

Executive summary: Annual Report of the Office of the Special Rapporteur for Freedom of Expression of the IACHR:

Violence and stigmatization of the press affect freedom of expression in the region; the criminalization of critical voices persists in several countries; and the phenomenon of disinformation gives rise to worrying legislative proposals

Throughout 2017, violence and stigmatization against journalists and those who disseminate ideas and information, as well as illegitimate legal restrictions or through indirect means to freedom of expression were patterns of violations to freedom of expression present in the hemisphere.

In total, this Office has taken note in its report of more than 900 incidents of violations, illegitimate restrictions, or threats to the exercise of the right to freedom of expression.

Of all the different ways of silencing individuals, physical violence, threats, kidnappings, and murders have been highlighted again as the most severe form of restricting freedom of expression and affecting the fundamental rights of communicators. During 2017, more than a third of the incidents recorded by the Office of the Special Rapporteur were related to acts of violence. Among these aggressions, the Office condemns the death of 22 communicators, the assaults against over 200 journalists, and the attacks against 50 media outlets throughout the year under study.

The murders of communicators of undoubted relevance to their respective regions in different countries highlight the big pending challenge to eradicate the most brutal form of censorship. The impunity of these crimes, with some exceptions, remains the rule and this encourages the circle of violence.

According to the annual report presented today, approximately 15% of the cases monitored by this Office are related to acts of repression or disproportionate use of force during demonstrations and protests, a figure that continues to increase year by year.

Attacks against those who express themselves are also recorded on the Internet. More than 10% of attacks against journalists and the media occurred through this network, especially through various forms of improper access to social networks accounts and databases, and actions aimed at preventing the accessibility of websites and services on the web.

Likewise, the phenomenon of deliberate disinformation campaigns grew to unprecedented proportions in 2017 and represents a new challenge to freedom of expression online, since the term "false news" or "fake news" has been used to try to discredit the press, as well as to pass restrictive legislation on freedom of the press and freedom of expression in the digital space.

While violent attacks are the most brutal way of restricting the right to freedom of expression, stigmatizing statements by authorities, which denigrate the image and seek to erode the confidence and recognition of communicators and the press in the face of public, are responsible for around 5% of the incidents recorded by this Office during 2017. The disqualification of the press and its professionals by public officials, due to the simple fact that the journalistic coverage is not aligned with their opinions and policies, increased in a worrying way in some countries of relevant regional projection, which could also affect the rest of the Hemisphere.

Another 5% of the cases included in this hemispheric report respond to lawsuits filed before the criminal system and rulings of disproportionate criminal or civil convictions issued against those who reveal

information of high public interest. The processes initiated against journalists generate in many cases inhibitory effects and the costs to defend themselves, however only in Venezuela and Cuba there were cases of arbitrary deprivation of freedom of journalists.

In the detailed report, the Office of the Special Rapporteur is also reporting on bills or new legal frameworks with potential inhibitory effect on freedom of expression in each country of the region, as well as the right to access to public information. The so-called Law against hate in Venezuela stands out among these laws that threaten freedom of expression due to the vagueness of its crimes and disproportionate sanctions. In most of these cases, the Office of the Rapporteur has sent letters to the States, requested information, or aided the States that discuss laws that part from their international obligation to align their domestic legislation with the standards, recommendations, and statements of the Inter-American System on freedom of expression.

Regarding the perpetrators of the attacks on freedom of expression, approximately 40% of direct attacks were carried out by public officials. Of all the events that represented a setback on freedom of expression in the continent, government officials or the States themselves, through their institutions, were responsible for more than half of them. The rest of the attacks were by organized crime, parastatal groups, and members of private entities.

Notwithstanding these challenges, the Office of the Special Rapporteur has also observed and highlights the progress made by States in terms of freedom of expression, access to public information, and the fight against impunity in crimes related to journalism. This Office has reported the release of imprisoned journalists and whistleblowers, the strengthening of national mechanisms for the protection of journalists, and judgments and legal reforms that incorporate the standards of the Inter-American System in cases related to freedom of expression. Likewise, the Office welcomes the sanctions against material and intellectual authors of attacks against communicators in several countries of the region, which is seen as an optimistic trend.

In an effort to cover the multiplicity of events and contexts that make up the complex reality of the region, the Office of the Special Rapporteur has extensively monitored and analyzed the situation of the right to freedom of expression in the continent throughout 2017 for the making of this report. The Office of the Special Rapporteur finished its Annual Report with a chapter of conclusions and recommendations. The goal of this practice is to establish a fluid dialogue with the member states that will make the Americas an example of respect, guarantee, and promotion of the right to freedom of expression.

Below we present a brief description of the main findings in some of the monitored countries, notwithstanding the fact that the report details the situation and the documented events, in each of the countries of the continent, that imply setbacks or progress with regards to freedom of expression:

Argentina. Wide-ranging sectors, both among those who support the government and the opposition, continue to observe the media and journalists as actors aligned to one or the other side of the political spectrum, which contributes to questioning the credibility of journalism and its role in democracy. During 2017, the Office of the Special Rapporteur also received information regarding attacks and intimidation against journalists, both in the context of investigations into organized crime and corruption, and in situations of social protest or political mobilizations. There are also reports of disproportionate use of force in the context of protests. Among the progress registered, the Government signed Decree 206/2017 regulating Law No. 27.275 on Access to Public Information [*Ley N° 27.275 de Acceso a la Información Pública*]. The decree, which came into force on September 29, 2017, launched the Access to Public Information Agency, which will act within the scope of the Cabinet Office of Ministers [*Jefatura de Gabinete de Ministros*], and "will dictate the clarifying and complementary rules that may be relevant for the application" of the law. Regarding the policy of allocation of government advertising, the authorities stated that they have adopted a series of decisions to rationalize the use of this public resource and that these are based on the application of a more equitable and transparent distribution of government advertising that respects the work of journalists, even critics. The reduction of the support provided by the State through the allocation of government advertising

to various media and the cancellation of some public media programs fueled accusations by the opposition about possible political pressures behind these measures.

Bahamas. The Office of the Special Rapporteur welcomes the enactment of the Freedom of Information Act. This law provides a general right to access to records held by public authorities and aims to give effect to certain fundamental principles that underlie the system of constitutional democracy, namely, government responsibility, transparency, and public participation in making national decisions. A general right to access is granted to citizens of the Bahamas, permanent residents, entities incorporated or registered under the laws of the Bahamas, associations or other entities not incorporated under the laws of the Bahamas, and persons who have an office in the Bahamas, branch, or agency through which carries out any commercial activity.

Bolivia. Throughout 2017 the Office of the Special Rapporteur continued to document a stigmatizing speech by high authorities of the national and local government against the press. Journalists from various media were assaulted by demonstrators and police authorities during various forms of protest. The Office of the Special Rapporteur welcomes the exclusion of journalists and journalism in general from a criminal reform being studied by Parliament aimed at accountability for professional malpractice.

Brazil. During 2017, the Office of the Special Rapporteur for Freedom of Expression continued to document cases of attacks against journalists and social communicators for the exercise of their work, although in the year there were no cases of murder of journalists because of their work. The Office of the Special Rapporteur observes with concern the cases of violence and excessive use of force against journalists and protesters in the context of the various protests and social demonstrations that took place throughout the country, in the context of the instability of the Brazilian political scene. In particular, the reform of social and labor security proposed by the federal government caused strong opposition and protests that were met with excessive use of force. The main perpetrators of these attacks were members of the Military Police.

Canada. The Office of the Special Rapporteur recognizes the progress made with the approval of the Journalistic Sources Protection Act, which improves the legal protection of journalistic sources that offer information in exchange for preserving their anonymity. Likewise, the Office of the Special Rapporteur observes with concern the processing of the case of communicator Ben Makuch, who is disputing an order by the Royal Canadian Mounted Police [*Gendarmerie Royale du Canada*] (GRC) to produce information related to one of his journalistic sources.

Chile. In June 2016, the Office of the Special Rapporteur made an official visit to Chile with the purpose of evaluating the situation of freedom of expression in the country and making recommendations. Throughout 2017, the Office of the Special Rapporteur noted that there was progress in line with the inter-American standards, although several of the documented challenges persist and some of these recommendations still remain to be met or implemented. The Office of the Special Rapporteur received with special satisfaction the State's efforts to comply the recommendations made regarding the right to access to public information, specifically in relation to the opening of archives, documents, testimonies, and information provided by the victims before the Valech I Commission. On the other hand, the Office positively highlights the enactment of different laws, especially the reform of Law 20.477, which prevents the exercise of jurisdiction by the Military Justice in any case where the victims or defendants in a proceeding are civil, and the Law on Guaranteed Minimum Speeds of Internet Access [*Ley de Velocidades Míminas Garantizadas de Acceso a Internet*]. Notwithstanding this progress, during 2017 there were new cases of criminalization of demonstrations of students and members of the Mapuche community or its supporters; criminal proceedings were initiated against communicators accused of violating public order or defamation of public officials.

Colombia. The Office of the Special Rapporteur notes with concern the increase in situations of violence against journalists reported in 2017, compared to the previous year. In October, radio journalist Efigenia Vásquez Astudillo was murdered in the Cauca region, department of Colombia. Likewise, civil society reported multiple attacks, kidnappings, and threats against journalists and media workers in the context of the implementation of the ceasefire between the FARC guerrillas and the government. The Office of the Special Rapporteur notes that some of these episodes of aggression against journalists were carried out by agents of the security forces during the coverage of events of public interest. There were also several episodes

of stigmatizing statements by political leaders. On the other hand, the Office of the Special Rapporteur continued to receive information on the excessive use of force in the context of social demonstrations and protests. The Office of the Special Rapporteur also took note of positive rulings for the protection of freedom of expression. However, regarding the protection of freedom of expression on the Internet, several problematic judgments, which do not fully incorporate the international standards on freedom of expression, were issued. The Office of the Special Rapporteur awaits the implementation of reforms linked to the Peace Agreements to strengthen civilian's space and enable access to information about past events.

Costa Rica. During 2017 the Office of the Special Rapporteur learned that Executive Branch remitted to the Legislative Assembly a bill that contemplates the decriminalization of crimes against honor in cases of public interest, protects the right to confidentiality of sources, and stipulates the conscience clause for the work contracts of journalists. On the other hand, it takes note of the remittance to congress of a bill regarding access to public information. During 2017, the Office of the Special Rapporteur received complaints and information from civil society regarding the levels of media concentration in radio and television in the country, and the lack of an adequate regulatory framework to guarantee the diversity and plurality of media contents and operators.

Cuba. Throughout 2017, the IACHR and its Office of the Special Rapporteur for Freedom of Expression continued to receive worrisome information regarding illegitimate restrictions on freedom of expression in Cuba and State actions aimed at inhibiting or punishing - through criminal justice - expressions and critical positions of the ruling party. Of particular concern is the continuous increase in selective and deliberate persecution of independent media and organizations that disseminate information and opinions on matters of public interest outside the scope of the State's control.

Dominica, Grenada, St. Kitts & Nevis, St. Vincent & the Grenadines, St. Lucia. The Office of the Special Rapporteur welcomes the approval of the Electronic Communications Bill (ECB) by the States Party to the Eastern Caribbean Telecommunications Authority (ECTEL), which would have a series of goals aimed at guaranteeing the dissemination of licenses to retail clients, fair and equal access to the public network of electronic communications, favoring open access to the internet, and specifying the guidelines that should guide the defense of electronic communications consumers. According to the information available, each member state of ECTEL must adopt the electronic communications law in its internal legislation.

Ecuador. After the inauguration of President Lenín Moreno on May 24, the Office of the Special Rapporteur received information on the change in the attitude of national government high-level authorities towards the media, journalists, and human rights defenders. According to civil society organizations and the media themselves, the President and, in general, the new government, have acknowledged to a greater extent the important role played by the press in Ecuadorian democracy, and has mitigated most stigmatizing and criminalizing practices characteristic to the previous administration. The Office of the Special Rapporteur has showed its interest in assisting with recommendations to the process of reviewing the laws that establish restrictions incompatible with the international obligations assumed by the State in relation to the right to freedom of expression.

El Salvador. In 2017, the Office of the Special Rapporteur registered threats and intimidation against journalists, for which reason it evaluated the presentation of a bill that would guarantee protection mechanisms for journalists and social communicators, although no progress has been made in its approval so far. In addition, the Office of the Special Rapporteur highlighted the discarding of a defamation complaint filed by the mayor of the city of San Salvador, Nayib Bukele, against *La Prensa Gráfica*, under the understanding that the journalistic investigation was of public interest and was based on various documentary and testimonial sources. The Office of the Special Rapporteur also highlighted a decision by a Court of Appeals that acquitted the director of *Revista Factum*, who in 2016 had been accused of slander by businessperson, who was later interrogated and arrested for the crimes of fraud and bribery. During 2017, the Commission also issued precautionary measures for the protection of journalists who are threatened for investigating gangs [*maras*] and their repression by the State.

United States. The Office of the Special Rapporteur has observed that, since the beginning of his mandate, President Donald Trump has stimulated the polarization of the media and has promoted, in both public appearances and social networks, a stigmatizing discourse towards various media and communicators who have disseminated information regarding his mandate, to whom he attributes an alleged role of opposition or political bias. Regarding the protection of freedom of expression on the Internet, this Office noted with concern the decision taken by the Federal Communications Commission (FCC) to revoke the current rules of net neutrality, which established an important regional precedent for the protection of free access without discrimination to all contents on the internet. The Office has also followed up on legal initiatives aimed at restricting the right to social protest.

Guatemala. During the on-site visit carried out in 2017, the Office of the Special Rapporteur noted that Guatemala is experiencing a context of violence against journalists, characterized by murders, threats, and a speech that seeks to stigmatize media and journalists committed to fighting corruption and abuse of power. As reported, especially in the rural area, journalists and social communicators are in a "high degree of vulnerability" for exercising their profession. These journalists, besides facing the scourge of drug trafficking and organized crime, would suffer assaults from some officials that would be linked to acts of corruption. According to what has been reported, Quetzaltenango would be one of the areas where more attacks against communicators have been reported in recent years.

Haiti. During 2017 the Office of the Special Rapporteur noted with concern the reiteration of the abusive use of force by law enforcement agencies, also recorded in previous years, when dispersing social protest events, specifically during demonstrations in the context of the tax reform launched by the government in September. Also, a proposed law that seeks to typify the crime of defamation could lead to a setback in terms of the right to freedom of expression in the country. Information about the threats made against the communicator Jean Nazaire Jeanty by the mayor of Los Cayes, Jean Gabriel Fortuné, and the alleged attack suffered by the journalist subsequently, was also received with concern by this Office.

Honduras. The political crisis that followed the presidential elections of November 28, 2017 has increased the risk for the exercise of freedom of expression and journalism in the country. The Office of the Special Rapporteur has received with concern the information regarding the declaration of a state of emergency, attacks, and threats to the media, as well as killings and injuries of protesters as a result of the illegal and excessive use of the police force. There have also been mass arrests of demonstrators, some of those accused of terrorism. Prior to the electoral period, the Office of the Special Rapporteur had already expressed its concern over the approval of a series of reforms to the Honduran Criminal Code, which include provisions contrary to international standards and that may illegitimately restrict the right to freedom of expression in the country. In addition, the Office of the Special Rapporteur had already received complaints about illegitimate restrictions and the use of criminal law to criminalize student protests, as well as excessive use of force to disperse these protests.

Mexico. The country faces a profound security crisis that seriously affects the human rights of its people. There is also a situation of fragility of the rule of law and governance at local levels in different states of the Federation, exacerbated by murders, disappearances, and torture. In addition to the use of violence in all its forms, criminal actors and public authorities try to force journalists to align with their purposes and to impose information favorable to the cartels or against their enemies, in many cases through the use of government advertising. Organized crime has generated hybrid ways to interfere with journalism, generating division and distrust among journalists, and between journalists and local officials. During an on-site visit carried out at the end of 2017, the rapporteurships of the IACHR and the United Nations recognized the progress made in the protection of journalists at the federal level but drew attention to the insufficient coordination of that protection in the most problematic states. The protection mechanisms have, surprisingly, limited resources considering the national crisis context. Specialized investigative mechanisms, at the federal and state levels, have not yielded results, which leads to an increase in impunity and frustration among victims. This environment partly responds to the historical transition from government authoritarian practices in the past to the rise of a political pluralism and demands for democratic laws. The well-documented cases of digital surveillance of journalists and human rights defenders, among others, are an example of the challenges faced by journalists in the digital age.

Nicaragua. During the year, the Office of the Special Rapporteur for Freedom of Expression continued to receive worrisome information regarding the situation of freedom of expression in Nicaragua. According to information reported by the press and civil society organizations, the practice of preventing or limiting the free access of independent journalists and communicators to a wide range of official activities would continue in the country. President Daniel Ortega has not held press conferences open to all media in the ten years he has been in front of the executive branch and his government's high-level officials are forbidden to grant interviews to unofficial media. Likewise, cases of harassment, stigmatization, and threats against journalists and human rights defenders were reported. The limitations to the work of the independent press occur in a context in which most of the television and radio media would be controlled by a duopoly composed of the presidential family and the Mexican businessperson Ángel González, which severely affects the plurality of voices and the access of the Nicaraguan people to independent and diverse information.

Panama. During 2017, the Office of the Special Rapporteur closely followed the investigations on the EPASA publishing group, linked to former President Martinelli and its possible effects on the group's functioning and on freedom of the press in the country.

Paraguay. During 2017, the Office of the Special Rapporteur registered reports of police abuse against protesters and journalists covering protests. In this regard, the Office of the Special Rapporteur highlighted the setting up of the Inter-institutional Committee for the Safety of Journalists and the positive actions that have been taking place in this area to promote freedom of expression and the protection of journalists, and encouraged the State to continue working on the implementation of the Security Protocol for journalists in high-risk situations approved during 2017, and for the adoption of a comprehensive protection mechanism. On the other hand, the Office of the Special Rapporteur noted with special concern the study in Congress of a bill that seeks to establish a framework to eliminate anonymity on the Internet and to take down content from social networks, without judicial intervention, when they are considered offensive or allegedly false by candidates to elective positions or public officials.

Peru. Throughout 2017, the Executive Branch had been recognizing to the work of the press and creating an environment free of threats to the exercise of journalism and freedom of expression in Peru. However, threats to the freedom of expression have emerged from the majority of the legislative branches, some of whose members have submitted bills that seek to establish state controls over information, in the name of "truthfulness" and other possible conditions for the press. A bill was also presented with a proposal to prevent journalism from being exercised by media executives when they are involved in alleged acts of corruption, and another that prohibits state agencies from assigning government advertisement to private media, which was a matter of concern to the Office of the Special Rapporteur. The persistence in the Peruvian legal system of crimes such as defamation and insults to protect the reputation and honor of public officials and public figures continues allowing the filing of criminal complaints against journalists and columnists of Peruvian media for reporting or commenting on issues of public interest.

Dominican Republic. The situation of risk for the exercise of journalism and for those who denounce acts of alleged corruption worsened in the Dominican Republic in 2017. The murder of two journalists and a lawyer linked to anti-corruption social organizations and a popular leader were recorded, all of which could be linked to the exercise of the right to freedom of expression. The Office of the Special Rapporteur documented allegations of illegitimate restrictions on human rights in the context of social protest, particularly when these are directed to public buildings or during government events.

Suriname. During 2017, the Office of the Special Rapporteur documented complaints about police abuse and arrests of protesters in social protests carried out in Paramaribo, which were organized to a large extent by unions and other civil society groups. In addition, the Office of the Rapporteur noted with concern the presentation of bill before parliament, called Electronic Legal Transactions, which would aim to fine or punish with imprisonment anyone who insults the president through the media, and has been criticized by the press and experts.

Trinidad and Tobago. The Office of the Special Rapporteur has closely followed the discussion on the draft Cybercrime Bill in Trinidad and Tobago. Different civil society organizations would have expressed their concern about the bill, since they considered that it can restrict the activity of those journalists who work on matters of public interest while it could criminalize those expressions that lack legal support or justification, for example, through information whose source would be confidential. Therefore, they would have proposed that the bill include legal exceptions against journalists and whistleblowers. According to the information received, the government would have pledged to guarantee the exercise of freedom of expression online.

Uruguay. During 2017, the Office of the Special Rapporteur noted with concern the information received regarding an increase in criminal defamation and libel complaints filed against journalists by public officials allegedly affected by publications on topics of public interest related to their mandate. Stigmatizing statements were also made by individuals and public officials against journalists and the media. The Office of the Special Rapporteur took note of the actions taken by the Communications Services Regulatory Unit [*Unidad Reguladora de Servicios de Comunicaciones*] (URSEC) to apply and implement some specific provisions of the Law on Audiovisual Communication Services [*Ley de Servicios de Comunicación Audiovisual*].

Venezuela. Throughout 2017, the IACHR and its Office of the Special Rapporteur continued to document severe restrictions on the right to freedom of expression in the country, including censorship and closure of media, attacks on journalists, and in general patterns of harassment and criminalization of those who express political opinions or disseminate information not approved by the State. These measures do not respond to a normative framework compatible with the international obligations assumed by the Venezuelan State. Similarly, the opening of criminal proceedings against journalists and the media, university professors, and citizens in general with the purpose of punishing and inhibiting expressions critical of state authorities' actions or on issues of public interest, have been document. On March 30, 2017, a wave of social protests began in Venezuela when thousands of people mobilized in several cities in rejection of the decisions of the Supreme Justice Court [*Tribunal Supremo de Justicia*] (TSJ) in which the National Assembly (AN) was disavowed. The protests intensified in May, after the issuance of Decree No. 2830, through which the President convened the National Constituent Assembly [*Asamblea Nacional Constituyente*] (ANC), and they extended until the end of July, as well of dozens of demonstrations in order to demand political and social claims, directed at specific institutions such as the TSJ or the National Electoral Council [*Consejo Nacional Electoral*](CNE). The IACHR and its Office of the Special Rapporteur express their strongest rejection to the fact that dozens of people have been killed exercising their right to protest to demand the respect of their rights in Venezuela.

Finally, the Office of the Special Rapporteur highlights the collaboration of the States of Guatemala and Mexico for facilitating on-site visits of this Office during 2017, which resulted in an extensive analysis of the situation of freedom of expression in these countries and the formulation of recommendations. We thank the States, civil society organizations, and the media for the permanent support and information offered throughout the production process of this report.