

ARGENTINA: The pandemic as an excuse, a weaponized justice system, and journalism under siege

Executive Summary

The exercise of journalism in Argentina experiences a significant deterioration of its conditions during the period surveyed. On many occasions, the pandemic and the long quarantine imposed by the national government served as an excuse to curtail journalists' freedom. To this was added the lawfare discourse instigated from high levels of government, the creation of regulatory agencies to allegedly fight disinformation, and the justice system as an element of intimidation and harassment.

Introduction

In December 2019, the change of administration from Mauricio Macri to the Alberto Fernández-Cristina Fernández de Kirchner ticket took place. A president who, at the outset of his government was conciliatory and moderate, was hardening his position and that of his inner circle towards journalism as months went by, the imposition of restrictions stemming from the pandemic, and its subsequent impact on the country's economy.

Between July 31, 2020 and August 1st, 2021, the free exercise of journalism in Argentina was strongly impaired with respect to the previous period. The strict quarantine imposed by the national and local governments was used, in many cases, as a tool to restrict and encumber the mobility and work of journalists in general. This fact can be clearly noticed in the strong influence shown by the Executive environment on the exercise of journalism. Likewise, these restrictions were expressed in several instances of violence against journalists in clear abuse of power by the security forces.

The second culprit for the deteriorating conditions for journalists was the Judicial environment. The concept of lawfare – resort to the justice system for political purposes – was again used as alleged evidence of collusion between politicians, judges, and certain journalists or media outlets to destabilize the government.

All this added together is reflected in the fact that Argentina has dropped from a rating of over 77 out of 100 (low restriction zone) in the 2019-2020 period to 53 out of 100 in the current period, placing it in a strong influence zone.

Results Analysis

On March 20, 2020, the Argentine national government imposed a strict quarantine on its entire population that has remained in effect, to varying degrees, until the end of the period surveyed in this report. Although journalism was always considered by the regulations as an "essential activity" and therefore mostly free of mobility restrictions, on several occasions this was not observed in practice.

For example, excessive restrictions in the province of Formosa prevented the press from entering its territory to document the conditions for cases of COVID-19 in quarantine centers. In addition to this, there were acts of intimidation by national and provincial public officials, intimidation by law enforcement bodies, and even disregard of Federal Justice rulings which guarantee the work of the press.

In turn, the "infodemic" (World Health Organization [WHO], 2020) was also used as an excuse by the Executive environment to control media contents. In October 2020, in a discretionary and surprising manner, the Ombudsman's Office, an entity at national government level, announced the creation of an "Observatory of disinformation and symbolic violence in media and digital platforms (Nodio)" ("El kirchnerismo creó un organismo...", 2020), with the stated purpose of "protecting the citizenry from false, malicious, and misleading news". This triggered the outright rejection of different national and international press associations for considering it a "subtle method to discipline or as a reprisal for motivations that are alien to the principles they claim to promote" (Inter American Press Association [IAPA], 2020).

Environments: The Executive seeks to control journalism

During the period surveyed, the very strong influence of the Executive environment on the realm of Exercise of Journalism herein stands out, being the worst score achieved by the country. With an index of 7.57 points, it shows a very strong influence of the executive environment on the exercise of journalism. Undoubtedly, the president's own statement that the media "abuse democracy" contributed to this low rating ("Alberto Fernández dijo que la oposición...", 2020).

Overall, this environment obtained a rating of 4.12 for moderate influence. However, a deterioration of the conditions for the free exercise of journalism is clearly noticed when compared to the score of 3.74 achieved by this environment in the period 2019-2020.

Nonetheless, in relative terms against what was surveyed in the previous period, there is no deterioration in the judicial environment. Its influence continues to be moderate on journalism. According to the IAPA, unfounded allegations from groups linked to those in power or judges aligned with *Kirchnerismo* encourage filing lawsuits to prosecute journalists' work or neutralize investigations (IAPA, 2021).

In addition to the lawsuits filed against journalists Daniel Santoro, Diego Cabot, and Irene Benito, which are still underway, a judge requested that Santiago O'Donnell hand over the recordings of testimonies transcribed in his book on the brother of former President Mauricio Macri.

On the other hand, it is worth mentioning that the City of Buenos Aires Federal Court dismissed the prosecution of Daniel Santoro. Similarly, the Supreme Court of the Nation dismissed the prosecution of journalists Carlos Pagni and Roberto García on charges of espionage.

At a slightly better rating than the Executive and Judicial environments, but with moderate influence, the Legislative environment (2.77 points) did not refrain from attempts at controlling the contents published by journalists. In Tucumán, for example, a law was passed whereby fine or arrest of up to ten days may be imposed on anyone who disseminates, "through social media, news that are false in whole or in part" (Law 9290, 2020).

At a national level, it is worth mentioning the opinion stated by the National Congress Bicameral Oversight Committee on Intelligence Agencies and Activities (Comisión Bicameral de Fiscalización de los Organismos y Actividades de Inteligencia del Congreso de la Nación), which accused the media of being part of "a systematic plan of illegal political espionage as a method of domination and extortion, in the best mafia-style practices" ("La Bicameral concluyó que...", 2021).

Realm A: The pandemic as an excuse to restrict access to information

Score 12.43 (Partial restriction). Although in general no great efforts are noticed on the part of the Legislative and Judicial environments regarding the right to access information and citizens' right to freely express themselves, it is once again from the Executive environment that this realm is most undermined.

As mentioned above, the case of Formosa is landmark since, on several occasions, the provincial Executive denied entry to journalists from other provinces to its territory. Although press conferences were held at the beginning of the pandemic, they were gradually hampered. As questions became more and more uncomfortable for authorities, they began to impose conditions and restrictions on the participation of certain journalists.

In San Luis, on the other hand, and under the same pretext of the pandemic, media workers were not allowed to enter the provincial Legislature for the inauguration of sessions. A similar situation occurred with the City of Berazategui Deliberative Council [municipal Legislative] in the province of Buenos Aires which, stemming from the pandemic, decided to meet behind closed doors (and continued to do so until April 2021) without providing information regarding the order of the day to be discussed either to the press or to the public.

Realm B: Exercise of journalism under siege

Score 5.43 (Partial restriction). From the Executive, Legislative and Judicial environments, the exercise of journalism was the realm on which most influence was noticed during the period under analysis. In October 2020, Miriam Lewin created the Nodio, an observatory for "debunking fake news and going after the source of disinformation campaigns" ("Polémica por el Nodio...", 2020). Entities with a similar role started appearing in different provinces and cities of the country, generally promoted by the executive or legislative environments.

In addition to this measure, court decisions have criminalized and discouraged the exercise of journalism. While a Federal Court, the highest in Federal Justice, overruled the prosecution of Daniel Santoro, another judge decided to prosecute him again for "attempted extortion", under the same argument put forward in the previous case.

At the same time, there were repeated attempts from courts to gain access to the sources of several journalists. To the lawsuit naming Santiago O'Donnell mentioned above must be added that naming Jorge Caloiro in Mendoza (Foro de Periodismo Argentino [FOPEA], 2021).

Realm C: Agitation, verbal and physical violence against journalists

Score 17.84 (Partial restriction). This realm is the second most undermined in the three environments reviewed. Threats, intimidation, and, on many occasions, physical attacks against journalists and the media proliferated during this period.

In times of social media and online communications, threats and smear campaigns against journalists and media multiplied on these platforms. Such was the case of journalist Osvaldo Cherep in Santa Fe, Leonardo Fernández Acosta in Formosa, or Irene Benito in Tucumán.

Unfortunately, these campaigns bring about physical confrontations with journalists, mostly by government officers and, in many cases, they also suffer anonymous attacks that are not investigated or disclosed.

Journalist Exequiel Ávalos, from [the province of] Chaco, was detained by the police after being assaulted by demonstrators while covering the protest. Several similar events occurred in Formosa, Santa Fe, Santiago del Estero, among other locations. However, it is also worth noting the case involving journalist Lautaro Maislin, physically assaulted by security detail of former President Macri, or that of photojournalist Ornella Vezzoso, assaulted by police officers in Chubut. In addition to attacks on broadcast radio transmission facilities and provincial newspapers' newsrooms, as in Formosa, Neuquén, and Río Negro, this speaks of the fragility and risks involved in journalists' endeavor (IAPA, 2021).

Realm D: Despite attempts at control, freedom prevails.

Score 17.57 (Low restriction). As has been stated, there were many attempts to control the media and its contents. However, it should be mentioned that this realm is the one with best results for Argentina regarding the three environments reviewed. This may be attributed to the fact that even social and political institutions observe a generally democratic attitude and dismiss implementing certain ideas, or downplay them.

In general terms, Argentina's civil society has reacted in defense of the democratic principles of freedom of the press and free expression, which has prevented the implementation of rules, control bodies and measures that have arisen in the period surveyed. It remains to be seen whether this social fabric will be sustained.

Conclusions

In this Chapultepec Index, Argentina ranks 14th among the 22 countries reviewed. Except in the realm of Control over the Media, in all other realms and in its overall score, Argentina shows a partial restriction of press freedom.

As mentioned above, the most severely affected realm is that of the Exercise of Journalism. Factoring in this realm only, Argentina would be ranked 14th among the 22 countries surveyed.

The situation is serious, especially in a country that barely a year ago achieved a rating of over 20 points above the current one. The radicalization of the lawfare discourse and the use of the pandemic as an excuse to increase controls over journalists and the media trace an alarming path of institutional deterioration.

2021 is a year of legislative elections and, as every election year, it is likely to bring greater attacks against journalists with it. It remains to be seen if after such elections the national government chooses to take the path of moderation or prefers to radicalize its confrontation with critical journalists, leaning on those who say what the government wants to hear.

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