

CUBA: The survival of freedom of expression in the face of the legalization of censorship

Executive summary

Cuba has been classified again, according to the Chapultepec Index of Freedom of Expression and Press, as one of the countries on the American continent where this human right is restricted; one of the worse evaluated with 16.94 points out of a possible hundred, which makes it a nation without freedom of expression. Such an evaluation is the result of the criminalization of freedom of expression with the signing of the new Social Communication law, with the application of Decree-Law 370, and the censorship and repression of independent journalists, writers, political activists or any citizen. that projects itself differently from the Government's policy or denounces the reality that exists within the Island.

Introduction

Another period in which the Cuban dictatorship, through its different repressive bodies (Department of Governmental Security, National Revolutionary Police...) continues to mutilate freedom of expression and the press. Restrictions in the digital space, arbitrary detentions, interrogations, forced exile, immigration regulations, threats of imprisonment and unjust sanctions remain in the period measured.

Reporters Without Borders, a non-governmental organization that each year compares the degree of press freedom enjoyed by journalists and the media in 180 countries, ranked Cuba in 168th place in 2024, thus being the worst country in Latin America in terms of restriction on freedom of the press.

Independent journalism, for example, is increasingly limited on the island and the danger of practicing it has increased, since not only are legal provisions that limit freedom of expression, press and access to public information such as the Decree-Law 370, which prohibits the dissemination of information "contrary to social interest, morality, good customs and the integrity of people" (Article 19, 2020) and Decree-Law 35, which not only aims to ensure that services of telecommunications are an instrument for the defense of the Revolution, but it sanctions those who publish content on social networks that can be considered cybercrimes for expressing discontent with the regime in Havana.

Also this year, the Social Communication Law approved in 2023 by the National Assembly of People's Power was made official, which "regulates the Social Communication System for its strategic and integrated management in socialist society", therefore restricting the rights of free expression of independent communicators, intellectuals, academics and dissidents with State policy.

Another legal provision that remains active and that has been a legal instrument of threats and extortion by repressive bodies is the new Cuban Penal Code that replaced the one enacted in

1987. This legislation restricts the exercise of freedom of expression, demonstration and press. in Cuba, which characterizes it as a repressive law.

In the period of time analyzed, the persecution of reporters, independent media, activists and any citizen who expresses themselves against the economic crisis that the Island is going through continued. Thousands of Cubans have emigrated not only to improve their quality of life, but also for fear of repression. Many independent communicators have also decided to remain anonymous.

During this period, the news was the exile of journalist Lazaro Yuri Valle Roca, after three years in prison, five years of unjust conviction for allegedly launching leaflets commemorating the birth of Cuban hero Antonio Maceo; Likewise, the new requirement for young Cuban women who enter the Bachelor's Degree in Journalism starting in the 2024-2025 academic year has been of interest: completing one year of Active Military Service.

Analysis of the results

More and more Cubans are dissenting from the government of Miguel Mario Diaz-Canel Bermudez, motivated, in part, by the serious economic and energy crisis that the country is going through. The repressive machinery has continued to rise against all those citizens who express themselves publicly, through demonstrations in public spaces or on social networks, against their management and to denounce constant violations of human rights.

Executive branch

The Cuban Government has maintained control of the written press, television and radio (with editorial policies subordinated to the interests of the Communist Party) for more than six decades, first with Fidel Castro and his brother Raúl as rulers, and now with Miguel Diaz-Canel as Head of the Council of State and Ministers.

From August 2, 2023 to August 1, 2024, according to the experts consulted to evaluate the executive environment, Cuba obtained 7.26 points out of a maximum of ten (where ten is very influential), so the degree of influence of the executive branch is very strong in situations unfavorable to freedom of expression.

It has been another period in which freedom of expression and press, as well as the right to hold a demonstration, have been restricted. Political persecution of independent reporters has increased; those who continue reporting within the Island develop journalism in a hostile environment, with the constant fear of being criminally prosecuted.

Journalist Lazaro Yuri Valle Roca, who was serving a five-year prison sentence in the Combinado del Este maximum security prison, was forced into exile to the United States along with his wife Eralidis Frómeta. At the time of his exile he was in a critical health situation.

Another journalist, Carlos Michael Morales, is currently serving an eight-month sentence of house arrest and the political police have threatened to imprison him again if he does not work with the Government. They have offered him exile if he obtains a visa to permanently leave Cuba.

Community media based on the Island such as *Amanecer Habanero*, *El Espirituano*, *Panorama Pinareño*, *Páginas Villaclareñas* and *El Majadero de Artemisa* continue to develop their biweekly bulletins despite the repression of governmental Security bodies against their correspondents and directors.

Legislative branch

The legislative branch obtained 7.00 points out of ten, with a strong influence on situations unfavorable to freedom of expression. This is due to the fact that during the analyzed period the application of Decree-Law 370, also known as the “Azote Law,” continued. Under this law, journalist Julio Aleaga Pesant, a contributor to the newspaper *14ymedio*, was fined 3,000 pesos in national currency due to his publications on social networks that criticized the lack of rights in Cuba and the repression that the regime exercises against its citizens. He was warned by the political police that their work equipment could be seized.

Also sanctioned for violating this decree with their publications on digital platforms were Camagüey journalist Jose Luis Tan Estrada, collaborator of *Cubamet*, and the Guantanamo worker Yasser Ravelo Diaz, for publishing complaints and analyzes in the independent media *ADN Cuba*.

Decree-Law 35 remains in force, with the objective of "contributing to the use of telecommunications services being an instrument for the defense of the Revolution", and which sanctions those who spread false news or defamations that harm the prestige of the country. The new Social Communication Law, which regulates the content in the Cuban official press and generally criminalizes press freedom on the island, has already become official.

The regulations do not recognize any other type of ownership over local media other than State ownership, as established in Article 55 of the Constitution of the Republic of Cuba. It indicates that “the fundamental media of social communication [...] are socialist property [...]; and they cannot be the object of any other type of property.”

The new Penal Code, approved in May 2022, remains in force as the main coercive legal tool against independent communicators; above all, with threats of long prison sentences and even the death penalty. The law prohibits financing from foreign sources (article 143), condemning this “infraction” with penalties of up to ten years in prison. Through this, a criminal figure “will be punished who, on his own or on behalf of non-governmental organizations [...] supports, promotes, finances, provides, receives or has in his possession funds [...] with the purpose of defraying activities against the Government and its constitutional order.” (*El Toque*, 2022).

Judicial branch

Of ten possible points, the judicial environment was valued with 7.06, which constitutes a strong influence on situations unfavorable to freedom of expression. From August 2023 to August 2024, house arrests, arbitrary detentions and court summonses remained constant for independent journalists and artists, peaceful human rights activists and intellectuals.

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Other reporters were arrested without a warrant by political police agents, such as Jose Luis Tan Estrada, who was detained for five days in the “headquarters” of the Cuban governmental Security, Villa Marista, subjected to torture and long interrogations. Tan Estrada was held incommunicado for hours, which generated reports of forced disappearance.

The independent journalist Jorge Amado Robert Vera, a contributor to *Diario de Cuba*, was detained by governmental Security in Santiago de Cuba, and stripped of his phone and 540

euros; Yeris Curbelo Aguilera (currently in prison), from the *Palenque Visión* agency, was arrested to prevent him from covering the trial against the protesters in the Guantanamo town of Caimanera; and *CubaNet* collaborator, Vladimir Turro Páez, was arrested when leaving the national headquarters of the Ladies in White organization, where he was interviewing its leader Berta Soler and former political prisoner Ángel Moya.

Professor Alina Bárbara López Hernández was put on trial for political reasons and found guilty of the alleged crime of disobedience, for refusing to pay a fine that was imposed on her after carrying out a peaceful protest on public roads. According to an article published in “Cuba Próxima”, Center for Studies on the Rule of Law, this judicial process “results from an anti-democratic sociopolitical model contrary to the Rule of Law” and “confirms the tendency to increase repression and violence of the Government”, since “they reach exponents of all social sectors, including intellectuals and artists of any tendency within the broad spectrum of dissent in the country.”

It is important to mention that at this stage the young Cuban Sulmira Martínez Pérez is still detained and awaiting trial, for whom the Prosecutor's Office requests a sanction of ten years in prison for the crimes of propaganda against the constitutional order and contempt. Sulmira is known on social networks as Salem de Cuba and was accused of calling, through Facebook, a day of protests similar to that of July 11, 2021.

REALM: Informed citizenry free to express themselves

As a consequence of censorship and restrictions on freedom of expression in the digital and physical space, Cuban citizens do not have the freedom to express themselves. Out of thirty possible points it reached 1.50. Likewise, the subdimension “information flow” was valued with 0.17 points out of a total of eleven; “free expression” with 0.83 out of nine and “misinformation” with 0.50 out of a maximum of ten points.

For Cuban citizens, the flow of information remains limited. The Communist Party of Cuba governs the editorial policies of the official media; however, with the computerization of society, citizens consume more news that comes not only from social networks, but also from independent and alternative media.

To control what is published and consumed on the Internet, for example, the Cuban government has regulations such as the aforementioned decrees 370 and 35, which turns the digital environment into a media where freedom of public information is also restricted; likewise, the most recent Social Communication Law maintains, among other provisions, that the content shared in physical or digital public spaces can under no circumstances be used with the objective of subverting the constitutional order and destabilizing the socialist government of law and social justice.

Through the Telecommunications Company, a monopoly that controls calls and text and voice messaging in Cuba, mobile data and Wi-Fi connections and all public telecommunications services, the government controls and limits the internet, slowing down connectivity or cutting off totally that service.

Journalists such as Yoani Sanchez and Reinaldo Escobar of the digital newspaper *14ymedio*, *CubaNet* collaborator Adelth Bonne Gamboa, directors and journalists of the community media of the Cuban Institute for Freedom of Expression and Press and other communicators and human rights activists suffered restrictions in the digital environment, especially on significant dates.

During this period, the verification and data service *Martí Verifica*, associated with *Martí Noticias* and whose purpose is to verify public discourse and counteract viral disinformation related to Cuba, announced that its access was blocked on the Island.

REALM: Violence and Impunity Against Journalists and Media

Those communicators and media that continue to develop the profession to show the Cuban citizens themselves and the rest of the world the reality of the island, the stories of those imprisoned for political reasons, the discontent of the "ordinary" people not only with the economic crisis that the nation is going through, but with the political system in general, they are victims of arrests, harassment, physical and psychological attacks, searches and seizures. Practicing the profession in Cuba, independently, is becoming more complex every day.

At this stage, journalist Lazaro Yuri Valle Roca was kept in prison until his exile. His physical and mental health deteriorated in prison due to the cruel and inhuman treatment to which he was subjected.

CubaNet collaborator Angel Cuza was also sentenced to one year and six months in prison for the alleged violation of public disorder (a common crime); In this case, it is evident that the sentence responds, especially, to political reasons for his reporting work.

Carlos Milanés Tejeda, a collaborator of *ADN Cuba*, was attacked by governmental Security agents while he was reporting on the poor conditions of the Triton hotel in Havana. The officers ordered him to hand over the phone and when he refused, they snatched it from his hand and threw it to the ground.

Communicators from one of the community media outlets of the Cuban Institute for Freedom of Expression and Press, *Panorama Pinareño*, suffered arrests and the confiscation of their production equipment: a laptop, a printer, a hard drive, USB flash drives and the sheets on which the bulletins are printed with news and opinion articles that are then distributed among the population of the Pinar del Río community.

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The result is that this realm was evaluated by the experts with 5.81 points out of a theoretical maximum of twenty.

REALM: Control of Media and Journalists

The experts awarded this dimension 3.83 points out of a maximum of thirty. The Caribbean nation has a single Party (the Communist Party), which controls all media, except alternative or independent media, therefore it is impossible to monopolize all the information that reaches citizens.

In the period from August 2, 2023 to August 1, 2024, as one of the main forms of censorship and control in cyberspace, independent media websites considered mercenary and that have their servers abroad are still blocked (*Diario de Cuba, CiberCuba, CubaNet, Diario Las Américas, 14ymedio...*) which can only be accessed through the so-called VPN (Virtual Private Network).

The Cuban government, through its repressive arms, uses immigration regulation to control and intimidate independent communicators, academics, artists and activists. Citizens are threatened with not being allowed to leave the country, or with the possibility that once they leave they will not be able to enter. This is the case of academic Rene Fidel Gonzalez Garcia, who was also threatened with prosecution for alleged crimes of enemy propaganda, contempt and disobedience, due to his publications on social networks, where he has questioned the exclusion and political discrimination that exists in Cuba. At this time, immigration regulations are also maintained for journalists Reinaldo Escobar, Camila Acosta, Anais Remon and Henry Constantin.

A new form of control of journalists and the media became known in this period, the completion of one year of Active Military Service for young women who opt for a Bachelor's Degree in Journalism. This requirement, only required until now for the Bachelor's Degree in International Relations, ratifies the marked political and ideological nature of journalism on the Island, as well as its total domination by the Communist Party, typical of authoritarian regimes.

Conclusions

The experts consulted for the analysis of the Chapultepec Index of Freedom of Expression and Press, in the period from August 2, 2023 to August 1, 2024, concluded that the most deteriorated environment in Cuba is the Executive Branch, with a very strong influence in situations unfavorable to freedom of expression. The most damaged dimension is that related to the flow of information and free expression; at the same time, the Legislative and Judicial powers and the realm on violence and impunity remain with a moderate influence.

The right to exercise freedom of expression, press, assembly and demonstration in Cuba continues to deteriorate year after year. The Havana regime punishes with prison, fines, immigration regulations, exile and other documented forms of punishment, all citizens who express themselves and demonstrate freely in physical and digital spaces.

Communicators, intellectuals, artists, activists, and anyone who makes visible the economic and human rights crisis that exists on the Island continue to be at risk. Those citizens who, due to the economic and energy crisis, have gone out to demonstrate publicly, a constitutional right that is not respected in totalitarian regimes like Cuba, have been punished with the deprivation of their freedom.

The Cuban intellectual Jorge Fernandez Era and the academic Jenny Pantoja Torres have also endured repression by the political police for demonstrating publicly. Pantoja Torres has been expelled from her job and has suffered forced house arrest for using the right to demonstrate. Both she and the intellectual Alina Barbara Lopez Hernandez protest peacefully on the 18th of each month to demand from the regime a democratically elected National Constituent Assembly that drafts a new Constitution applicable in all its parts. They also demonstrate for the freedom of political prisoners without mandatory exile and for the cessation of harassment of people who exercise their freedom of expression.

Given significant dates for Cuban dissidence such as July 11 (historic anti-government protests), December 10 (International Human Rights Day), January 28 (birthday of the Cuban Apostle Jose Marti), the 1st of May (workers' day) and May 20 (commemoration of the 120th anniversary of the birth of the Republic of Cuba), the Cuban government - through the Department of State Security and the National Revolutionary Police - summons, interrogates and arbitrarily detains independent reporters and peaceful activists.

Independent journalism survives and resists the new forms of criminalization and legalization of censorship in Cuba, so the next analysis of the Chapultepec Index could, again, show no changes. The management of Miguel Diaz-Canel Bermudez, who has perpetuated the dominance of the Castro dictatorship, has only made clear his tendency to increase repression and censorship to restrict freedom of expression, press and demonstration on the Island.

Referencias

ARTICLE 19 analiza la libertad de expresión en Cuba durante el primer semestre de 2023. (2023, agosto 24). *Artículo 19*. <https://articulo19.org/article-19-analiza-la-libertad-de-expresion-en-cuba-durante-el-primer-semester-de-2023/>

Cuba: Decreto de telecomunicaciones cercena la libertad de expresión. (2021, agosto 25). Human Rights Watch. <https://www.hrw.org/es/news/2021/08/25/cuba-decreto-de-telecomunicaciones-cercena-la-libertad-de-expresion>

Cuba: derechos digitales en crisis (1ro -31 de octubre de 2022). (2022, noviembre 4). YucaByte. <https://www.yucabyte.org/2022/11/04/derechos-digitales-48/>

Cuba: El Decreto Ley 370 debe ser declarado inconstitucional pues atenta contra la libertad de expresión y de prensa. (2020, junio 15). *Artículo 19*. <https://articulo19.org/cuba-organizaciones-y-medios-de-comunicacion-respaldamos-la-peticion-para-declarar-inconstitucional-el-decreto-ley-370-en-cuba/>

Cuba: El nuevo Código Penal presenta un panorama aterrador para 2023 y años posteriores. (2022, diciembre 2). Amnistía Internacional. <https://www.amnesty.org/es/latest/press-release/2022/12/cuba-el-nuevo-codigo-penal-presenta-un-panorama-aterrador-para-2023-y-anos-posteriores/>

Cuba y Nicaragua: países donde el periodismo independiente es un crimen - Race and Equality. (2024, mayo 3). Raza & Igualdad; Race and Equality Inc. <https://raceandequality.org/es/resources/cuba-y-nicaragua-paises-donde-el-periodismo-independiente-es-un-crimen/>

Cubalex expone abusos y complicidad judicial en detención de José Luis Tan. (2024, mayo 15). Cubanet. <https://www.cubanet.org/cubalex-expone-abusos-y-complicidad-judicial-en-detencion-de-jose-luis-tan/>

Decreto-Ley 35: el derecho de Cuba y de todos los cubanos (+Video). (2021, agosto 20). Granma. <https://www.granma.cu/cuba/2021-08-20/decreto-ley-35-el-derecho-de-cuba-y-de-todos-los-cubanos-20-08-2021-00-08-06>

El juicio a la profesora Alina Bárbara López resulta de un modelo contrario al Estado de Derecho - Cuba Próxima. (2024, febrero 5). Cuba Próxima. <https://cubaproxima.org/el-juicio-a-la-profesora-alina-barbara-lopez-resulta-de-un-modelo-contrario-al-estado-de-derecho/>

El régimen cubano firma la Ley de Comunicación Social un año después de aprobarla. (2024, junio 5). 14ymedio. https://www.14ymedio.com/cuba/regimen-cubano-firma-ley-comunicacion_1_1103107.html

Fuentes, I. (2024, septiembre 26). *Derecho a la libre expresión en Cuba: prohibido por ley*. Cubanet. <https://www.cubanet.org/derecho-a-la-libre-expresion-en-cuba-prohibido-por-ley/>

González de la Torre, R. (2024, septiembre 22). *La imposición del Servicio Militar a las jóvenes aspirantes a estudiar Periodismo ya tiene consecuencias*. Diario de Cuba https://diariodecuba.com/cuba/1726781109_57285.html

Imponen una multa de 3.000 pesos al periodista Julio Aleaga por sus publicaciones en las redes. (2024, junio 20). 14ymedio. https://www.14ymedio.com/cuba/imponen-multa-3-000-pesos_1_1103536.html

La Asamblea Nacional cubana aprueba la Ley de Comunicación Social. (2023, mayo 27). Diario de Cuba. https://diariodecuba.com/cuba/1685058032_47406.html

La Ley de Comunicación Social de Cuba hiere de muerte a la libertad de prensa. (s. f.). Rsf.org. Recuperado 2 de octubre de 2024, de <https://rsf.org/es/la-ley-de-comunicaci%C3%B3n-social-de-cuba-hiere-de-muerte-la-libertad-de-prensa>

La SIP condena nueva ley en Cuba que legaliza la censura oficial. (2023, junio 7). SIP. https://www.sipiapa.org/notas/1215966-la-sip-condena-nueva-ley-cuba-que-legaliza-la-censura-oficial?fbclid=IwAR37-XsHwTWG8aMU_12Nvihsw9wF7vewpGYB5zIOz-GckRI0vgTt3W13pRE

LEYES DE PAPEL. (2023). Iclep. https://iclep.org/media/upload/balances_parciales/2023/Leyes_de_papel_an%C3%A1lisis_del_marco_jur%C3%ADdico_cubano_vs_libe_9uKu6lo.pdf

Pérez, K. (2024, septiembre 12). *Exiliarse y seguir: qué ha pasado con el periodismo independiente cubano tras el histórico 11J*. ADN Cuba. https://adncuba.com/derechos-humanos/exiliarse-y-seguir-que-ha-pasado-con-el-periodismo-independiente-cubano-tras-el?fbclid=IwY2xjawFirMhleHRuA2FibQlxMAABHSxKyUfldyxqYKpYwE2I8jvshwDJ39UE_QS_rqH601BSepg3mdCGf4IWw_aem_kGZP1S5Ek53rzgd_LS8VQ

Rolando. (2024, enero 30). *La mejor noticia, periodismo. La voz de Cabaiguán*. https://www.rcabaiguan.cu/la-mejor-noticia-periodismo-audio/?amp&fbclid=IwAR08NQ_ONATIHMq-y9vplP9qk8ESqn3Ln5uOIIIZER5DssaPDjKdniMBAQ

Saguaro, A. (2024, marzo 28). *Periodismo militarizado: formación de los cronistas del «campamento Cuba»*. Diario de Cuba. https://diariodecuba.com/cuba/1701682110_51386.html

Salvia, G. C. (2023, septiembre 6). *De mal en peor*. CADAL. <https://www.cadal.org/informes/pdf/De-mal-en-peor-Cuba-ante-su-cuarto-examen-de-derechos-humanos.pdf>

