

UNITED STATES: PROTESTS TEST FREEDOM OF THE PRESS

Executive Summary

The United States ranks 10th out of 22 nations in the Chapultepec Index of Freedom of Expression and Press, with 61.57 points; that is, 5.96 points above the global average (55.61) of a maximum of 100. Institutional action in the Legislative and Judicial environments was valued by experts with a "slight influence" in situations adverse to freedom of expression, while the Executive environment had a greater impact, having a "moderate influence". This result reflects the effect that the actions of former President Donald Trump and the transition to the new government of Joe Biden had; The impact of police actions against journalists who covered the protests that occurred in the wake of the deaths of Afro-American citizens at the hands of police officers; and the attacks suffered by journalists during the attack on the U.S. Capitol. USA. on January 6, 2021.

Introduction

This analysis covers the period from July 2020 to August 2021, which coincides with the last six months of Republican Donald Trump's presidency and the first six months of Democrat Joe Biden's administration. As described in the report on the United States to the 76th IAPA General Assembly (October 21-23, 2020), the U.S. has just passed through one of the most turbulent periods in its history with regard to freedom of expression and of the press. The death of Afro-American citizen George Floyd at the hands of a police officer on May 26, 2020 in Minneapolis, Minnesota, sparked an unprecedented wave of protests across the country to demand an improvement in the judicial system when it comes to prosecuting police officers suspected of killing ethnic minorities, especially the African-American community. The protests continued in the wake of the deaths of several black people that occurred in the aftermath of Floyd's murder.

The U.S. Press Freedom Tracker recorded hundreds of assaults by police on journalists covering these protests, including actions such as physical assault, temporary detention, destruction and confiscation of news equipment. Police departments also filed lawsuits to request photographs, videos and other information collected by journalists during coverage of these demonstrations, but most of those requests did not succeed.

The political environment was also heated with an intense political campaign –somewhat limited by the coronavirus pandemic– between the at the time President Donald Trump and candidate Joe Biden. Biden's victory was not recognized by Trump and his supporters, and this conflict reached its highest point during the January 6, 2021 insurrection at the U.S. Capitol in Washington D.C. That day, Trump's supporters violently interrupted the session of Congress that was scheduled to certify Biden's victory. A mob managed to force their way into the Congress headquarters, and several deaths occurred in the clash with security agents. Several journalists who were covering the event were assaulted and injured by Trump supporters, and in some cases their equipment was damaged.

The United States is a country where the protection to the freedom of speech is grounded in the Constitution, and there is an extensive list of laws and judicial precedents that guarantee freedom of the press. However, the assault on journalists who covered the protests put this right to the test.

The Chapultepec Index on Freedom of Expression reflects this tension by ranking the United States 10th, with a score of 61.57 out of 100. This number places it as a country where there is a "low restriction" on freedom of the press and expression.

Analysis of results

With 61.57 points, out of a total of 100 possible, the United States occupies the 10th position of 22 countries in the Chapultepec Index that measures the impact of institutional actions on freedom of expression and freedom of the press in the hemisphere. This places it as a country with "low restriction" for the exercise of both rights. For comparison, the region's global average was 55.61, with Uruguay (84.10), Chile (82.06) and Jamaica (78.36) occupying the top three spots, and Nicaragua (17.20), Cuba (11.11) and Venezuela (5.71) occupying the last three positions.

The experts consulted attribute this situation mainly to the Executive, with a "moderate influence" of 2.65 points. In comparison, the Legislative environment (1.77 points) and the Judicial environment (0.85 points) were placed in the category of "mild influence" in situations unfavorable to freedom of expression.

An example of the influence of the executive system is the case of Michael Cohen, the former lawyer of former President Donald Trump. In July 2020, a federal judge ruled that Cohen had been transferred to federal prison, after serving a house sentence for jail, as a retaliatory measure for the publication of his book, which finally went on sale in September 2020 (Melendez, 2020).

Also during the summer of 2020 there were several attempts to prevent the publication of books critical of the government of Donald Trump. This is the case of the text written by Mary Trump, the niece of the former president, who faced a lawsuit by the family to prevent the publication of the work, an action that also did not prosper (Haberma, 2020).

An example of the influence of the judicial system is the case of Seattle's Police Department in Washington state, which sued five media outlets to provide them with photos, videos and information about the coverage of the protests over George Floyd's death.

In July 2020, a judge ordered that the media must hand over the information to the police, a decision that was appealed. In August, the Washington Supreme Court suspended the judge's order, and finally on September 21, 2020, the police withdrew the request for information (Jordan, 2020).

Also during the coverage of protests over the deaths of Afro-American citizens, hundreds of journalists were detained and arrested while carrying out their work. Specifically, the U.S. Press Freedom Tracker recorded at least 133 arrests or detentions in 2020, a large increase compared to previous years. Although the pace of arrests slowed in 2021, according to the organization, the

case of the detention of at least 15 journalists who were covering protests in March 2021 in Los Angeles was reported (Lincoln, 2021).

REALM A

Realm A explores the conditions in which citizens are informed and free to express themselves, and the experts consulted assigned 14 points out of a total of 23, for a rating of "low restriction". Within this category, the sub-realm on the Information Flow received 5.71 points (out of a maximum of 11) and the Citizens free to express themselves received 8.29 points (out of 12). The influence of the environments was rated as follows: Executive 3.00 (moderate), Legislative 2.43 (mild), Judicial 1.21 (mild).

U.S. citizens live in conditions where their right to express themselves and be informed is respected. There are generally few restrictions on access to information and journalists are free to write and cover news with very few obstacles.

A change that demonstrates the improvement in the flow of information occurred with the arrival of Joe Biden to the presidency. The current president pushed for the return of the White House press secretary's daily press conferences. This custom was discontinued by former President Trump during the last year of his term. Also the rhetoric against the media and journalists, a common practice under Trump, has been discontinued by the Biden administration.

Regarding Trump and the right to free expression and flow of information, Twitter permanently suspended the former president's account on January 8, 2021, in the wake of his "support and encouragement of violent acts," specifically during the January 6, 2021 insurrection. According to the U.S. Press Freedom Tracker, Trump posted more than 600 anti-press tweets during the last year of his administration, the highest number recorded by this organization of the former president's term.

A major development in the information flow occurred when a Minnesota trial court allowed the live broadcast of the trial of police officer Derek Chauvin, who was accused of murdering George Floyd. The trial began on March 29, 2021, on April 20 he was convicted of several counts of involuntary manslaughter, and on June 25 he was sentenced to 22.5 years in prison (Levenson, Sanchez, 2021). However, this type of informational openness was not always repeated in other states. In December 2020, a North Carolina judge denied journalists access to a trial of a white woman accused of assaulting two 12-year-old African-American girls. After several court proceedings introduced by the communicators, the judge allowed coverage of the trial (SIP, 2021).

REALM B

This realm examines the conditions for the practice of journalism in the United States, and the experts consulted assigned it 6.29 points out of a maximum of 10. This classifies the country as a state where there are "low restrictions" on the practice of journalism. The influence of the environments was rated as follows: Executive 5.57 (strong), Legislative 3.29 (moderate), and Judicial 1.71 (mild).

However, 2020 was a particularly difficult year for journalism, especially during coverage of protests over the death of George Floyd. According to the U.S. Press Freedom Tracker, there were 133 arrests or detentions of journalists during the practice of their profession. This figure represented a considerable increase compared to the previous two years, according to the organization. Although that trend has slowed in 2021, in March 15 journalists were arrested during coverage of a protest by homeless people in Los Angeles. Most cases against journalists have been rejected by the courts, although there have been exceptions.

"In Iowa, prosecutors filed criminal charges against Andrea Sahouri, a journalist with the Des Moines Register, who was arrested while covering a protest last summer," describes the report on the U.S. presented at the 76th IAPA General Assembly. "Sahouri was accused of not dispersing and obstructing official acts. Fortunately, the jury acquitted her in early March, but it is troubling that prosecutors have followed her case," explains the report (SIP, 2021).

REALM C

This realm explores violence and impunity in the exercise of freedom of expression and the press. The experts consulted in the case of the United States assigned it 19.14 out of 42 points, which places the nation in the category of "partial restriction". Three sub-realms help expand this analysis: protection and prosecution of journalists, and impunity for crimes committed against them. The influence of the environments was rated as follows: Executive 2.05 (mild), Legislative 1.38 (mild), and Judicial 0.48 (mild).

As previously stated, 2020 was one of the most difficult years for the practice of journalism in the United States. Hundreds of journalists were assaulted during coverage of protests over the death of Afro-American citizen George Floyd, and the deaths of other Afro-Americans that occurred afterward. For example, between April and September there were 148 physical assaults on journalists, according to the U.S. Press Freedom Tracker. This represented a significant increase compared to the previous two years, where 34 and 49 assaults were reported (SIP, 2020).

The Tracker also recorded a significant increase in physical assaults and arrests of journalists during that summer. There were at least 856 incidents where journalists were attacked with tear gas and pepper sprays, their equipment was damaged, and at least 118 were arrested as of October 2020. All these figures represent a significant increase over the previous year (SIP, 2020).

Another example of physical aggression towards journalists occurred on January 6, 2021, during the attack on the US Capitol by supporters of former President Donald Trump, who intended to overturn the results of the presidential election that gave Joe Biden victory. This time the attacks came from civilians and members of pro-Trump political groups. Journalists who covered the incident were threatened and assaulted, and at least nine incidents of assault were reported, according to the U.S. Press Freedom Tracker. The assailants wrote "death to the media" on the door of the Capitol in Washington, and destroyed news broadcasting equipment. Similar incidents of violence were reported in Portland, Oregon, and Charlotte, North Carolina.

With regard to the sub-realm of impunity, one of the most relevant cases was the murder of Washington Post journalist Jamal Khashoggi, which occurred on October 2, 2018 in Istanbul, Turkey. In February 2021, the Joe Biden administration decided not to sanction the person responsible for the journalist's death, Mohammed bin Salman, the crown prince of Saudi Arabia.

However, the Biden administration did release a report confirming bin Salman's responsibility for the crime and announcing penalties for the crime against lower-ranking Saudi officials. This decision was "criticized by press freedom advocates in the United States and around the world," according to the 2021 IAPA report.

REALM D

This realm focuses on media control and how it affects freedom of expression and the press. The experts consulted in this study granted 22.14 out of 24 points to this section, a high figure that places the United States in the category of "full freedom of expression." With regard to the influence of the environments, the experts consulted assigned 0 points to the environments Executive, Legislative and Judicial, which means that they did not have an unfavorable influence.

In the sub-realm that explores actions that avoid direct media control, the United States obtained the highest ranking –16 points. The State doesn't really shut down, expropriate, or confiscate media outlets; nor does it apply tax excesses to news companies contrary to the government's official line. Previously, the Trump administration used to threaten the media with measures such as license suspensions and lawsuits, but those threats never prospered. The Biden administration has not resorted to such threats.

Regarding the sub-realm reflecting actions that avoid indirect media control, the United States received 5.7 of 9 points. In general, the State does not apply pressure to technological intermediaries or suppliers of inputs that affect the production of content or prevent the dissemination of information.

Conclusions

Because its Constitution guarantees the right to freedom of expression and prohibits laws that restrict this right, the United States is a country where its citizens can express themselves freely and journalists exercise their functions in an environment that, in general, guarantees the free information flow (Realm A). This is not to say that the relationship between the press and the State is free of tension and clashes. With respect to this situation, the Chapultepec Index assigned the United States 61.57 points out of a maximum of 100, qualifying it as a nation where there is a low restriction on the exercise of freedom of the press and expression. Of the three environments analyzed, the Executive had the greatest impact, with a moderate influence on freedom of expression and the press, while the Legislative and Judicial had a slight influence.

During the rated period from August 2020 to June 2021, the United States went through the transition from the government of Donald Trump –who was characterized by constant attacks against journalists and media– to the government of Joe Biden, who has been the opposite of his predecessor and has not focused on criticizing the media. An example of greater openness of the flow of information during the Biden administration was the return of White House press conferences, a tradition discontinued by Trump in the final year of his term.

However, the practice of journalism went through one of the most difficult years in its history. Journalists and media outlets were frequently assaulted (Realms B and C) during coverage of protests against the excessive use of police force towards Afro-American citizens.

Hundreds of assaults, arrests and destruction of equipment were reported, as well as attempts to criminally punish dozens of journalists. Fortunately, none of these proceedings progressed and there were no convictions of journalists during the period under review.

There was also an increase in attacks on the press by citizens and political organizations linked to former President Trump. This was reflected during the attack on the US Capitol on January 6, 2021, where at least nine journalists were assaulted by civilians.

With regards to the direct and indirect control exercised by the state over the media (Realm D), the United States continues to be classified as a country where there is full freedom of expression and press, and the influence of the state is minimal.

In conclusion, the United States is a country where there is great freedom of expression and press. From a judicial point of view, attempts to penalize journalists and force them to disclose sources of information did not succeed.

But the country is not exempt from going through periods where freedom of expression and the right to inform maybe threatened. An example of this was the impact of the Trump administration on the exercise of the press, and the attacks on journalists carried out by police officers and civilians associated with political organizations. That is why press freedom activists and organizations must remain active to prevent a deterioration of this right.

References

Haberman, Maggie (June 24, 2020). "Trump Family Asks Court to Stop Publication of Tell-All by President's Niece". The New York Times.

Inter American Press Association (IAPA). "United States: 2021 Mid-year meeting, April 20-23".

Inter American Press Association (IAPA). "United States: Report for the 76th General Assembly of IAPA October 21-23, 2020".

Jordan, Caytlin (September 24, 2020). "Seattle Police Department will not force news outlets to turn over unpublished protest photos, videos". Reporters Committee for Freedom of the Press.

Levenson, Eric; Sanchez, Ray. (June 25, 2021). "Derek Chauvin sentenced to 22.5 years in death of George Floyd". CNN.

Lincoln, Ross A. (March 25, 2021). "Multiple Journalists Arrested While Covering Protests in Echo Park". The Wrap.

Melendez, Pilar (July 23, 2020). "Judge Rules Michael Cohen Was Retaliated Against Over Trump Tell-All, Sends Him Home". DailyBeast.