

### Costa Rica: Freedom guaranteed amidst economic challenges

#### Executive Summary

Costa Rica holds the 3<sup>th</sup> position in the Chapultepec Index of Freedom of Expression and the Press with 76.8 points. The government has regulations in place to guarantee the right to freedom of expression and the press, acts in an adequate and timely manner to protect journalists and the media, and does not restrict the dissemination of information contrary to or critical of the government. Despite the country's economic problems, the media do not face major challenges to operate in the country.

#### Introduction

The political divisions sparked by the 2019 presidential elections have been overcome. However, in 2019, discussions persisted regarding the implementation of Inter-American Court of Human Rights Advisory Opinion No. OC-24/17 on equal marriage. Concurrently, the economic crisis and the adoption of financial measures set the agenda for the last quarter of 2019, and raised the levels of uncertainty and fear over the economic future of the country (Corrales, 2019). Similarly, coverage of the COVID-19 pandemic became the subject of media discussion during the first quarter of 2020.

The public policies adopted during the period under study were influenced by the economic problems and public health issues arising from the pandemic. These situations forced major mainstream media to change their news topics and coverage of newsworthy events.

Although it is possible to state that, during the period under analysis (May 1, 2019 through April 30, 2020), there were no situations that could be regarded as a serious threat to the freedom of the press, the economic situation of the country before and after the pandemic may negatively impact Costa Rican journalism in the years to come.

#### Results analysis

The economic policies adopted by the government in 2019 triggered uncertainty, a sentiment in turn encouraged by the actions taken to control the pandemic. Despite this environment marked by fear, the results of the study show that Costa Rica has a low index of restrictions (76.8 points out of 100) whereby it ranks in position No. 3 regionwide.

In general, it can be claimed that the branches of government are independent from each other, thereby encouraging the exercise of freedom of expression and the press.

However, actions of the Executive branch have influenced the performance of the media and the freedom of the press. Costa Rican analysts consider the government's communication policies inadequate, since they make the exercise of journalism difficult. For example, the lack of clarity regarding economic policies influenced journalism in this regard, while access to official sources during the time of the pandemic was highly debated (Ecoanálisis Consultores, 2019; Cabezas, 2020).

### **Institutional action: Influence of the Executive, Legislative and Judicial environments**

In the period under study, the Executive branch has played a primary role in the exercise of freedom of expression and the press (index of 1.75 points).

President Carlos Alvarado has implemented a variety of communication strategies, including changes in the Ministry of Communications (Ministerio de Comunicación) and the use of digital platforms to encourage institutional communication, which have been widely questioned.

The most important action regarding freedom of expression and privacy of information was the establishment of the Presidential Data Analysis Unit (Unidad Presidencial de Análisis de Datos, UPAD) without proper statutory framework. Despite the fact that the UPAD was dissolved, doubts about the government's ability to obtain private information persist (La Teja, 2019). In fact, the activities of this unit sparked discussions regarding the government's capabilities to obtain personal information from citizens (including media personalities) that continue to be an issue addressed by the country's academic circles.

Another matter to consider is the use of government advertising as a form of control. The budget allocated by the Ministry of Communications for the fiscal period 2019-2020 was ₡240 million (Costa Rican Colon [ISO: CRC] approximately US\$400,000), of which ₡150 million were destined to retain an advertising agency (Casa Presidencial, 2019). However, on closing date of this report (August 2020), there is no information available regarding the media outlets favored by these advertising space purchases.

Regardless of the above, it should be noted that Costa Rica has a regulatory framework in accordance with international agreements protecting the exercise of freedom of expression and guaranteeing freedom of the press (Aguilar, Boza, Garro, Rodríguez, & Solís, 2018). Legislative stability promotes an environment of legal security favoring the exercise of freedom of expression, and the results obtained reveal that the Legislative exerts a low influence on the exercise of freedom of expression. Actually, the legislative environment was rated best by respondents of the study (scoring 1.04 points)

It is noteworthy that, although the granting of media licenses for the use of radioelectric spectrum is regulated, it breeds inequalities preventing community radio and television stations from joining the airwaves. The transition into digital television has not changed this situation; instead, hurdles to community media are expected to increase (Ulate, 2019).

Additionally, it should be mentioned that the Legislative Assembly [federal level legislative body] approved a "Draft Bill to provide [workforce] strike and procedures relating thereto with legal security" (Proyecto de Ley para brindar seguridad jurídica sobre la huelga y sus procedimientos) in first debate, as an attempt at curbing the right to freedom of expression. However, the Constitutional Chamber of the Judiciary ruled it unconstitutional and its review by the Assembly is pending (Díaz Zeledón, 2019).

This example shows that the Costa Rican Judiciary acts in a timely and impartial manner, which demonstrates its ability to rule on matters related to the exercise and protection of the right to freedom of expression. In fact, according to the results obtained, the Judicial environment is the most highly rated.

The score achieved was 1.30 points, that is to say, it exerts a low influence on the exercise and protection of the right to freedom of expression and the press. This influence should not be viewed negatively; instead, the Judiciary acts as a guarantor of fundamental freedoms.

### **Realm A: Citizens free to express themselves**

In general, the right to access public information is guaranteed, thereby allowing citizens to obtain information on major issues of interest. Both citizens and the media can disseminate information without fear of reprisal, which explains why the overall rating is positive (16.5 points out of 23).

Citizens can access government information, comment and publish their opinions on mainstream and digital media. It should be noted that there are no regulations creating a restrictive environment or encouraging self-censorship to avoid being imposed penalties. In the sub-dimension on information flow, Costa Rica is relatively well rated (6.5 points out of 11).

With regard to free expression, the rating is 10 points out of 12, it can be stated that the government does not limit the rights related to freedom of expression and the press, either in the digital realm or on mainstream media. Communications are pluralistic, thereby encouraging the dissemination of information favorable or contrary to the government without fear of reprisal.

### **Realm B: Exercise of journalism**

In this realm, Costa Rica obtained a score of 9.3 points out of 10, which reveals its commitment to the protection of freedom of the press. Costa Rica has a tradition of respect and promotion of journalism that is evident in the statutory framework protecting the exercise of this profession. There are no mandatory professional affiliation requirements, no restrictions on access to official sources, and no requests for disclosure of sources.

In the period under study, respondents noted that the Executive environment exerts a low pressure. As mentioned above, the communication policies of the Executive branch have been controversial because of their lack of clarity. The reports released have not been censored. However, they have sparked fierce criticism of government actions.

In spite of the above, Costa Rica has become the host country of Central American journalists who are persecuted in their home countries. Nicaraguan journalists residing in Costa Rica have been able to practice their profession, which shows that the practice of journalism is guaranteed for both nationals and foreigners (Delgado, 2020; Ocaña, 2020).

### **Realm C: Violence and impunity**

In Costa Rica, the branches of government do not encourage or tolerate the persecution of journalists or the media. Government officials interact with journalists respectfully and avoid using stigmatizing, intimidating, or hate speech. Generally, the government's attitude is one of zero tolerance towards attacks against journalists and the media, which is why Costa Rica scored 28 out of 42 in this realm.

One case illustrating governmental actions to prevent violence and impunity was the attack targeted at TV Channel 7 (Teletica). On the night of July 28, 2019, people identified as members of the "Costa Rican resistance" placed a makeshift explosive device around the premises of the media outlet. The authorities immediately made a statement and launched an investigation (Teletica, 2019).

The investigations initiated by the Judicial Investigation Agency (Organismo de Investigación Judicial, OIJ) resulted in the identification of the main suspects. The corresponding criminal proceedings were initiated and, despite the fact that on closing date of this report no ruling has been issued, the suspects are in custody (Sánchez, 2020).

### **Realm D: Control over the media**

In Costa Rica, the legal framework applicable to the creation and control of media avoids the discretionary use of government powers, thereby preventing direct and indirect state control over the media. Indeed, the transition process towards digital television has been conducted in a progressive and orderly fashion, which speaks of the low influence from the government and explains why Costa Rica achieved 21.80 points out of 25.

During the period under analysis, the government has not expropriated, closed, or seized any media outlet. Nor has it implemented tax policies in benefit of friendly media, or of any particular field of communications. However, as mentioned above, there is no information regarding purchase of advertising space by the Costa Rican government.

With respect to the digital realm, the use of Internet-based platforms is neither prohibited nor subject to special regulations restricting the dissemination of information.

Technological intermediaries can operate freely and regulations do not encourage or promote indirect control of communication.

## **Conclusions**

In Costa Rica, there is an environment which encourages the exercise of freedom of expression and the press. However, actions of the Executive branch pose significant challenges for the exercise of journalism in the country, especially in terms of access to official sources and clear communications.

In 2019, the Executive took various economic and fiscal measures that were not explained in clear and timely manner, thereby giving rise to issues regarding access to public information. The information was confusing, and the reports made by the media, far from helping solve the problem, exacerbated it since they triggered uncertainty among the population, to the extent of making an impact on the country's macroeconomic performance.

Some mistakes made in the second semester of 2019 were repeated with the management of the pandemic. For instance, the information released by the Ministry of Health (Ministerio de Salud) on the number of people testing COVID-19 positive and the number of tests administered did not match. Then, the questions asked by journalists to clarify the information were mostly met with unclear answers, thereby sparking criticism towards the government.

Regardless of the above, it is noteworthy that both the Judiciary and the Legislative maintain their independence and promote freedom of expression and the press. During the period under analysis, no regulations affecting journalists or the media were enacted, and the Judicial branch acted in a timely manner to investigate the attack on Channel 7.

One of the situations that must be monitored is the transition to digital radio and television. The government must take steps to ensure that local and provincial media have access to the necessary technology and can compete with other national and provincial outlets. The news broadcast by these media are of vital importance to those who live in their communities, and their disappearance can negatively impact the status of freedom of expression in the country.

Similarly, the post-pandemic economic situation can negatively affect the media, even leading to shutdowns in their midst. Costa Rica is a country which relies highly on tourism, and many advertising campaigns on the media are connected with such activity. Consequently, any economic problems in the tourism field will indirectly affect the media. Adapting to this new scenario will be critical for the survival of the media in general, primarily for local and provincial outlets.

Finally, it should be noted that the legal stability and the checks and balances of the branches of government place Costa Rica in the top 10 countries that guarantee freedom

of expression and, as long as this situation is preserved, freedom of expression and the press will be protected and ensured in the future.

## References

Aguilar, G., Boza, G., Garro, L., Rodríguez, J., & Solis, L. (Eds.). (2018). Primer Informe del Estado de la Libertad de Expresión en Costa Rica. San Jose: PROLEDI - CICOM.

Cabezas, Y. (2020, July 23). Colegio de Periodistas pide al Gobierno explicaciones por manejo de la comunicación. In: *CR Hoy*. Retrieved from: <https://www.crhoy.com/nacionales/colegio-de-periodistas-pide-al-gobierno-explicaciones-por-manejo-de-la-comunicacion>

Casa Presidencial. (2019, October 09). Ministerio de Comunicación continuará velando or proceso licitatorio transparente y eficiente. Retrieved from: <https://www.presidencia.go.cr/comunicados/2019/10/ministerio-de-comunicacion-continuara-velando-por-proceso-licitatorio-transparente-y-eficiente/>

Corrales, G. (2019, December 26). El fin del 2019 y las pintas del 2020. In: *La República*. Retrieved from: <https://www.larepublica.net/noticia/el-fin-del-2019-y-las-pintas-del-2020>

Delgado, G. (2020, March 16). Periodistas nicaragüenses sospechan que el gobierno quiere que el pueblo se enferme de coronavirus. In: *El Mundo CR*. Retrieved from: <https://www.elmundo.cr/mundo/periodistas-nicaraguenses-sospechan-que-el-gobierno-quiere-que-el-pueblo-se-enferme-de-coronavirus/>

Díaz Zeledón, N. (2019, December 13). Proyecto de ley sobre huelgas vuelve al Congreso para modificaciones y nueva votación. In: *Semanario Universidad*. Retrieved from: <https://semanariouniversidad.com/pais/proyecto-de-ley-sobre-huelgas-vuelve-al-congreso-para-modificaciones-y-nueva-votacion/>

Ecoanálisis Consultores. (2019, June 4). La comunicación de la estrategia del gobierno es fundamental para equilibrar la deuda y el desarrollo de Costa Rica. In: *La República*. Retrieved from: <https://www.larepublica.net/noticia/la-comunicacion-de-la-estrategia-del-gobierno-es-fundamental-para-equilibrar-la-deuda-y-el-desarrollo-de-costa-rica>

La Teja. (2019, February 28). UPAD: ¿Qué es? Aquí le explicamos. In: *La Teja*. Retrieved from <https://www.lateja.cr/nacional/aqui-le-explicamos-que-es-la-upad/OWHTJGAEQ5FW3FVDDGPRYVKKWU/story/>

Ocaña, D. (2020, March 1). Periodistas nicaragüenses celebran su día comprometidos con la verdad. In: *Voz de América*. Retrieved from: <https://www.voanoticias.com/centroamerica/periodistas-nicaraguenses-celebran-su-dia-comprometidos-con-la-verdad>

Sánchez, Á. (2020, November 13). ¿Cómo se logró la detención de los miembros de grupo terrorista en el país? In: *Teletica*. Retrieved from: [https://www.teletica.com/reportajes/como-se-logro-la-detencion-de-los-miembros-de-grupo-terrorista-en-el-pais\\_242042](https://www.teletica.com/reportajes/como-se-logro-la-detencion-de-los-miembros-de-grupo-terrorista-en-el-pais_242042)

Teletica. (2019, July 28). *Artefacto explosivo daña ventanal de Televisora de Costa Rica*. [Video] In: *Teletica*. Retrieved from: [https://www.teletica.com/nacional/artefacto-explosivo-dana-ventanal-de-televisora-de-costa-rica\\_232020](https://www.teletica.com/nacional/artefacto-explosivo-dana-ventanal-de-televisora-de-costa-rica_232020)

Ulate, K. (2019, August 15). Televisoras enfrentaron retos frente al apagón analógico. In: *El Observador*. Retrieved from: <https://observador.cr/noticia/televisoras-enfrentaron-retos-frente-al-apagon-analogico/>

