

PARAGUAY: OBSTACLES TO INFORMATION ACCESS

Executive Summary

Paraguay ranks 8th among the 22 countries surveyed in the Chapultepec Index, in the Low Restriction category, scoring 69.22 out of 100. In comparison to last year's Index, variation is insignificant (67.40 of 100, ranking 6th). In accordance with the survey, the realm of Violence and Impunity scored the highest degree of influence; there is still minor progress when justice is done against violence, insufficient statutes, ambiguous and open regulations restricting free speech, and weak safeguard mechanisms from the government's bodies. Access to public information is quite cumbersome.

Introduction

The period reviewed by this report encompasses part of the second and third year of Mario Abdo Benítez's term, impacted by several political turmoil, and alleged irregularities in how COVID-19 has been handled.

There were instances of violence against media professionals just because they were fulfilling their call of duty. However, most of the times violence came from people who were not government officials. This context led to –still insufficient– progress in improving protective mechanisms for newsmen, and made an impact on the enacting of a bill favoring comprehensive safeguard mechanisms for journalists and human rights advocates. On its side, the Attorney General's Office (Ministerio Público, MP) identified the alleged mastermind of Leo Veras' February 13, 2020 crime.

The exercise of the right to access public information has increased, as well as the number of actions from the Judiciary for favorable responses. A negative pattern persists in terms of quality of the responses provided by the enforcers of this right, as well as different obstacles to provide accurate and consistent information. Likewise, there was a dangerously secretive context about the country's two most important binational entities in charge of managing top priority interests of the State and soaring budgets.

The disclosure of sworn declarations of assets and income –upon June 11, 2020 Supreme Court of Justice (Corte Suprema de Justicia, CSJ)'s landmark case– has allowed to file other similar actions and to release of all documents submitted by the Office of the Comptroller General (Contraloría General de la República, CGR) since 1992. Accordingly, it is possible now to disclose numerous investigations on top government officers' ill-gotten gains.

On the other hand, the Inter-American Committee on Human Rights (IACHR) held the Paraguayan State accountable for a string of infractions contributing to impunity in Santiago Leguizamón's April 26, 1991 murder.

Results Analysis

Paraguay ranks 8th, in the Low Restriction category, among the 22 countries surveyed on [by] the Chapultepec Index, scoring 69.22 out of 100. In comparison to last year's Index, variation is negligible (67.40 of 100, ranking 6th). Regarding February 2020 journalist Leo Veras' murder, the MP pressed charges on the alleged mastermind, from the drug-trafficking group known as First Capital Command (Primer Comando de la Capital, PCC) (Última Hora, 2021). In this situation, the Attorney General's Office (Fiscalía General del Estado, FGE [official name of the Ministerio Público, MP]– ruled that acts of violence against journalists should be investigated by the Special Unit on Human Rights (Unidad Especializada de Derechos Humanos) (Paraguay's Public Prosecutor's Office, 2021). This is a giant leap, albeit insufficient, when it comes to government bodies; for instance, in the case mentioned above, accessing information on the proceedings' status becomes extremely hard for journalist Veras' relatives.

Likewise, in December 2020, the Roundtable for Journalist Security (Mesa para la Seguridad de Periodistas, MSP), along with the Union of Paraguayan Journalists (Sindicato de Periodistas del Paraguay, SPP) sponsored in 2017 a draft bill aimed at creating safeguard mechanisms for journalists and human rights advocates (Mesa para la Seguridad de Periodistas, n.d.).

Environments: Fundamental Judiciary's Role to Protect Free Speech

According to the specialists with whom we conferred, in terms of the "Degree of unfavorable influence", the Legislative environment scores a slight influence (1.68), the Judicial environment scores a moderate influence of 2.51 –the highest influence exerted by the three environments–; and the Executive environment scores a slight influence of 2.49. In the period surveyed, there no patterns hindering free speech; however, there are still criminal complaints against media outlet executives and journalists based on their reporting of top interest topics. It is authority of the Judiciary (Poder Judicial, PJ) to admit to these actions.

Realm A: Obstacles for Free Speech to Access to Information

The COVID-19 pandemic's effects are not only noticeable on the health and economic outlook, but also impact free speech. Social media are an outstanding source for disseminating news and blowing the whistle on corruption issues. Print media use them as input to report in their mainstream format. According to the specialists' score, this realm shows a mild influence (11.43 out of 23.0), signifying a slight decrease when compared to the 2020 Index (14.20 out of 23.0).

From a scale of 1 to 10, all three environments show mild influence. The Legislative environment scores 3.00, and the Judiciary environment 3.38, while the Executive environment obtains 3.07. In the period surveyed, there were no Legislative actions tending to suppress free flow of information and free expression.

Regarding the Executive environment, there was a report of censorship on a physician for voicing his views regarding COVID-19 situation (La Nación, 2020). An additional action against

freedom of expression was that of city mayor Coronel Oviedo threatening a news executive from an independent media outlet in the same city (Última Hora, 2021).

The Information Flow sub-realm scores 5.14 out of 11.0. A slight decrease is noticed when compared to the 2020 Index (7.60 out of 11.0).

The specialists with whom we conferred gave the Free Speech sub-realm a score of 6.29 out of 12.0, quite close to that of 2020 (6.60 out of 12.0).

In the period surveyed, unanswered information release requests remained a constant pattern. In accordance with data from the Unified Public Information Portal (Portal Unificado de Información Pública, n.d.), in the period comprising August 1, 2020-June 30, 2021, there were 10,284 total public information requests, of which 935 had no response (9.1%), 664 were subject to user reconsiderations (6.5%), and 7,462 requests had a “response” (72.6%) (the quality of responses is not taken into account). Considering the figures from the preceding report, the number of requisitions [requests] has had a slight increase (out of a universe of 9,696, between May 1, 2019 and April 30, 2020, with a level of 72.1% of requisitions “with a response”).

During the period surveyed by this report, certain legal actions to obtain public information were filed. Per data from the Supreme Court of Justice’s website (Corte Suprema de Justicia - Poder Judicial, n.d.), between August 2020-April 2020, at least 24 court matters on accessing public information were filed, representing an increase of more than 100% when compared to the data of last year’s report (11 matters on record). However, the universe of petitioners remains insignificant when contrasted with the high number of requests without favorable responses. On the other hand, particularly in the Executive environment, responses are neither timely nor consistent.

Among the matters cases on record, the matter of “*Juan Carlos Lezcano Flecha v. Contraloría General De La Republica S/ Amparo*”, ruling that all sworn declarations of assets and income withheld by the Comptroller General of the Republic must be disclosed, needs to be highlighted. This action was within the scope of the Supreme Court of Justice’s ruling by means of the Agreement and Ruling 111 of June 11, 2020, whereby the above petitioner requested records of sworn declarations from top government officials. Likewise, a highly relevant case was filed by a group of journalists opposing the Itaipu Binational Entity for denial of information on decisions of the Paraguayan board members on issues addressed by the body’s Board (La Nación, 2021) (ABC Color, 2021).

Realm B: Statutes in Force Stifling The Free Dissemination of Information

Paraguay continues to show a moderately favorable climate for free exercise of journalism. This realm scored 6.86 out of 10. During the period this report is surveying, no pattern of obstacles from the government harming the free exercise of journalism was reported, although there were newspersons attacked by third parties and groups linked to political parties. However, several criminal complaint proceedings for punishable acts against honor and reputation are still in progress, a situation that hinders the freedom to disseminate information on irregularities detected in the public administration and the assessment of the official conduct of government officers.

The Legislative Environment showed slight influence by scoring 2.43, whereas the Judicial Environment scored 4.57 the Judicial environment 4.57, and the Executive environment gets 5.00, based on which these realms' influence is mild.

During the period surveyed, no implementation or omission of regulations affecting independence of the media and/or journalists, plurality, and protection of confidential sources of information, went on record. Categories such as the above are constitutionally protected, as is the free exercise of journalism, without the need for licenses or membership in a guild. There has been no record of actions from the government preventing access to sources aligned with the government.

Realm C: Violence Unpunished

In the specialists' opinion, the Violence and Impunity realm scored 28.79 out of 42.0, This is a slight increase compared to that of the previous Index at 23.60. As for sub-realms, Protection scores 1.36 out of 5.0; Persecution 5.64 out of 7.5; Impunity 2.21 out of 8.5, and reported Violence 19.58 out of 21.0.

Data from the timeline of aggressions against journalists disclose 15 aggressions in total: the government would be held accountable for two of them, an unknown perpetrator for one, while 12 are by unknown third parties. A persisting concern is that such violations end up unpunished. From the murders of journalists, only Pablo Medina's matter, who was murdered on October 16, 2014, resulted in the mastermind's conviction.

Despite the above assertions, in this period there was slight progress when addressing impunity in crimes against journalists, as well as in the influence of the bill for media employees' protection. The MP/FGE identified the alleged mastermind of journalist Leo Veras' February 2020 crime, an event occurred in Pedro Juan Caballero's border area.

Compared the 2020 Index, where Violence and Impunity was deemed the most decisive realm (scoring 23.60 out of 42), in the period surveyed the influence has subsided to slight in all three environments. From the scale of 1 to 10, the Legislative environment scores 1.29, the Judicial environment 2.10, while the Executive environment gets 1.90.

Although a pattern encouraging the persecution of journalists and the media is not noticed, top-ranking government officials or political personalities aligned to the ruling class invoke criminal regulations that protect honor and reputation when disclosure of public interest information in the professional practice is impending. Oftentimes, political personalities aligned with the government rely on social media to promote stigmatizing messages against investigative journalists.

On the other hand, the MSP, which gathers several institutions, continues to be active, although it formally it lacks a budget of its own and acknowledgement by the Legislative. However, this body has served the purpose of implementing protection measures and training initiatives for judges and prosecutors. In turn, this Roundtable supports promoting the aforementioned bill on protection of journalists.

Realm D: No Change in Terms of Provisions to Prevent Monopolization

This realm shows a score of 22.14 out of 25.0. The survey regarding the sub-realm of Direct Control was rated 16.71 out of 19.00, while Indirect Control scored 5.43 out of 6.0. Paraguay continues to show high levels of media monopolization, a situation that has a direct impact on the independence of the media and journalists. However, alternative media and information platforms that have allowed for the promotion of plurality and independence of media professionals have reportedly been launched.

Conclusions

Paraguay continues to show a mildly favorable environment for the exercise of journalism and free speech. COVID-19 has awakened numerous critical voices against the government's administration, which have been channeled largely through social media. This area constitutes a source of interaction and free information, although it excludes groups in vulnerable situations. Criminal statutes inhibiting free speech and dissemination of high public interest information, as well as the high degree of media monopolization, are drawbacks for independence and plurality in the exercise of journalism.

The current criminal code regulations lead political personalities aligned with the government and top officials to threaten the dissemination of information blowing the whistle on alleged irregularities. In this regard, there has been no record of actions leading to the repeal of such provisions or landmark cases for the dissemination of international standards of protection.

Thankfully, legislative actions barring the free exercise of journalism are absent. Although the trend continues to favor the right to access public information, the results from the justice system are discouraging. Likewise, we underscore the threats on posting highly relevant information due to arbitrary decisions of officials or court rulings.

The promotion of the bill on comprehensive journalist and human rights advocate protection seeks to strengthen existing mechanisms, provide them with budget funds and legislate on vital aspects from which the work of media employees may benefit. The steps to build an adequate institutional framework commensurate with the country's reality are still slow, but the interest of certain political personalities is simultaneously increasing.

As a challenge, it remains to optimize the powers of the offices for access to public information so that they adequately meet legal requirements, improve the way how information is disclosed and the accuracy of its content in terms of users' –journalists and citizens– legitimate expectations.

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