marroquín, columnists, and the journalists Rony Ríos, Alexander Valdéz, Cristian Velix, Denis Aguilar and Gerson Ortiz). Finally, on May 15, after months of persecution, political and economic pressure, the outlet decided to close.

It is also important to mention the judicial harassment of the media *La Hora*. On August 12, 2022, the newspaper reported that the MP's Internal Affairs Prosecutor's Office had summoned them to provide a testimonial statement with regards to an investigation that began after a

publication made in 2021 about misuse of public funds in the Institute of the Victim (Instituto de la Víctima). On August 18, the date of the hearing, the MP changed the reason for the hearing and reported that it was due to an “investigation related to the raids at the Institute of the Victim, carried out on June 10 and 24, 2021.” Clemente Marroquín and Pedro Pablo Marroquín, president and general director of the media, responded that they could not testify at that hearing because the director of the institute in question, Alejandra Carrillo, had sued them using the law against femicide to prevent the media from reporting their actions and to promote censorship of its contents and that, as a result of that action, the official had protection measures.

In other cases of censorship linked to the electoral process, digital content was eliminated in different media in San Pedro Sacatepéquez, (Guatemala) and in a national radio station, *Emisoras Unidas*, for alleged violation of copyright in an interview with the candidate Sandra Torres.

Conclusions

What is demonstrated in the period of measurement of the index is that in Guatemala the justice system and the repressive apparatus of the State are used to silence media, journalists and dissident voices and, in this way, take freedom of expression by storm.

This silencing of the press generates an inhibiting effect on democracy and therefore impoverishes it.

Violence against journalists and communicators remains a continuum, but it increased during the electoral process. If the trend of attacks persists, a new record will be reached in the country.

In Guatemala, freedom of expression is dying.

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