

Guatemala: AUTHORITARIAN CONSOLIDATION AND SILENCING

Executive Summary

During 2021 and 2022, Guatemala experienced a scenario of regression to authoritarianism in which repression and political siege seeking impunity for corruption incurred by public officials, or by those comprising circles of power elites, have become more brutal. We see a consolidation of policies restraining human rights and the rule of law, as well as free speech. The period under review is notorious not only because of persistent attacks on journalists, but also by a quantum leap in their severity. The cost for the autonomous exercise of the profession can be prison or exile to protect life and safety.

Introduction

An authoritarian consolidation is underway in Guatemala. Repression and political persecution of all human rights advocates and journalists have escalated, particularly against those who investigate wrongful acts by public officials or against those who defend the land and natural resources. All this has also led to the weakening of civilian freedoms.

The alignment of the three branches of government with the interests of illegal economic and political circles in the country is clear and convergent in their actions towards a common goal: The seizure and dismantling of political institutions. This also takes the form of a strategy of violation of free speech originating from the Executive with a series of actions aimed at silencing; they go on to the Judiciary, which endorses criminalization and imprisonment of journalists, and it ends at the Congress of the Republic [Legislative] which lets the Executive have its way every time it requests restrictive measures on rights and violation of constitutional guarantees.

A co-opted institutional framework also works to guarantee the operation of companies in the extractive sector. The social conflict they generate is stifled by deploying the State's repressive apparatus. In this regard, according to the Guatemalan Association of Journalists (*Asociación de Periodistas de Guatemala, APG*):

[...] The addition of the police as part of the repressive apparatus and the harassment against anti-government journalists and critics has been a constant during the current administration. There are numerous cases in which law enforcement has used physical violence against newsmen, arrested people arbitrarily, made threats or incurred harassment so that reporters do not fulfill their duties. To a lesser extent, subjects in the army and municipal police have also been involved in these acts. (2022: p. 6)

Amid this outlook of increasing social and political violence, aggression against journalists shows greater intensity, in such way that it escalated from the first step of criminalization (e.g., from persistent defamation and harassment) to imprisonment of journalists. The last straw was at

the end of July 2022 when José Rubén Zamora, head of [so-styled] *elPeriódico*, one of the longest-running media outlets in the country, was jailed.

For all this, Guatemala ranks 19th out of 22 countries, with 38.40 out of 100 points in the Chapultepec Index of Freedom of Expression and the Press, significantly under the global regional average (53.69) and almost 10 points below the previous study in which the country scored 48.28 points. Guatemala descends from a country with partial restrictions to one with high restrictions on freedom of expression.

Executive: First step in the strategy of criminalization and harassment against the press

The bellicose position of the president of the nation toward the press persists and intensifies. For example, on March 9, 2022, President Alejandro Giammattei replied to a journalist saying “stop lying” when the latter asked him a question about the former’s political campaign (*Prensa Libre*, March 09). In addition, to avoid facing the press, the President shows up very sporadically at conferences and the Communications Department of the Presidential Office (*Secretaría de Comunicación Social de la Presidencia*) does either not invite or denies entry to those considered critical to how the administration performs (APG, 2022).

Regarding the first two years of the [current] administration, the narrative and confrontational and stigmatizing practices against the press remain, claiming the “defense of national sovereignty” and labeling all dissenting sectors such as the press or indigenous peoples’ leadership as “enemies of democracy” and “destabilizers” of the government (APG, 2022: p. 1).

Police violence against journalists to stop them from doing their job has also continued. Instances of this in the country are several; but in this sense an event occurred in Izabal Department stands out. There, four journalists, Nelton Rivera, Carlos Ernesto Choc, Juan Bautista Xol, and a foreign reporter, were assaulted by the National Civil Police (*Policía Nacional Civil*, PNC) while covering the eviction of people who had rallied against the mining company CGN-PRONICO in El Estor. On that occasion, in addition to the aggression against Carlos Ernesto Choc, he was stripped of his work equipment. (*Prensa Comunitaria*, October 22, 2021).

All this outlook caused the Executive to score 6.01 at a level of unfavorable influence, placing it in the strong influence range. In fact, it was the worst rated among the three branches of government. In the Exercise of Journalism realm, because of all the harassment journalists are subjected to, the rating was 8.86, within the very strong influence bracket. As spaces for civilian life are decreasing and restrictions have been set to the press, the realm of Informed Citizens Free to Express Themselves was rated in the range of very strong influence [on unfavorable situations], scoring 7.64. All these ratings have worsened compared to last period’s survey.

The Judiciary: Second step, supplement to a joint strategy

The Executive’s involvement in the strategy of besieging the press is not only conducted by the president of the nation: It is mirrored by the Attorney General’s Office (*Ministerio Público*, MP) acting along by participating in prosecution proceedings. As the APG states (2022):

[...] the ratification of María Consuelo Porras Argueta as Attorney General and Head of the namesake Office is one of the worst blows to the institutional framework, access to justice and defense of human rights in the country. Porras Argueta took it upon herself to convert the MP in an entity devoted to hunting, besieging, and criminalizing stakeholders uncomfortable for the government, including journalists, human rights defenders, demonstrators, but primarily justice advocates (p. 10).

Therefore, regarding guarantees for the exercise of journalism, the Judiciary scored a very strong influence rating (8.00) [in bringing about unfavorable situations], since it plays an important leading role in processes of criminalizing journalists and media outlets, as well as in attempts at censorship by public officials. To mention one instance, in December 2021 a Court on Femicide, presided by Judge Yadira Barrios, granted protection for Alejandra Carrillo –a former congresswoman and official for the current government, suspected of ties to a corruption ring and charged with counts of corruption– against *La Hora* [newspaper] directors Oscar Clemente Marroquín and Pedro Pablo Marroquín. By means of this blatant travesty of the provisions of the above law, a series of journalistic investigations that the media had spearheaded to scrutinize Barrios’s work were put to an end (*La Hora*, December 21, 2021).

In this very realm, we find two attempts by the Judiciary to deny entry of journalists to court proceedings. To mention a few examples, in August 2021, journalists were denied entry to the hearing held during the trial against community media worker Anastasia Mejía in Quiché Department; so were *Telesur* correspondent Santiago Button, María Guarcax, member of [aboriginal broadcasting] network Jun Na’oj, and journalist Asier Vera at the premises of Guatemala City’s Judiciary that same month. A month later, a journalist from *Albavisión* was also prevented from entering the same venue. This is now business as usual in the justice system. In July 2022, Justice Sergio Mena denied access to the press into the hearing of the trial on former prosecutor Virginia Laparra, also on charges brought by current MP officials, who unleashed a manhunt against the previous authorities of the Special Prosecutor’s Office against Impunity (*Fiscalía Especial contra la Impunidad*, FECl) because of their anti-corruption activities.

Another negative sign from the Judiciary was the acquittal, in May 2022, of former congressman Julio Álvarez, imprisoned on charges brought by the MP for having masterminded the 2015 murder of journalists Danilo Sapón López and Federico Salazar in Suchitepequez. High Security Court B (*Tribunal de Mayor Riesgo B*) Head Judge Jeannette Valdés pointed out that the attorney was responsible for showing inconsistencies, contradictions, and incoherencies in the case (*La Hora*, May 13, 2022). The APG report 2021 had already warned that, with the setback in the justice system, the alleged perpetrator might unsurprisingly be “freed thanks to the appeals courts, the Supreme Court of Justice (*Corte Suprema de Justicia*, CSJ) or the Constitutional Court (*Corte de Constitucionalidad*, CC)” (p. 6). Once the verdict was issued and the former congressman was swiftly released, APG Journalists’ Observatory asked the MP if they had filed an appeal and, if not, the rationale for that action; but the MP claimed that it was “classified information” (APG, 2022: p. 10).

As noted by the APG (2021: p. 5), co-optation of courts and complicity of judges with other subjects linked to corruption rings also causes the shelving of “... investigations about attacks or crimes against journalists on orders from the Attorney General”; but also, the expediting of those cases against journalists that the government wants silenced.

In this sense, the case of journalist and media director Juan Luis Font, boasting a long career, is a suitable example. He was charged with collusion by former Minister of Communications Alejandro Sinibaldi. This was viewed by the journalist as a fabrication of a case

file by the MP and the FECl using the former minister to that end (*EpicentroGuate*, November 16, 2021). It is worth clarifying FECl's head officer Rafael Curruchiche was included in the Engel List, issued by the U.S., in July 2022 for obstructing corruption investigations and for "... apparently filing bogus complaints against FECl prosecutors, private legal counsel, and former attorneys from the International Commission Against Impunity in Guatemala (*Comisión Internacional contra la Impunidad en Guatemala*, CICIG)" (No Ficción, July 31, 2022).

The most serious instance of this has been the case against *elPeriódico* head José Rubén Zamora, arrested on July 29, 2022. In this matter, the MP filed charges against him for blackmail, influence peddling, money laundering, and conspiracy to launder money, that is, offenses that would not be associated with his job as a journalist. This fact has been interpreted as retaliation because Zamora has investigated and published on his media various acts of corruption by the current government (*No Ficción*, July 31, 2022).

A fact worth underscoring is criminalization against women in the last two years, which escalated in the review period. According to the Unit for the Protection of Guatemalan Human Rights Advocates (*Protección a Defensoras y Defensores de Derechos Humanos de Guatemala*, Udefegua), the percentage of criminalized female advocates was 36% in 2020, compared to the total, while in the first six months of 2022, this percentage rose to 45%. In this context, we note numerous reports of violence, especially on digital media, received by woman journalists from net centers and fake profiles. However, the Attorney General's Office does not have data on these cases, arguing that the record-keeping IT system used by them does not allow them to log them. An investigation conducted in this regard found that:

[...] more than a flaw in the system itself, the absence of specific data is due to a lack of knowledge of how to address human and gender rights, or how to apply it, as well as the lack of political will to make changes in response to social challenges. (Trujillo, 2022: p. 16)

The 5.43 score in the Violence and Impunity realm for this branch of government is linked to these situations.

Legislative: Endorsing the Executive and supplementing the strategy

The Legislative environment, which had been the worst rated of the three branches of government in the previous study period, achieved the highest score (4.83) this time, ranking at a moderate influence. [The actions of] this environment towards the realm of Exercise of Journalism scored the worst (7.29), which means a strong degree of influence, while regarding Informed Citizens Free to Express Themselves, it also achieved a range of strong influence (6.07). For the realm of Control over the Media, it achieved the best score: 0.79.

As for Exercise of Journalism, the allocated score is the result of, among other things, the fact that restrictions for journalists to access public information have remained continuous historically even when the Speaker of the House changed in January 2022. In September 2021, while Allan Rodríguez headed the Legislative, journalist Enrique García was banned from entering his office, even when Rodríguez had convened the press (*elPeriódico*, September 2, 2021). In January 2022, newly appointed Speaker of the House Shirley Rivera restricted communications with journalists and determined that she would only address them twice a week on the condition that questions were previously submitted in writing to the Communications Office of the Legislative. This decision was strongly criticized by the APG, which described these actions as a

violation of the freedom of expression and the press and citizens' rights. (The Hour, January 20, 2022).

The negative perception of citizens regarding the Congress for its performance in protecting the right to be informed and their civil liberties in force stems from collusion between the Legislative and the Executive on states of emergency and suspension of guarantees requested by the Executive and approved by the Congress. In June 2022, because of an emergency caused by the passage of tropical depression Celia, the presidential office issued an executive order declaring the state of calamity, ratified by the congressional floor on the 22nd of that same month. The rights restricted by the government were free speech (whereby no person can be persecuted or harassed for their opinions), free movement; the right of assembly and peaceful demonstration, as well as government employees' right to strike. That is how this government has operated all along: The Executive has forced several times limitations on constitutional protections to address emergencies or social unrest, which in turn implies restrictions on freedom of expression and freedom of the media which the Congress has ratified (APG, 2022).

Lastly, structural problems such as the lack of political will to democratize the media ecosystem and the absence of regulations towards a digital realm more accessible to everyone, continue to drag on. In this regard, there was no change from the previous survey period to present.

Realm A: Forcing silence on the press and citizens

Access to information and citizens' free speech ranked –for all three branches of the government– in the strong and very strong influence ranges. The environment influencing most unfavorably is the Executive (7.64), followed by the Judicial (6.21) and then the Legislative (6.07).

This result matches the findings of the Inter-American Commission on Human Rights (IACHR) annual report 2021, published in May 2022. Guatemala was included in Chapter IV.B thereof because of the serious violations of fundamental rights enshrined in the American Convention and other human rights agreements. As for free speech, the IACHR report stressed the persistence of risks to journalistic work, as well as harassment and intimidation, attacks during social demonstrations, and obstruction of journalistic coverage of official acts (Paragraph. 13).

It is worth noting that concurrent ratings in high influence ranges for all three branches respond to the fact that there is, as described above, a joint strategy among them against journalism, especially against those who hold a position of dissent or encourage scrutiny on public officials. This was pointed out by the APG (2021), which determined that these events were not isolated but rather coordinated; in fact, during 2021, over 80% of the aggressions against the press put on record by the observatory of said association were committed "... by authorities of the Executive and / or staff of some government agencies, the Supreme Electoral Court (*Tribunal Supremo Electoral*, TSE), the Congress of the Republic, the Judiciary, the MP, and the CC" (p. 7).

Different forms of intimidation and harassment to silence journalists impact citizens who see their guarantees and rights dwindling every day, not only access to information but also spaces for expression keep shutting down. Therefore, the APG establishes that:

... not only does law enforcement exert repression, violence, and pressure against journalists, but also against demonstrators and activists who participate in public protests. Although not of all of the acts are on record, the police routinely harasses citizens during rallies by requesting their documents, photographing them, or seeking to identify the leaders of these demonstrations (2022: pp. 6 – 7).

Realm B: Increasing difficulties for the exercise of journalism

This realm was the worst rated of the three environments. The Executive and Judicial obtained 8.86 and 8 respectively, while the Legislative scored 7.29.

Per the Udefegua report 2022, intimidation and criminalization begin with defamation, a disqualifying narrative, and smear campaigns against journalists, continued by harassment, moving on to unsubstantiated complaints, and ultimately arbitrary arrests. To go full circle with the siege, also surveillance and even intimidation are conducted, resorting on some occasions to directly threatening journalists' families.

In addition, other types of stall tactics seeking to obstruct journalistic work persist, including the arbitrary use of bureaucratic regulations and practices to hinder or deny access to information. It is important to add the specific risks and violations faced by those who practice community journalism and by women journalists, because they are posed at greater risk.

Given this scenario, exile, which initially aimed at justice advocates under siege and later targeted journalists, is evidently the only possible choice to guarantee security. In the period under review, journalists from at least six media outlets have moved abroad stemming from situations of this kind.

Realm C: Violence and Impunity

In the period under review, watchdog entities originating from the journalistic guild reported the persistence of various forms of aggression. However, figures from the Prosecutor's Office on Crimes against Journalists (*Fiscalía de Delitos contra Periodistas*) showed that, in 2022, the number of complaints was lower. While the APG Observatory put 66 cases on record from January to June, the Attorney General's Office reported only 36 until August.

In the yearly period under review, an assassination attempt on journalist Maynor Mérida was perpetrated; acts of physical violence by the police against media professionals occurred, especially in the departments of Guatemala, Izabal, Alta Verapaz, Quetzaltenango, Quiché, and Escuintla; Robinson Ortega was unlawfully arrested on June 16 in Escuintla, when agents beat him, damaged his equipment, and arbitrarily arrested him because he videoed police abuse against a group of women and children. At the same time, there are several reports about threats and coercion, as well as non-stop harassment on social media, websites, and even via email.

The pro-government narrative explains the decrease in complaints as the effect of the dissuasive criminal prosecution efforts made by the MP. However, journalists and human rights advocates do not agree with this claim and point out that "... what we notice is the consequences

of impunity, that is, a decrease in complaints, because journalists do not trust the justice system and have stopped turning to the Attorney's Office" (Trujillo, 2022: p. 14).

The State also makes an impact by omission since media workers do not have protection and access to justice from the government. Between harassment and impunity, journalists perform their daily endeavors which, in the long term and indirectly, brings about a kind of tacit permission granted by the government to keep triggering more violence. Eventually, this causes serious effects on freedom of expression because it is not possible to exercise journalism under free and safe conditions.

Dimension D: Control over the Media

The realm of Control over the Media was the best rated among the three environments. For the Executive, the index reaches 1.14, while both the Legislative and Judiciary scored 0.79. All are in the bracket of slight influence.

Despite the low score, attempts at direct control did occur. In October 2021, a series of clashes between the police and protesters took place [at a demonstration] against a nickel mining and processing company operating locally in El Estor, Izabal Department. In the wake of these events, the police raided Xyaab 'Tzuultaq'a radio station, the same one that had already been raided in 2019. The station's director, Robin Macloni, later explained that "... the police spent about 30 minutes inside the office, questioned one staff member, and then left without confiscating anything" (*Prensa Comunitaria*, October 28, 2021: paragraph. 7).

Another very serious instance, current at the time of writing this report, is that of aggressions against the media outlet *elPeriódico*. In July 2022, when its director was arrested, the FECl requested to seize the outlet's bank accounts. At the same time, while the director was placed under house arrest before being transferred to the court building, the Attorney General's Office raided *elPeriódico*'s main offices and held under custody all the staff inside the offices for several hours, preventing them from communicating with the outside world; this made it difficult to print the next day's edition (*elPeriódico*, July 30, 2022).

As for organizational issues, the harassment and criminalization of community radio stations and the handling of government advertising continues to be a means to stifle outlets which are critical and to encourage the monopoly of media aligned with the government.

Conclusions

During the yearly period surveyed, under a scenario where authoritarianism consolidates in the country, a strategy of criminalization and intimidation aimed at silencing the voices and work of the press has been deployed. By means of this strategy, orchestrated and articulated actions of the three branches of government converge. In this context, data gathered by monitoring arising from [journalistic] guild initiatives show that public officials are responsible for eight out of ten attacks.

Those who exercise journalism in the country face defamation, a disqualifying narrative, and smear campaigns, harassment, surveillance, intimidation, unsubstantiated complaints, which may end up in arbitrary arrests. Additionally, their efforts are obstructed by the denial of or

restriction to accessing public information and certain sources. These actions have forced some news professionals to leave the country to protect their safety.

The State also makes an impact by omission because of its failure to respond to complaints, and due to poor access to justice. This encourages impunity directly through court rulings such as the acquittal of the alleged mastermind in the murder of two journalists, or indirectly through bureaucratic red tape. This prevents instances of attacks against journalists from finding closure through the justice system.

All the above facts have caused Guatemala to rank in the Index as a country with high restrictions on freedom of expression rights, slightly above Cuba, Venezuela, and Nicaragua. Compared to last year's survey, Guatemala has dropped more than 10 points.

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