

Panama

Low restrictions, judicial harassment, opacity and hostility to media

Executive Summary

Although it remains within the range of low freedom of expression and press restriction countries, Panama's ranking goes two places down and 3.5 percentage points in this period, and is ranked eighth, one row shy from those with restrictions. The period analyzed was a pre-election period, also characterized by broad social demonstrations in which attacks on media employees, manifestations of hostility toward the media were recorded, while official opacity and judicial harassment against media and newsmen remained.

Introduction

The period analyzed stood out for two uniquely relevant events: broad social demonstrations that broke out by the end of 2023 during which hostility towards media and journalists was evident, and May 2024 general elections in which all elected positions were renewed for the 2024-2029 five-year period. Despite situations that at times escalated, exercise of freedom of expression and the press safeguards, although dim, prevailed.

During the social demonstrations due to the National Assembly's hasty approval of a bargaining agreement granting long-term concession to exploit the largest open-pit copper mine in Central America, quickly endorsed by the Chief of State (Monsalve, 2023a), physical attacks against journalists by police officers, but also displays of hostility towards the press by demonstrators, took place (Infobae, 2023).

Aside from that, the election developed amid tensions arising from the uncertainty regarding the participation of the presidential nominee from one of the coalitions that participated in the process, since its representative had been convicted of money laundering, was therefore barred from holding public office (Aparicio and Vega, 2024), and sought refuge at the Nicaraguan embassy (Coriat, 2024). The replacement of this candidacy, which was definite just two days before election day (*France 24*, 2024), brought up and down on the filling of this vacancy.

As in 2023, Panama is placed in the upper range this year, which is in accordance with low freedom of expression and the press restriction countries. However, on this occasion it ranks eighth as it scored 61.73 over a possible hundred, which means two seats and 3.51 percentage points lower than the previous period in which it ranked sixth with 65.24 points, one row shy from ending up in the restricted-country group.

The ranking that results from expert consultation accounts for the situation and the facts described in the initial paragraphs, which also evolved in a pre-election year, during which complaints about violations of electoral code provisions associated with the so-called "smearing" or disinformation campaigns also came up, as well as complaints about the discretionary

distribution of advertising by the government and autonomous government agency among media outlets supporting the official narrative.

Results Analysis

Executive environment

The executive environment has a moderate influence on situations unfavorable to freedom of expression, scoring a total of 2.81 points. Its highest impact is on the Citizens Free to Express Themselves realm, where a 3.63-point moderate influence is recorded, the highest among all Panama's scores. The other two realms, Violence and Impunity against Journalists and Media, and Control over The Media and Journalism, show a mild influence, 2.50 and 2.29 points, respectively.

In the context of a pre-election year with remarkable, severe criticism regarding public funds management, one of the period's highlights had to do with the Resolution 71 effects. This was issued in the August 2021 *Gaceta Oficial* and limited access to the minutes of the Cabinet Council for a decade.

The aforementioned government disposition continued to receive backlash from the media and press, because it served as a public information barrier. Said access is a 2002 Transparency Law-safeguarded right, and is necessary to support the several reports on corruption case. Corruption is systemic in the country (Peralta, 2024) and central to the concerns of the Panamanian population, according to surveys (Valecillos, 2024). The refusal of official agencies to comply with this law also raised questions (Palm, 2024a).

Also notable from this period are the controversies over the increase and selective allocation of official advertising (Morales Gil, 2023). According to reports, this was aimed at promoting the contested agreement between Panama's government and the mining company, as well as the soon-to-end administration's alleged achievements.

Legislative Environment

The Legislative environment comes after the Executive Branch in terms of influence, scoring 2.79 points (a moderate influence). All realms, excepting Control Over The Media and Journalism (2.50 points, mild influence), show a moderate influence. Citizens Free to Express Themselves gained 3.29 points, while Violence and Impunity against Journalists and Media scores 2.58.

Although the Legislative Council did not enact laws to limit freedom of expression, the experts consulted assure that it is a hallmark in terms of public information opacity. According to the Legislative Transparency Latin American Index, Panama's Congress is the opaqueness in terms of Budget and Administrative Management. Analyses carried out by NGO Libertad Ciudadana, Panama's Transparency International branch, "the budget commission is especially opaque in its discussions and much of its internal documentation is not posted. Furthermore, no detailed breakdown and justification of the Legislative Body's budget is given" (Libertad Ciudadana, 2023).

According to this civil organization, in order for the media and journalists to be able to deliver quality information, the legislative institution, whose budget swells from year to year, should

offer periodic reports on how these funds are used, the staff they hire, the expenses officers incur, et cetera. This is a task whose completion is long-overdue.

Judiciary environment

The Judicial Branch is the one recording the lowest degree of unfavorable influence on freedom of the press, although decisions issued from it, based on applying of the Criminal Code, impact freedom of the press and expression.

Showing an overall 1.79, its influence is rated as mild in all realms. Like the other environments, the greatest impact is reflected at Citizens Free to Express Themselves (two points). Violence and Impunity against Journalists and Media hits 1.79, while Control over The Media and Journalism records 1.58.

The use of the Criminal Code, which classifies libel and slander as crimes against honor, and consider them aggravated when committed through oral or written mass media, or using a computer system, characterizes this environment. The Criminal Code provides for sanctions ranging from six to twelve months in prison or its penalty-day equivalent for libel, and from twelve to eighteen months in prison or its penalty-day equivalent for slander. (Attorney General's Office, 2016). Although no penalty is applied when it comes to public officers, civil liability is not excluded, so sanctions provided for are for cash and civil lawsuits set no limit amounts (Botero Marino et al., 2017).

Experts consulted for the Index bashed the judicial procedures that, based on these criminal code provisions, are applied to silence media and journalists, thereby committing some form of judicial harassment. According to the legislation, when a claim for damages is filed, before a favorable judgment has been issued, the plaintiff can advance freezing the assets of the media, confiscate media's managers and/or journalists' assets, or intervene in media companies' administration. Although it is not the only case, newspaper *La Prensa's* company instance stands out. A bit over a million dollars have been frozen preemptively in a process that has lasted more than ten years (Palm, 2023).

Another Judiciary-related case is the sentence confirmed in a second hearing, that can be appealed at the Supreme Court of Justice, against Eduardo Narváez (known as Edunar54 in his social media) for the alleged psychological damage caused to the nation's former Attorney General Kenia Porcell with his Instagram posts. The Attorney General's Office requested an eight-year prison sentence for Narváez (Díaz, 2024).

In the Legislative Branch, Criminal Code bills or revisions have been submitted, aiming at the safeguard of the media and journalists. Some of the requests are the incorporation of safeguards against procedural harassment, the decriminalization of slander and libel, and the inclusion of the concept of actual malice as necessary evidence for the determination of civil liability (Testa, 2023). To date, none have been discussed.

The realms

Citizens Free to Express Themselves

Sub-realms (information flow, free speech and government efforts against disinformation)

Citizens Free to Express Themselves scored 15.15 over thirty points tops. The sub-realm that seems to be affected the most is information flow (6.13 points). Free speech and government efforts against disinformation come up next with 5.63 and 3.38 points respectively.

According to those consulted, the heaviest influence's source for this realm is the Executive Branch, scoring 3.63 points (moderate influence). The Legislative Branch (3.29), also appears with the same degree of influence; from the Judiciary's end, a mild influence is shown, with only two points.

In various conferences and auditoriums, individuals, institutions and governments have expressed their concern for the deterioration of freedom of expression and of the press in Panama (United States Embassy in Panama, 2023). The restrictions on access to public information promoted by the Executive Branch and the behavior of institutions such as the National Assembly have brought on serious concerns. Likewise, resistance to discussing the Criminal Code's revision, whose provisions are often leveraged to exert undue pressure on the media and journalists, is present.

In this environment, challenges to access public information, essential for the exercise of quality journalism, are a major issue. When calling on the authority that must ensure transparency and access to public information is done, the requests have not been heeded (Palm, 2024b); an example is the infamous financial aid case (EFE Agency, 2024) from Instituto para la Formación y Aprovechamiento de Recursos Humanos (IFARHU), which was awarded to officers' relatives.

Likewise, although emerging, influence or disinformation social media (Facebook and Instagram) campaigns have been detected, especially against two presidential nominees in the election campaign's backdrop. Use of artificial intelligence tools was detected in them. Investigations are far from assigning responsibilities. Although the electoral institution asked Meta to turn it off, this did not happen (Salcedo et al., 2024).

Violence and Impunity against Journalists and The Media

Subdimensions: protection, efforts against persecution and impunity

Out of possible forty points, realm Violence and Impunity against Journalists and Media scored 10.99. The sub-realm that seems to be affected the most is impunity (eight points). Persecution and protection come up next (3.07 and 0,38 points, respectively). Those consulted state that this realm records a moderate influence from the legislative environment and a mild influence from the Executive and Judiciary, with 2.50 and 1.79 points, respectively.

During the November 2023 demonstrations, a photojournalist —from an environmental organization— who was documenting them lost an eye, presumably due to a shot from a National Police officer. The institution denied its participation, but the media employee pressed charges (Monsalve, 2023b). The case remains unpunished.

Other actions against the media and journalists took place during these protests (Sindicato de Periodistas de Panamá, 2023), and in the middle of the election campaign. Groups of demonstrators harassed reporters who were doing their job, called them “sellouts,” and the country's main union supported intimidation at the facilities of a television broadcast station (*SwissInfo*, 2023). Television reporters were attacked when they were covering the first presidential debate, by members from that union that supported one of the presidential nominees (Sotillo, 2024).

On the other hand, the exercise of journalism in Panama does not deal with any type of restrictions. Membership to a guild is not required, and professionals are free to join or not the different existing trade associations. The profession is not regulated or regulated, either. Despite the existence of a major in several universities, a college degree is not enforced for the exercise of journalism.

Control Over The Media and Journalism

Sub-realms: direct control, indirect control, exercise of journalism

Realm Control over Media and Journalists scored 24.63/thirty. The sub-realm that seems to be affected the most is direct control over the media (12.38 points). Control over the exercise of journalism and indirect control over the media (6.25 and six points, respectively) come up next. Our experts expressed the opinion that all environments showed a mild influence in this dimension, being the Legislative Branch's the highest (2.50 points).

As to direct control, it is noteworthy the court ruling issued in the so-called New Business case—related to the purchase of company Editora Panamá América, S.A. (Epasa)— includes the confiscation of that company's shares in favor of the government, although when this report was being drafted the media belonging this group continue to publish untroubled.

In Panama, space for cyberpreneurship is a healthy one. A Fundación-Gabo-published new media plan (2024) revealed the existence of numerous general and specialized information portals, mostly managed by women.

There are no records of any type of platform blocking, nor have pressures been reported on technological proxies or necessary input providers for the collection, preparation or dissemination of information from the press. Questions about the indirect control of the media fall on the selective allocation of advertising, specifically by Executive-Branch or related agencies.

Conclusions

In general terms, Panama's decline in the barometer is a cause for concern. The country went down two seats and scored 3.51 percentage points less than the previous period, ranking at the edge of the group corresponding to countries with restrictions on freedom of expression and the press.

Those consulted for this report expressed their concern about this situation. They pointed out persistent problems, such as judicial harassment toward media and journalists and state agencies opacity, reluctant to comply with the duties mandated by the Transparency and Public Information Access Act. Likewise, the emergence of hostility towards the media and journalists is concerning.

A new five-year government period always raises expectations. We hope that critical problems over which debating and promises arose during the election campaign, such as the discussion and approval of new statutes governing social security, will take place in a climate of transparency that will allow citizens to be broadly informed about the various points of view.

Likewise, we hope that the new National Assembly, in which an unprecedented group consisting in twenty independent representatives has entered to play an important role, will be able to successfully encourage discussions on reforms or laws promoting the end of judicial harassment, regulate the government advertising allocation to ensure an equal distribution, as well as greater transparency in the administration of the institution's bloated budget.

It is also our hope that the media as a whole and their journalists will listen to the demands from certain parties requesting greater coverage of issues of interest to them, an openness that could contribute to undermining the efforts that are beginning to be perceived in the media and social-digital media, aimed at discrediting the media industry as a whole with the risks that this entails for democracy.

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