

VENEZUELA: AMID FLUCTUATING VIOLENCE AND NEGATIVE STABILITY

Executive Summary

After two years at the bottom of the Chapultepec Index of Freedom of Expression and the Press, Venezuela moved up one position in the current edition of the survey, and ranks second to last, with 10.58 points out of a possible 100. This country is still within the bracket of nations without freedom of expression, although it shows a slight increase against the last period, when it obtained 5.71 points, and to the previous one, when it went on record with 3.80 points. During this study period, one murder, one forced disappearance, and one arbitrary detention linked to newsgathering endeavor were reported, in addition to numerous cases of censorship, as well as the continuation of the imprisonment of a journalist.

Introduction

After 21 years of the political process initiated by Hugo Chávez and continued by Nicolás Maduro, a culture of silence, censorship, and official opacity has been imposed in the shaping of public opinion in the country. This year, there was no progress that could reverse the institutionalized muzzling, although slight decreases in violence against news and media professionals were reported.

The UN Fact-Finding Mission (FFM) on Venezuela, sent to the country in September 2019 and whose activities were extended until September 2022, documented and condemned impunity in cases of human rights violations. Furthermore, the Office of the Prosecutor of the International Criminal Court (ICC) announced the opening of a formal investigation on November 3, 2021.

According to organizations such as Amnesty International (AI), security forces, including the Special Action Forces (*Fuerzas de Acciones Especiales*, FAES) of the [Bolivian] National Police (*Policía Nacional Bolivariana*, PNB), have maintained the practice of extrajudicial executions. The above non-governmental organization (NGO) links this fact to the 14 men killed during a law enforcement operation in La Vega Parish, west of Caracas (Amnesty International, 2022).

The humanitarian crisis persists in Venezuela, despite the establishment of new retailers selling items in dollars, mostly imported and virtually unaffordable for the working class. Following a steep economic decline of 95.3% between 2013 and 2020 and a fledgling economic growth that took place in the last two quarters of 2021, the country yields new estimates of percentage growth for this 2022. However, along with this upturn, the nation is experiencing dismal salaries, subpar health care, poorly maintained or upgraded utilities infrastructure, a deteriorated education system and continued human rights violations.

In March 2022, the monthly minimum wage reached VED 7, equivalent to USD 1.62, only to be increased that month to VED 130, that is, USD 29.68 at that time. Set in local currency, the amount has depreciated since then, stemming from inflation, and by August 1, the end of this study period, it was USD 19.4 per month, still the lowest income across Latin America.

Social unrest has been reported by the Venezuelan Observatory of Social Conflict (*Observatorio Venezolano de Conflictividad Social, OVCS*), which estimated that there were more than five thousand protests in the first semester of 2022. (*Observatorio Venezolano de Conflictividad Social, 2022*).

There is still no rollback for the official restrictions on freedom of expression and the press, a framework that began with the passing of the Law on Social Responsibility in Radio, Television, and Digital Media (*Ley de Responsabilidad Social en Radio, Televisión y Medios Electrónicos*), originally enacted in 2004, and which has been followed by others, among these, the Constitutional Law Against Hate, for Peaceful Coexistence and Tolerance (*Ley Constitucional Contra el Odio, por la Convivencia Pacífica y la Tolerancia*), commonly known as the Law against Hate, approved in 2017. To this arsenal of laws that, instead of enabling, obstruct communicational rights, another one was added in the period under study, the Law on Access to Public Information (*Ley de Acceso a la Información Pública*), enacted on September 17, 2021.

Analysis of the influence of institutional environments on actions against freedom of the press

For this third edition, the Venezuelan Executive, headed by Nicolás Maduro Moros, was considered by the experts as the institutional environment with the greatest impact in terms of actions unfavorable to freedom of expression; but in this edition, they weighted it even higher regarding these incidents. The experts' average of high impact at 9.23 points out of a possible 10 shows a very strong influence among the results rated, even higher than that on record in the last edition, when it was estimated at 7.59 points out of a possible 10.

The weighting that the evaluators appraised on the Executive is related to the continuous media outlet closures and censorship measures conducted by ancillary agencies of the administration of the President of Venezuela, Nicolás Maduro. Some were those adopted by the National Telecommunications Commission (*Comisión Nacional de Telecomunicaciones, Conatel*) between January and August 2022. During this period, ten radio stations were closed, namely *Éxitos* 90.5 FM and *Calle* 98.5 FM in Guárico State, *Activa* 89.3 FM in Anzoátegui, *Topacio* 101.5 FM in Barinas, *Triunfo* 99.3 FM in Portuguesa, *Candela* 92.9, *Moda* 105.1 FM, NEX 100.1 FM and HITS 92.5 FM in Cojedes, and Mix 98.3 FM in Yaracuy (*Espacio Público, 2022; IPYS Venezuela, 2022*).

According to the experts surveyed, the second branch of government conducting actions unfavorable to freedom of expression is the Judiciary, as highly influential, expressed in 7.95 points out of a possible 10. With this extent of influence, it moves to second place among the three branches of government reviewed, unlike the last study, when it was placed in third place, with 6.70 points out of a possible 10 being the most highly influential in these situations.

In May 2022, the National Association of Journalists (*Colegio Nacional de Periodistas, CNP*) requested that the court proceedings filed against 11 new professionals across the country

be closed. Cases against them are still open in the country's courts for allegedly inciting hatred and encouraging riots (Runrunes, 2022).

In the judicial realm, regressive acts against freedom of the press stand out, such as the decision by the Constitutional Chamber of Venezuela's Supreme Court of Justice (*Tribunal Supremo de Justicia*, TSJ) which, on August 18, 2021, overruled the petition filed by the newspaper *El Nacional* to have the decisions issued by the Civil Appeals Chamber reviewed. Therein, it was ruled that the media outlet should pay *Chavista* congressman Diosdado Cabello the equivalent of USD 13.3 million in compensation "for moral damages" (Voice of America, 2022).

But this was not the only court decision against the above newspaper in the current period under review. On January 27, 2022, on a Sheriff's Sale that had not been publicly announced in a timely fashion, the ownership of *El Nacional* main offices of and the plots of land on which it is located were directly awarded to Diosdado Cabello, number two man of ruling United Socialist Party of Venezuela (*Partido Socialista Unido de Venezuela* PSUV), after President Nicolás Maduro, in a decision made by Judge Lisbeth del Carmen Amoroso Hidrobo, sister of Comptroller General, Elvis Amoroso Hidrobo. (Ambito.com, 2022)

Although third in the extent of influence on situations unfavorable to freedom of expression and the press, the Legislative continued to have a strong impact in these incidents, according to the experts. For this edition, they assessed it as having a very strong negative influence, with 7.63 points out of a possible 10, even higher than the one attained by this branch of government in the previous review, when it reached 7.05 out of a possible 10.

The persistent use of statutes to build censorship mechanisms has had no backlash in such pieces of legislation as the Law on Social Responsibility in Radio, Television, and Digital Media (2004, as amended in 2010); the Organic Law of Telecommunications (as amended in 2010), the Organic Law of Social Oversight (*Ley Orgánica de Contraloría Social*, 2010) and the Constitutional Law against Hate, for Peaceful Coexistence and Tolerance (2017). However, on this occasion, the restrictively biased new Law on Access to Public Information, enacted last September 17, 2021, was added to this legal arsenal.

The Venezuela's Press and Society Institute (*Instituto de Prensa y Sociedad Venezuela*, IPYS Venezuela) challenges the provisions of the above piece of legislation. Among other issues, it points out the vagueness of the rules on exceptions set forth in Article 7 thereof, which would violate the principle of legality (principle of Public Law whereby power should be subject to the will of the Law and not to the will of persons), by allowing arbitrary or abusive enforcement or interpretation of said rules:

The regulated entities may, by means of a reasoned decision, exempt themselves from providing information when access to it could generate a threat or violation to human rights, public health, public order, the overall defense of the Nation or the normal development of the socioeconomic system of the Republic. [Law on Access to Public Information, Article 7]

No provision in this law, according to IPYS Venezuela, establishes the principle of active transparency, that is, the one guaranteeing that officials shall release general interest information and provide maximum access to such data. What the law does establish are conditions that, instead of facilitating, obstruct requests for information, by providing that applicants must identify themselves and state in writing the reasons that lead them to make any requests (IPYS Venezuela, 2022).

Realm A: There are no "informed citizens free to express themselves" in Venezuela.

On February 12, 2022, William Echarry and Ramón Blanco, aged 70 and 66 respectively, had been demonstrating in Vargas State with signs in favor of a recall referendum on Nicolás Maduro. Both were arrested and charged with offenses set forth in the Constitutional Law against Hate, for Peaceful Coexistence and Tolerance. Vargas State First Trial Court prosecuted them for incitement to hatred and ordered them to appear in court every 15 days (eldiario, 2022).

Other citizens penalized for expressing themselves in this period were Olga Mata, 73, and her son, Florencio Gil Mata, arrested on April 14, 2022. They had posted comedic videos on the TikTok app. Attorney General of the Republic Tarek William Saab charged them for instigating hatred against public officials. In the video, they made fun of personalities such as Diosdado Cabello, First Lady of the Republic Cilia Flores, National Assembly Congresswoman Iris Varela, late President Hugo Chávez, and the attorney general himself. After being freed, Olga Mata recorded a video in which she made an apology.

These incidents were recalled by Chapultepec Index evaluators. In this realm, Venezuela scored only 1 point out of a possible 23, even lower than last year, when it had scored 1.57 points. Several NGOs report that the country constantly undergoes Internet service disruptions, in addition to the systematic blocking of websites of media critical of the government, which weighs on the experts' assessment. In addition, governmental secrecy denies citizens public interest information.

A UNESCO study, released on the celebration of the International Day for Universal Access to Information, September 28, 2022, details that restrictions on this guiding principle of transparency affected more than 50 media workers, while the report of IPYS Venezuela totaled 45 formal requests for information not addressed by the government last year. Most of the report matches the Chapultepec Index study period (IPYS Venezuela, 2022).

On 17 March 2022, UN High Commissioner for Human Rights Michelle Bachelet referred to the lack of availability of public information in the country. In June 2022, the head of the above entity urged the State to ensure that "... official data and detailed information of public interest is available, accessible, and proactively disseminated" (IPYS Venezuela, 2022).

An instance of the precarious access to official information was reported regarding news provided by the government on COVID-19 vaccination. In its November 2021 world report, the NGO Human Rights Watch (HRW) indicated that the country's health system collapsed in times of pandemic. It reported that, given the deficient number of diagnostic confirmation tests, only 4,848 people were reported dead since the arrival of the virus in the country, in March 2020, until October 28, 2022. HRW reported that the figure could be higher, given the lack of government transparency and the persecution of journalists and medical staff involved (Human Rights Watch, 2022).

The NGO *Espacio Público* reported that, between January and August alone, 74 instances of restrictions to freedom of expression online had gone on record (*Espacio Público*, 2022).

Realm B: By no means is the exercise of journalism guaranteed in Venezuela.

In Realm B regarding exercise of journalism, Venezuela's score for the current edition dropped to 1 point out of a theoretical maximum of 10, a rating still below that obtained in the previous study, when it was assessed by the experts at 3.43 units out of a possible 10. With this variation, Venezuela is in the range of countries without freedom of expression and the press in reason of the conditions under which journalism is exercised nationwide.

One of the factors that has generated the most criticism in the period under study relates to plans to amend the Law on Exercise of Journalism (*Ley de Ejercicio del Periodismo*), on claims of updating the regulations in this regard. In July 2022, the [update] process was entrusted to the Permanent Commission on Popular Power and Communications appointed by a National Assembly elected in 2020 amid questioned legitimacy (the electoral process was conducted by a National Electoral Council (*Consejo Nacional Electoral*, CNE) with a pro-government majority; its board was confirmed by government-leaning TSJ and not by the previous opposition-controlled National Assembly, as it should have been under relevant regulations).

During this report's period of study, the content of the reform had not been released or consulted with journalistic guilds, as denounced by the CNP.

On the other hand, Ronald Carreño, a journalist and communications advisor of opposition political leader Juan Guaidó, continues to be wrongfully detained. Let us remind that this news professional was forcibly disappeared on October 26, 2021 and, over 12 hours later, he was charged with alleged conspiracy, on grounds of flagrancy for allegedly carrying a weapon. He is under custody of the Bolivarian Intelligence Service (*Servicio Bolivariano de Inteligencia*, SEBIN). The CNP has repeatedly denounced that the trial on this news professional is arbitrary and it violates his human rights.

Last May 3, 2022, World Press Freedom Day, the Caracas chapter of the CNP reported that, only in the first four months of this year, 11 discrediting and criminalization campaigns, three instances of deleted audiovisual material, and the seizure of a cell phone were documented.

Realm C: An established culture of violence and impunity against journalists and the media

In Venezuela, violence reported in the period of this edition decreased, without this translating into improving the outlook. Instead of three homicides linked to media activity, as reported in the previous study, there was one casualty. Nevertheless, in this nation, the lack of protection mechanisms for journalists, along with harassment, intimidation, and aggressions against the media and news professionals continue to be a reality.

In this [sub-]realm of Violence and impunity, Venezuela obtained 8.4 points out of a possible 42, higher than the 0.71 points obtained in the previous edition, but still far below the average in this category, the highest score in the Chapultepec Index of Freedom of Expression and the Press.

The murder occurred during the period [under study] was that of grassroots broadcaster José Urbina, director of community radio station *Frontera* 92.5 FM. Urbina had denounced alleged abuse by the Bolivarian National Guard (*Guardia Nacional Bolivariana*, GNB) against the civilian population. He also reported clashes between Colombian guerrilla factions on the border. Last January 10, 2022, he was murdered by an armed group at his home, in Puerto Páez, on the

Colombian-Venezuelan border. As reported by the Communist Party of Venezuela (*Partido Comunista de Venezuela*, PCV), the incident was in response to his activity on the media outlet managed by him.

In a video prior to his murder, the news professional stated: "I denounce Lt. Col. Ramón Sánchez, commander of the National Guard detachment stationed in Puerto Páez, Apure State. There, he has just issued direct threats against me in front of many people because we are staging a peaceful protest". (Swiss.info, 2022). The news on Urbina's murder and the video file, reported by the digital media outlets *El Nacional*, *Efecto Cocuyo*, and *Infobae*, websites critical of the government of Nicolás Maduro, cannot be accessed in the country due to Internet navigation blockades imposed by the government.

The community news professional was 49 years old. He was murdered in front of his wife and two of his daughters at his home. He was the legal representative of *Las Trincheras* Community Foundation (*Fundación Comunitaria Las Trincheras*), which operated community radio station Frontera 92.5 FM. On closing of this report, the government has not released any results of this probe.

Realm D: Total control over the media continues in Venezuela.

In its lowest-scoring assessment, Venezuela keeps a rating of 0 points out of a possible 25, the lowest regarding measures of direct and indirect control over the media in the survey and the same obtained in the previous edition. Institutional actions in the study period included closure and expropriation of media properties.

After the closures of mainstream media, such as RCTV (2007), *El Nacional* (2018), just to mention two of the most emblematic, the bureaucratic apparatus of President Maduro's government has continued to set major hurdles to digital media activity, one of the few avenues allowing some relief for critical and independent journalism in Venezuela.

On Tuesday, February 1, 2022, *Venezuela Sin Filtro*, a digital project monitoring Internet censorship in the country, denounced that private Internet Service Providers (ISPs) in Venezuela blocked access to the digital media outlets *Efecto Cocuyo* and *Crónica Uno*, as well as to ETV Miami, a streaming channel that reports on Venezuela. The NGO also claimed that, during the gubernatorial and mayoral elections in the country held in November 2021, ISPs blocked 35 independent news sites (Committee to Protect Journalists, 2022).

Added to these facts is the continued government practice of media closures. Ten radio stations were closed during the period, as mentioned in the analysis on the environments above, on orders from the Executive of the Republic.

Conclusions

In Venezuela, there is a wide repertoire of actions that limit, restrict, and violate the communication guarantees and rights of the population, journalists, and the media. From the muzzling of septuagenarian ladies resorting to comedy who are arrested on charges of terrorism against public officials, to intricate court proceedings including expropriations.

The Executive persists in media closures and is the institutional environment most involved in situations unfavorable to freedom of expression. However, the Judicial and Legislative also have a strong influence on these situations, contributing to the cloak of opacity, by drafting and ruling according to laws of controversial legitimacy that restrict the ability to access information and the possibility of expressing discontent against the government's performance.

The death of news professionals continues to go unpunished during the period. Neither do the judicial persecutions against them cease, nor does the restrictive fabric against news companies, excluded with blockades from the Internet landscape, soften.

As in the previous edition, the exercise of journalism does not enjoy the guarantees typical of a democracy. The actions described in this report warrant that, in this third edition, this country is in the group of those without freedom of expression. Far from improving, Venezuela is now not the last, but the one before last in the study, a variation that is due to a decrease – albeit not an end – of crimes against news professionals in the country, and the dismal performance of the nation that now holds the last position in the Index: Nicaragua.

Violations of Venezuelans' communication rights could continue and intensify in the next study period, with the beginning of the political campaign for the upcoming presidential elections.

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