

## **CANADA**

### **A MEDIA SYSTEM UNDER STRESS**

### **WITH THREATS TO FREEDOM OF EXPRESSION**

#### **Executive Summary**

During this period Canada faced the challenges and contradictions met by democracies in times of accelerated technological change, the change of populist ideologies and political correctness, and the weakening of mainstream journalism institutions. The general atmosphere is towards the respect for freedom of expression and the free exercise of journalism. There are, however, symptoms that indicate that the rights of journalists are not always guaranteed. Also, the more indirect intervention of the federal government for the financing of the media in contrast to the fierce competition from large digital corporations raises questions about the possible impact of these interventions on the freedom of information and opinion.

#### **Introduction**

Canada moves up one position in the Chapultepec Index compared to the results of the survey for the previous period (2022-2023), attaining now third place, after Chile and the Dominican Republic. Issues that contributed to this change of position was the decrease in attacks on journalists and media outlets, and the observation of fewer initiatives - by different institutions - to restrict freedom of expression that had been registered in the previous period, especially during the final phase of the Covid-19 pandemic peak and other events associated with Canada's domestic and foreign policy; especially those related to the tense relations the country has with international stakeholders like Russia and China with fewer events of censorship and control over the media associated with those countries.

The period surveyed was marked by precariousness and job losses in the area of journalism, as media outlets closed or had to lay off reporters. This is part of an ongoing trend following years of the disappearance of local press, the closure of region correspondent agencies, and the weakening of mainstream media system to the benefit of digital conglomerates and the so-called social media.

The approval of the federal law known as "The Online News Act" requires large digital companies such as Meta, Google and X to share part of their revenues with the platforms and newspapers that generate news. This law continues to be a point of tension and limitations on the access to information. In the case of Meta, this corporation blocked access to (news) hyperlinks to other platforms from Facebook and Instagram messaging. Google, for its part, signed an agreement with the federal government to compensate organizations that disseminate news and to not block access to its content from Canada. These funds, estimated at 100 million Canadian dollars, will go to a body that will be in charge of assisting the media.

Another factor that has added to the recording of certain incidents that would limit freedom of expression has to do with the protests that have taken place in the country both on the side of Canada's indigenous peoples as well as the pro-Hamas groups that demonstrated in different

Canadian cities over the Israeli response after the terrorist group attacked, killed, and kidnapped some Israelis on October 7, 2023.

Overall, Canada remains a country where the separation of powers and a strong civil society and media organizations watch over attacks on the media and journalists, allow a general atmosphere of freedom of expression and access to sources of information. Aspects that produce significant disruptions in the framework of news coverage and expression of opinion in Canada are the impact of international conflicts in the Canadian context, and the pressure against more traditional models of journalism and news dissemination resulting of the growing influence of large digital corporations over media economy (e.g. the growing advertising revenues from digital platforms vs. its decline in print, TV, and radio media).

## **Result Analysis**

### **Executive**

Although the influence of the Executive Branch in Canada appears to be minor, according to the experts consulted, it is noteworthy that of the three branches of government, the Prime Minister and his cabinet have - according to the experts consulted - a relatively greater influence than the other branches. Several reasons may explain this matter. One pertains to the initiative taken by the Executive Branch in Parliament to pass an “Online News Act” for large digital corporations such as Google, Meta, and X to compensate Canadian news portals and media for the use or reposting of their content (Canadian Association of Journalists, 2023). This, although it has generated joy in the media sector, may be perceived by the public and experts as a direct interference of the government in the regulation of the dissemination of news and other content.

The other factor that adds to give more relative weight to the influence of the Executive Branch is that the government introduced a bill in the Parliament to reform the country's criminal code and other legal provisions such as the Human Rights Statute with the purpose of controlling and criminalizing hate speech and other harmful actions through digital networks (Government of Canada, 2024). Although the bill has not yet been approved at the time of this submission, its introduction and promotion by the federal government may create the impression that - with this law - the Executive seeks to limit freedom of expression on online platforms (Van Geyn, 2024).

A third element that may affect the perception of relative influence by the Executive Branch is that the government has adopted a policy of tax credits to benefit the media, especially the press and small regional media to allow them to overcome the difficulties they face due to loss of advertising revenue and the decrease in circulation and impact (Basu, 2024). Again, an indirect government intervention in this aspect may also generate a perception of control of freedom of expression, although this is not the case.

### **Legislative**

The Canadian parliamentary system means that the actions of the Legislative Branch and the Executive Branch can overlap because the federal government executes its policies based on the majority it has in the parliament to support these policies (which translate into laws). In the current case, the government headed by Prime Minister Justin Trudeau of the Liberal party relies on a shaky alliance it has with the center-left New Democratic Party (NDP) to stay in power. Formally NDP leader, Jagmeet Singh, recently announced that he was breaking the legislative agreement with the Liberals, although this did not imply that Trudeau's government would fall by a no-confidence motion (Tasker, 2024).

While the Legislative Environment is perceived as less influential than the Executive Environment, the intervention of one is arguably related to the other insofar as the government depends on the adoption of laws in Parliament to implement its policies. In this regard, some of the government's initiatives have been approved (media tax credits or the Online News Act), but others, such as the Online Harms Act, have met with more resistance from the opposition and sectors of the Liberal party itself. Thus, the influence of the Legislative Environment sometimes works as a counterweight to the initiatives of the Executive Environment.

The same happens with the parliamentary commissions that deal directly or indirectly with matters concerning freedom of expression. Said commissions have certain independence from the guidelines of the executive because they comprise members of all forces. In this regard, the Standing Committee on Canadian Heritage deals directly with media issues, as it did recently with a meeting called National Forum on the Media (Standing Committee on Canadian Heritage, 2024).

## **Judicial**

The influence in respect to the Judicial Environment was perceived as minor, although it is relatively higher than the scored of the Legislative Environment and slightly lower than that of the Executive. The judiciary in Canada, which comprises provincial and federal courts, acts independently of the other branches of government and upholds a high level of public confidence. However, recent rulings at federal or provincial levels may have affected the opinion of the experts surveyed.

An example of the above can be seen in the case of Doug Ford, Ontario Premier. In early 2024, the Supreme Court of Canada, in a unanimous decision, ruled that Ford's mandate letters issued to each of his cabinet ministers in 2018 are exempt from public disclosure. The original request for the premier to disclose the "mandate letters" was made by public broadcaster Radio-Canada/CBC on the basis of Ontario's access to information law. In the journalistic realm, the Supreme Court's decision has been disfavored because of the precedent it creates by protecting secrecy in governance. According to a coalition of several free speech organizations, the Court's decision favors secrecy that erodes the ability of citizens to participate in democracy (Centre for Free Expression et al. 2022). Also, in February 2024, a judge in the province of Manitoba acquitted, (Canadian Association of Journalists, 2024a), the police officers who had seized the camera of Winnipeg Sun's photojournalist Chris Procylo while he was covering a violent incident with a man who was being restrained by law enforcement officers on the streets of Manitoba in 2017, and who was later reported deceased.

Another example that caught the public's attention during the period under review was the disclosure of the so-called "secret trial" in the province of Quebec. The Quebec Court of Appeal ruled on the "secret trial" case in which the identity of an informant was not disclosed, saying that this type of prosecution was contrary to the principles governing the country's justice system. The Supreme Court of Canada agreed to hear the case (Larouche, 2023). From the point of view of the practice of journalism, the lack of transparency of judicial proceedings is a major limitation on the right of citizens to be informed on the details behind court decisions.

## **REALM: CITIZENS FREE TO EXPRESS THEMSELVES**

Although this realm corresponds, in the case of Canada, to a society in which citizens have access to information and can express themselves quite freely, the fact is that there is

supporting evidence that allows us to anticipate the hypothesis of a growing suspicion over the actions of the media and journalists, and even of certain factors of the government.

A survey in the province of Quebec revealed that journalists are ranked 40<sup>th</sup> and one of the 50 most highly valued professions. This represents a low ranking compared to other professions such as firefighters, doctors, nurses, educators, judges, economists, and even policemen (Archambault, 2024). Another survey conducted in the same province by the firm *Léger*, commissioned by the Centre Québécois D'éducation aux Médias et À L'information (CQÉMI), revealed that 40% of the Quebec population thinks that mainstream media manipulate the information they disseminate and that the people have little or no confidence in publications that are disseminated on social media (Léger, 2023). Professor Patrick White of the School of Media at Université du Québec à Montréal, UQAM, expressed that it was alarming that so many citizens questioned the reliability of journalistic information (Sauvé, 2023). The academic believes that mainstream media have the great challenge of regaining the trust of the public, especially the younger generations.

This aligns with a trend by public opinion who express their complaints about the extensive coverage of public issues such as the transgender issue, as proved by the complaints sent to the Ombudsman about the public television network Radio-Canada for the broadcasting of a report that talked about the problems experienced by people who decided to transition to another gender (Paré, 2024). This is part of the growing polarization around issues of sexual and gender identity that have been expressed in the Canadian society (Nahón-Serfaty, 2024).

Events associated with the pro-Hamas protests that have taken place in Canada also point to the public sensitivity to the coverage of such events, the ability of journalists to cover them, and even the expression of viewpoints that may be considered discriminatory or hateful. These events have led to the arrest of people, as it happened in Montreal, giving the impression that freedom of expression is not fully respected in the country.

With regards to the government's actions, the initiative of the federal executive to regulate the use of on-line news through the law approved by Parliament at the government's initiative, is particularly noteworthy. The law seeks to favor Canadian reporting media with compensations by large platforms like Google, Meta (Facebook and Instagram) and X for the news and content they disseminate and which are produced by other sites. The intention to regulate disinformation, and other "post-truth" tactics is also observed by means of the bill introduced by the Minister of Justice to criminalize hate speech and other criminal actions on digital networks. Although this law has not yet been passed, it shows the government's concern of the impact of digital platforms in shaping public opinion (Hrynyshyn, 2024), especially with the promotion of online hate and violence.

## **REALM: VIOLENCE AND IMPUNITY AGAINST JOURNALISTS AND THE MEDIA**

When comparing this present report with other reports of recent data of this Index for Canada, a significant reduction in actions of violence against journalists and the media is observed. And this is confirmed by the perception of the experts consulted, who rate the influence of the different government bodies as quite low or mild.

This does not mean, however, that there were no events in which journalists covering demonstrations and protests have been repressed or arrested. This was the case of Indigenous journalist Brandi Morin who was arrested while covering a police operation against an indigenous protest camp in Edmonton (Alberta) (Kinney, 2024). A similar event took place in Montreal (Quebec), when police arrested the CUTV journalist who was covering a pro-Hamas protest (Montreal Gazette, 2024). Also, journalist Richard Vivian of GuelphToday, whose

camera was confiscated by police in the province of Ontario and who was threatened with detention while covering a car accident with casualties (Pace, 2023).

The Canadian Association of Journalists (CAJ) requested through a statement released in January 2024 for federal, provincial and municipal police to adopt clear policies that prevent journalists from being held or arrested while performing their professional duties. In the statement, CAJ called on all police forces to do what is required to ensure freedom of expression, the safety of journalists, and to provide training for their officers so that they understand the role of the press and respect their work (Canadian Association of Journalists, 2024b).

## **REALM: CONTROL OVER THE MEDIA AND JOURNALISTS**

The perception of the experts surveyed is that none of the government authorities has any influence over the control of the media and journalists. This corresponds to what is expected in a democratic society, where there is a separation of powers and the fundamental rights of citizens are observed. This does not mean the inexistence of tendencies and situations that directly and indirectly affect media operation and the practice of journalism. These aspects have to do with the intervention of the federal government in the affairs of the media through tax credits, laws that regulate the income resulting from the use of online news, and the attempt to control hate speech and other expressions of violence in social media.

The Canadian Journalism Labour Tax Credit law involves a series of tax deductions for organizations that hire a certain number of journalists (Woolf, 2023). Other initiatives in the area of journalism are also intended to support media professionals who undergo dire working situations. This is the case of the Emergency Support Fund for Canadian Journalists, a short-term support fund of the CAJ, that received funds from the Inspirit Foundation, which is intended to provide access to services for journalists who lose their jobs (Inspirit Foundation, 2023). Among this array of initiatives, it is noteworthy to mention the economic impact of the Online News Act created by the Collectif canadien de journalisme / Canadian Journalism Collective (CJC), a body that will ensure that the income resulting from the contributions of companies like Google (which has already announced an amount of 100 million Canadian dollars) will be distributed among the various media outlets (Zaidi, 2024).

All this is taking place in a context of news outlets shutters and media staff downsizing in news and content organizations. This was the case of Global News, a television and radio network, which laid off many journalists (CBC News, 2024). Meanwhile, the Ontario-based Metroland Media Group (Star staff, 2023) and the Quebec-based Métro Média (Reynolds, 2023), which published several local dairies, declared bankruptcy, thus resulting in the dismissal of hundreds of employees, including numerous journalists.

## **Conclusions**

Canada is improving some aspects of freedom of expression, but the nation is also displaying some distressing signs. While the institutional system of separation of powers and a counterbalance of both parliamentary and judicial control, as well as civil society, represent guarantees for the protection of fundamental rights, including freedom of expression and the press, it is also true that some socio-cultural, political and economic trends pose as threats that should not be overlooked.



Mainstream media, including public service media such as CBC/Radio-Canada, are losing their influence, market share, and advertising revenues. This has resulted in the shutdown of many of them and the reduction of staff. In contrast, large digital corporations such as Meta, Google, X, Amazon and others, are augmenting their influence and revenues. Although the federal government has wanted to rebalance the distribution of income between digital conglomerates and mainstream media through laws like the Online News Act, the truth is that it represents a measure with a limited financial impact (the fund created is distributed among many media outlets), while it creates barriers to the circulation of content and news, as Meta has done in its Facebook platform.

The weakening of media outlets with professional foundations that follows ethical and editorial standards, makes access to verified and truthful information more difficult, especially for new generations of media users. Adding to this is the loss of credibility and trust in journalists as revealed by surveys and evaluations of the different occupations and professions. After overcoming the wave of disinformation amidst the Covid-19 pandemic, a substantial distrust has grown towards official information and news disseminated by mainstream media, which is politically used by populist-oriented right-wing and left-wing parties.

The Index also reveals a perception of impunity in cases of journalists being attacked, both by citizens (fewer registries of this phenomenon were observed during this period) and by police forces. There is the impression - supported by some of the prominent examples included in this report - that the arrest of journalists or the confiscation of equipment - such as cameras - are frequent, and are not duly sanctioned by judiciary or by municipal, provincial or federal government entities. Canada is far from the violence and persecution suffered by journalists and the media in other countries of the hemisphere, but it is striking that in certain events of public demonstrations there is the intension to limit the coverage of journalists.

Although there is no direct control by governmental authorities over the work of journalists, there are some signs of interference by the federal government in matters that directly pertain the operation of media outlets invested on news and opinion. The law that offers tax credits to media outlets is an example of this, and it is something that has set off alarms around the likely use of this law to press the media. Also, a matter of concern is the Liberal government's intention to pass a law against hate on digital networks, a double-edged sword that could eventually limit freedom of expression.

The idea of controlling hate speech and violence on the networks goes hand in hand with so-called "identity politics" and debates on issues such as transgender rights. Some argue that a regulation of digital networks would be a way to criminalize discriminatory and demeaning expressions of people of different genders and sexual orientations. On the other hand, there have also been alerts on the potential censorship and self-censorship effect of such policies, which raises questions about the negative impact of political correctness in the journalistic field.

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