

## **El Salvador: A New Authoritarian Escalation**

### **Executive summary**

President Bukele's administration has been undermining freedom of expression at a faster pace in his first year in office. Financial, digital, and legal harassment of critical media and newsmen has escalated alarmingly, without sufficient legal guarantees to protect the exercise of journalism. Likewise, authorities have obstructed access to public information in the wake of the COVID-19 pandemic. With months to go before the midterm elections 2021, in which the incumbent party may concentrate more power, greater violations in this regard are forecast.

### **Introduction**

In 2019, El Salvador began a new political cycle with the election of the now president, Nayib Bukele, after almost three decades in which both main parties of the democratic transition following the armed conflict ruled in the late 20<sup>th</sup> century. This new cycle is taking place in a context of constant erosion in the credibility of the political system, shown by at least three indicators during the period between 2004 and 2018: Continued decline in voter turnout at presidential, legislative, and municipal elections; constantly declining confidence in political parties; and sustained decrease in satisfaction with democracy – the latter two as measured by the Latin American Public Opinion Project's (LAPOP) Americas Barometer (Latin American Public Opinion Project – LAPOP, 2018).

Low credibility in political institutions is coupled with leniency from a significant part of the population towards authoritarian practices. In January 2020, a public opinion study found that 47% of respondents would regard an authoritarian regime more favorably than a democratic one under certain circumstances (Instituto Universitario de Opinión Pública, 2020). In this context, the new administration, which began on June 1, 2019, has shown authoritarian traits in its interaction with both the media and citizens in general, as well as in its relationship with other branches of government. All across the board, an issue has been the use of law enforcement for political purposes, including the military and the police, which have been the subject of complaints domestically and abroad.

This new authoritarian escalation is evident in three areas fundamental for democracy. First, regarding checks and balances, President Bukele has not complied with judicial rulings and has resorted to intimidating behavior against political opponents. Among these is the call for civil uprising and the military occupation of the Legislative Assembly (Asamblea Legislativa) on February 9, 2020, to demand parliamentary approval for an international loan to fund law enforcement equipment. Secondly, regarding respect for

human rights, the national Executive has performed illegal detentions in contempt for rulings issued by the Supreme Court of Justice Constitutional Chamber (Sala de lo Constitucional de la Corte Suprema de Justicia) under the guise of measures to contain the COVID-19 crisis.

Third, with respect to public scrutiny and accountability, not only has the executive branch obstructed access to public information, but also increased its hostility towards civil society organizations and media reporting on cases of corruption and abuse of power. This report, which covers the period from May 1, 2019 to April 31, 2020, focuses precisely on the influence of the national Executive in this regard, which is significantly greater than that of the Legislative and Judiciary.

In this context, and months before the February 2021 legislative and municipal elections, in which the incumbent administration may even concentrate more power than at present, there are sufficient elements to forecast greater threats to freedom of expression and democracy in El Salvador in the near future.

## **Analysis of results**

El Salvador is ranked 16<sup>th</sup> among 22 countries in the hemisphere on the Chapultepec Index, with a score of 42.6 on a 0-100 scale. The six countries under El Salvador are Ecuador, Bolivia, Brazil, Nicaragua, Cuba, and Venezuela. The following is an analysis of the environment of each branch of government – Executive, Legislative, and Judiciary – as well as the four realms to be addressed: Informed and free citizens, exercise of journalism, violence and impunity, and control over the media.

### **Executive environment**

In the first place, the executive environment shows a moderate and strong influence in most of the realms analyzed, and very strong regarding acts of persecution within the violence and impunity realm. Of the three branches of government, the national Executive exerts a significantly greater degree of influence than the rest.

The respondents interviewed point towards a systemic trend of intolerance towards critical media, even escalating to the use of government agencies and digital media to harass and harm them financially, as confirmed below. The proliferation of defamation and disinformation channels on social media has been another of the remarks made by the respondents. This is consistent with a report prepared by the Center for Monitoring Attacks on Journalists (Centro de Monitoreo de Agresiones a Periodistas) of the Association of Journalists of El Salvador (Asociación de Periodistas de El Salvador, APES). During President Bukele's first year, between June 1, 2019 and May 31, 2020, 61 aggressions went on record therein: four times the figure reported the previous year (Asociación de Periodistas de El Salvador, 2020).

Among the most distinctive behaviors of the Executive against several media nationwide, it is worth mentioning denial of entry to official proceedings (Marroquín y Jurado, 2019 y Avelar, 2019), punishment by means of cancelling government advertising and printing contracts (El Faro, 2020), harassment against media outlets through selective inspections (Diario Co Latino, 2019), intimidation of journalists on digital platforms (Hernández, 2019) or physically (Cáceres, 2019), and repeated denial of turns to ask questions at press conferences (Asociación de Periodistas de El Salvador, 2020), among others. There are also restrictions on the right of access to public information, from denying citizens' petitions and exposing their personal data to appointing, in an irregular manner, the head of the Institute of Access to Public Information (Instituto de Acceso a la Información Pública, IAIP) (Fundación Salvadoreña para el Desarrollo Económico y Social, 2020), which is the agency guaranteeing this right. These events are addressed in greater depth in the sections below.

### **Legislative environment**

The legislative environment shows, regarding most realms, a low influence. However, with respect to the realm of violence and impunity, the score achieved reflects a moderate influence, to the point of affecting the overall rate and placing it within said description. This result reflects a passive behavior on the part of the Legislative Assembly in providing legal and political tools to protect freedom of information and punish violations against it.

The shelving, for over a year, of the Special Law for Comprehensive Protection of Journalists, Reporters, and Media and News Workers (Ley Especial para la Protección Integral de Personas Periodistas, Comunicadoras y Trabajadoras de la Comunicación y la Información) confirms this (Chávez, 2020). This bill was drafted by the APES, presented in October 2018 by the Journalists' Protection Roundtable (Mesa de Protección de Periodistas), which is made up of civil society organizations, and introduced for floor debate by two representatives. The proposal includes the creation of a specialized unit of the Attorney General's Office (Fiscalía General de la República, FGR) to address crimes against journalists, in addition to devising security protocols and filing protective relief for journalists experiencing dangerous circumstances (Asociación de Periodistas de El Salvador, 2018).

During the period reviewed and despite the serious threats reported herein, the Legislative Assembly did not take any initiative to ensure accountability for actions of the national Executive.

### **Judicial environment**

Finally, with respect to the judicial environment, it was rated on average as having low influence. However, there was a moderate influence regarding information flow, protective actions, and actions against impunity.

With regard to information flow, in August 2019, eight of the 15 Supreme Court justices banned the disclosure of reports from its Ways and Means Office (Sección de Probidad) regarding officials under investigation for corruption because, in their opinion, the information was confidential, despite the fact that the IAIP had ordered the preparation of redacted versions for the public (Flores, 2019). Civil society organizations claimed that the decision was a serious setback to the constitutional right of access to public information (Escalante, 2019).

Additionally, during the ongoing pandemic, the Legislative and the Executive passed and signed, respectively, orders suspending administrative proceedings for access to public information temporarily (Fundación Salvadoreña para el Desarrollo Económico y Social, 2020).

### **Realm A. Informed citizens free to express themselves**

According to the experts, this realm achieved 11 points out of 23 possible. The restrictions on the right of access to public information can be divided into four categories during the period under review. The first concerns citizens' exercise of this right. On the one hand, there was continued denial of information on public funds management by government agencies, including the State Intelligence Bureau (Organismo de Inteligencia del Estado), the Ministry of Defense (Ministerio de Defensa), and the General Office of Corrections (Dirección General de Centros Penales), on the part of the executive branch (Fundación Salvadoreña para el Desarrollo Económico y Social, 2020), and the reports of the Supreme Court of Justice Ways and Means Office, as discussed above, regarding the judicial branch. On the other hand, in November 2019 it was revealed that the IAIP had leaked to the Office of the President (Casa Presidencial) confidential data of those persons who had requested information in previous years (Avalos, 2019).

The second restriction noticed is with regard to institutional guarantees of access to public information; specifically, in February 2020, with the irregular appointment by President Bukele of an advisor attached to the Ministry of the Interior to head the IAIP as a representative of the country's newsmen community. APES, the leading association of journalists nationwide, denounced having been excluded from the vetting process, in a breach of the provisions of the Law on Access to Public Information (Ley de Acceso a la Información Pública) (Sibrián, 2020). Pressure from the organized civil society, which blew the whistle on the appointment as an attempt to compromise IAIP's independence, caused the commissioner to resign less than a week after being sworn in.

The third restriction occurs during the present COVID-19 crisis, in which a legislative order passed in March 2020 suspended the administrative proceedings for access to public information, and subsequently extended them by the closing of this report (Fundación Salvadoreña para el Desarrollo Económico y Social, 2020). In these exceptional times, when figures of positive cases and casualties, as well as related public administration expenditure should have been thoroughly audited, citizens have not had access to such information. Instead, some data provided by the Executive on hospital

infrastructure spending was incomplete and thereby challenged in reason of its high degree of opacity (Fundación Salvadoreña para el Desarrollo Económico y Social, 2020).

## **Realm B. Practice of journalism**

The exercise of journalism has been substantially under attack by president Bukele's administration during the period reviewed. The rating for this realm reached 6.4 points out of a theoretical maximum of 10. A first incident occurred at the presidential inauguration ceremony on June 1, 2019, when a photojournalist from *El Diario de Hoy* (Today's Daily) was recording a video on his cell phone of how Office of the President Security Service (Estado Mayor Presidencial) military detail denied entry to a senior citizen. In addition to physically detaining the photojournalist, the military detail threatened to send him "to jail and to the courts" if he did not delete the recording" (Cáceres, 2019). Despite the severity of the events reported, there has been no official reply.

Hostility towards media critical of the government escalated into selective actions of prior censorship in September 2019, when the Office of the President banned journalists from *El Faro* (The Beacon) and *Revista Factum* (Factum Magazine) from joining a press conference held by President Bukele (Committee to Protect Journalists, 2019). Ironically, the address was regarding the launch of the International Commission against Corruption and Impunity in El Salvador (Comisión Internacional contra la Corrupción y la Impunidad en El Salvador, CICIES), established by the Organization of American States (OAS). The ban, which remained in effect for other conferences (Avelar, 2019), was confirmed by an official release from the Office of the President Communications Service (Secretaría de Comunicaciones de la Presidencia) (Secretaría de la Presidencia, 2019).

In the press release, the government blamed the journalists for "disruptive behavior" during previous conferences, due to alleged interruptions that would have involved "shouting" (Secretaría de la Presidencia, 2019). Coincidentally, shortly ago, both media outlets had published articles critical of the government regarding transparency in public administration and links to certain gangs (Committee to Protect Journalists, 2019). The mere publication of this incident in *El Diario de Hoy* spawned various attacks by the national Executive against this outlet, as discussed in the realm of control over the media. Although the ban was eventually lifted, the opportunity of these and other media outlets, which have also exposed cases of corruption – such as the case of *Gato Encerrado* (loosely, "something is rotten in Denmark") – to ask questions at government press conferences has been restricted during the period reviewed (Asociación de Periodistas de El Salvador, 2020).

## **Realm C. Violence and impunity**

The realm of violence and impunity, particularly regarding the prevailing shows the most concerning score of the Index under analysis: 6.4 points out of 42. The sub-realm regarding persecution achieves 3.2 points out of a theoretical maximum of 15, in line with

the report prepared by the APES on the first year of President Bukele's government, as mentioned above. Therein, the whistle is blown on incitement by the president against "journalists who have published information sensitive to the government" to be "harassed and attacked online". Additionally, in some cases, "attempts at hacking" social media "accounts of some journalists who have tried to go further regarding official information are reported" (Asociación de Periodistas de El Salvador, 2020). The president of this association, Angélica Cárcamo, has herself been blocked on social media by several official government accounts because of her criticism of the government" (Asociación de Periodistas de El Salvador, 2020).

An example of this took place just one day before the period under review, on April 30, 2019, when president Bukele accused a journalist from *Revista Factum* of being "journalistic hitman" (Bukele, 2019). Similarly, in June 2019, the Association of Municipal Workers (Asociación de Trabajadores Municipales, ASTRAM), a union allegiant to the president, requested, on social media, to identify another journalist from the above outlet because he was one of the "journalistic hitmen", after said newsperson uploaded a post critical of the Minister of Labor on social media (Redacción Diario El Mundo, 2019).

The attacks on record even include alarming gender-based violence statements against female journalists. In June 2019, a journalist from *La Prensa Gráfica* received a series of threats after President Bukele unleashed a tirade against her for critical statements made by her on his administration (Asociación de Periodistas de El Salvador, 2019). In July of the same year, after the president quoted a remark unflattering to his administration made by an interviewer on the television program *Focos*, she received numerous death and sexual violence threats (Redacción El Liberal, 2019). Likewise, in October 2019, after publishing an article on a local infrastructure project undergoing notorious delays compared to the deadline initially set by the government, a journalist from *El Faro* received threats on social media in the form of messages about searching for her and hitting her "on the pie hole for being a liar" (Asociación de Periodista de El Salvador, 2019).

Finally, acts of violence were reported at the beginning of the period under review in San Miguel, where two camera operators from the *Televisión Oriental* (Eastern Television) channel who were trying to cover a murder scene were beaten by police officers in May 2019 (Redacción Diario El Mundo, 2019). That same month, *Radio Bálsamo* (Balm Radio) reported the theft of several items from its production equipment (Girón, 2019).

The violence described above takes place in the context of a legal vacuum, despite the proposed Special Law for Comprehensive Protection of Journalists, Reporters, and Media and News Workers, which has not been discussed since its introduction to the Legislative Assembly in October 2018, as mentioned in the analysis of the legislative environment. Hence, the passivity of the legislative and judicial branches in the face of these facts contributes to the impairment of free speech in the realm analyzed.

## Realm D. Control over the media

In this realm, the result of the rating by the experts surveyed was 18.8 points out of a possible 25. The Executive has engaged in actions aimed at controlling certain media outlets in at least two instances. The first one involves acts of indirect censorship by means of selective allocation of government advertising or removal thereof from critical media. This took place in September 2019, when the Office of the President repeatedly denied journalists from *El Faro* and *Revista Factum* entry, as mentioned in the realm of restrictions on the practice journalism. Immediately after *El Diario de Hoy* covered the first incident, the national Executive cancelled the advertising previously purchased in this media outlet; this cancellation has remained in effect by the closing of this report (El Faro, 2020 y Baires, 2020).

The harassment against *El Diario de Hoy* was not limited to the removal of government advertising. Concurrently, the Ministry of Education (Ministerio de Educación) cancelled a contract worth US\$1 million with *Grupo Editorial Altamirano*, parent company of the above newspaper, to print textbooks, despite it was awarded in a competitive tender process (El Faro, 2020 y Baires, 2020). Additionally, and regarding the second instance of attempts to control the media, as was the case with other critical outlets, *El Diario de Hoy* has been targeted with numerous selective inspections by the Ministry of Labor.

In October 2019, three inspectors from the Ministry of Labor visited the facilities of *Diario Co Latino*. This media outlet warned of a possible agenda behind the inspection, as it revealed that other media opposed to the national Executive, such as *Radio Maya Visión* and *Gentevé*, had also been subject to such procedures (diario Co Latino, 2019).

## Conclusions

Freedom of expression in El Salvador is undergoing a general and incremental deterioration in all its realms. Far from the occurrence of isolated threats and incidents, a sustained pattern of violence and persecution against journalistic, selective restrictions on the exercise of the freedom of the press, attempts at control over the media, and obstacles to access to public information can be noticed.

The institutional environment is unfavorable, mainly that of the executive branch. The fact that the period analyzed in this report concurs with the first year of President Bukele's government allows us to identify, very accurately, the beginning of a new authoritarian escalation, in a country where, decades ago, the most violent armed conflict in Latin America ended.

In this new cycle, journalistic investigations of corruption cases and uncomfortable questions are met with financial, digital, and even legal harassment, along with the closing of spaces for media and citizens who wish to exercise their right to know. This response is given in an orchestrated manner by services part of the Office of President of the Republic, ministries, unions, digital platforms operating under anonymity, and even president Bukele himself.

The weakening of several of the fundamental pillars of democracy, noticed on February 9 with the call for civil uprising and the military occupation of the Legislative Assembly, and deepened during the pandemic, has not only caused significant whistleblowing by local stakeholders, but has also set off alarms overseas (Redacción Associated Press, 2020). Warnings about threats to freedom of expression, namely prior censorship, as well as defamation and stigmatizing attacks on journalists, were made in the latest annual report of the Inter-American Commission on Human Rights (IACHR) Office of the Special Rapporteur on Freedom of Expression (Comisión Interamericana de Derechos Humanos, 2020), for 2019.

Finally, it is important to briefly mention some of the events that took place after the closing of this report. With respect to the legislative environment, one representative proposed the creation of a special committee to inquire on cases of harassment against journalists and the media (Gutiérrez, 2020). Additionally, the Supreme Court of Justice Constitutional Chamber declared the orders that suspended access to public information proceedings at the IAI unconstitutional (Sala de lo Constitucional de la Corte Suprema de Justicia, 2020).

On the other hand, there were serious attacks on the freedom of the press and even on journalists' physical safety. These include the use of cases of gender violence against a digital media outlet, the theft of a computer used for work purposes by a journalist who was investigating a case of corruption, cyber attacks on the server of this media outlet, and a midnight raid on the family home of the editor of a magazine critical of the government's management of COVID-19. Months before the legislative and municipal elections, these cases seem to indicate that threats against freedom of expression could worsen for our review next year.

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