



# IMPACT OF STATE CENSORSHIP MEASURES ON THE RIGHT TO FREEDOM OF EXPRESSION IN THE AMERICAS

REGIONAL HEARING

# Partner Organizations

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RIGHTS



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# Partner Organizations



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# Introduction

**This report details the information provided during the regional thematic hearing "Impact of State censorship measures on the right to freedom of expression in the Americas"<sup>1</sup> led by 25 civil society organizations<sup>2</sup> during the 190th Regular Period of Sessions of the Inter-American Commission on Human Rights (hereinafter, "IACHR" or "the Commission"). The 25 civil society organizations work in seven Latin American countries: Argentina, Brazil, Colombia, El Salvador, Guatemala, Mexico and Nicaragua.**

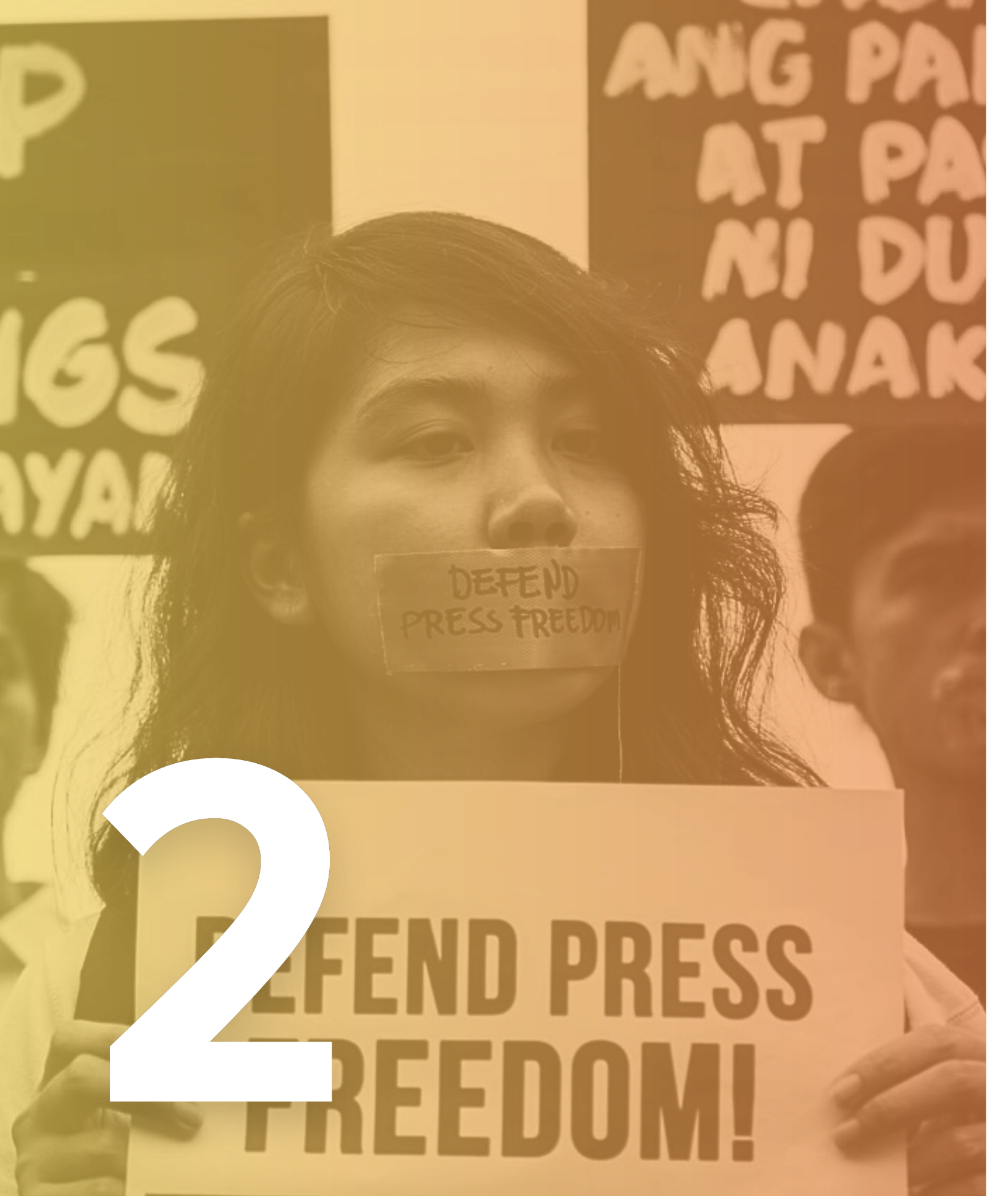
**In the present or in recent history, at different levels, each of these countries has faced contexts of limitation to the exercise of the fundamental rights of freedom of the press, freedom of expression, access to information and the right to defend human rights in relation to such rights. Despite the differences in contexts, we have verified the same roadmap designed and executed to undermine public participation and the dissemination of relevant information about public authorities. These indirect censorship strategies identify and serve authoritarian practices while weakening democratic systems.**

**In this context of greater prevalence of anti-democratic governments, three types of indirect censorship are evident that generate concern and aggravate the threat to the free exercise of basic freedoms in a democratic state: i) stigmatization; ii) forms of social control facilitated by new technologies with surveillance capacity; iii) the judicialization of freedom of expression on matters of public interest.**

# The implementation of an official narrative parallel to the adoption of communication strategies unfavorable to the press and critics of the government in power.



Increasingly undemocratic governments —both right and left leaning— use openly hostile rhetoric to journalism, taken up and amplified on social networks by their followers. This negative relationship with the press and other critical voices of high-level leaders is not only evidenced through "antagonistic" government speeches, but also through the conjunction of different complementary measures, aimed at restricting pluralism with an almost propagandistic effect, and a closure of public discussion.





# Systematic use of stigmatizing language

Stigmatization is part of anti-democratic governments' strategy to discredit the critical press, curtail dissent, and generate an inhibiting effect on participation and the press's control or oversight of political power. At the regional level, the promotion of stigmatizing discourse against the independent and critical press, as well as against organizations and individuals who defend human rights and activists, is becoming increasingly worrisome. Although not a new issue in the region, stigmatizing discourse against the press is an urgent matter. Often, such discourses go hand in hand with disinformation, magnified by viralization on social networks. Another element to highlight is that these types of messages are issued by high-level officials, meaning they have a greater impact. In this regard, we recall that the IACHR itself has recognized that public statements by government officials discrediting the work of journalists and human rights defenders can place them at risk<sup>5</sup>.

In 2011, , when studying the case of Ecuador during the government of Rafael Correa, the Office of the Special Rapporteur for Freedom of Expression warned that public officials should not use derogatory terms to refer to journalists and the media ("ink hit men", "corrupt press", "mercantilist press", "shameless", "caretucos", "lack of ethics", "amorality", "worst press in the world", among others).

# Systematic use of stigmatizing language

On that occasion, the Office of the Special Rapporteur warned that public officials have the duty to ensure that their statements do not harm the rights of those who contribute to public deliberation through the expression and dissemination of their thoughts, such as journalists, the media and human rights organizations. Precisely, currently, this type of expressions constitute forms of interference and harmful pressure on the rights of those who intend to contribute to public deliberation.<sup>4</sup>

**The current presidents resort to the same discourse in open disregard of inter-American standards.** In spite of the political or ideological differences that could distance the region's leaders, most of them share a hostility towards the press, which generally begins when they are candidates and intensifies once they come to power. It is common for these types of stigmatizing remarks and labels to be disseminated in digital environments such as social networks. Leaders make use of both personal profiles, which are used for official purposes, and state accounts. It has been identified that these types of publications are the trigger for smear campaigns and digital violence, which can encourage aggressions against the press that transcend digital scenarios such as physical injuries, threats, illegal surveillance, obstruction of journalistic work, among others.

# Systematic use of stigmatizing language

**This strategy has already been employed by various heads of state in the Americas, such as Donald Trump in the United States, Jair Bolsonaro in Brazil, Gustavo Petro in Colombia<sup>5</sup>, and Javier Milei in Argentina<sup>6</sup>, who brand the press as liars, use degrading epithets and, in some cases, attack women journalists in a more serious manner.**



# Systematic use of stigmatizing language

Of particular concern are two types of attacks by government officials and high-level public officials. First, repeated and systematic **individualized attacks** increase the risk for journalists. For example, in Argentina, President Javier Milei has attacked María Laura Santillán, Jorge Lanata, Joaquín Morales Solá, and Jorge Fernández Díaz,<sup>7</sup> in Colombia, Gustavo Petro has recurrently attacked traditional media,<sup>8</sup> and in Mexico, Andrés Manuel López Obrador continues to speak against Proceso magazine and journalists and commentators Carlos Loret de Mola, Denise Dresser and Carmen Aristegui.<sup>9</sup> Obrador even disclosed the cell phone number of journalist Natalie Kitroeff, correspondent of the New York Times,<sup>10</sup> during his morning conference on February 22, 2024.

Second, the **stigmatization of organizations that defend the press** is of particular gravity and concern, increasing the inherent risk to the defense of human rights, particularly in contexts of high levels of violence against these vulnerable groups such as in Mexico and Colombia. Both President Petro and López Obrador have lashed out at organizations whose mission is to defend freedom of expression and human rights in general, after they made a statement about their relationship with the press.





# Systematic use of stigmatizing language

Mexican President Andrés Manuel López Obrador has launched open attacks against organizations such as ARTICLE 19 Mexico and Central America and the Miguel Agustín Pro Juárez Human Rights Center (Centro Prodh), in relation to their work because of their participation in certain cases or their position regarding certain government policies and decisions. Similarly, Petro has bashed the Foundation for Press Freedom (FLIP) on his social networks following their call for his anti-press positions. In Argentina, President Milei has tweeted expressions against FOPEA, for its work monitoring attacks on journalists.

It is urgent that the Inter-American system develop concrete standards on the scope of freedom of expression of officials, what their rights and obligations are, and how this impacts State communications in the digital world. This is vital in order to prevent violence derived from stigmatizations disseminated online, which can be understood as enabling messages. This can have a preventive effect given the evident parallel connection between the increase in physical violence against journalists and the hostile environment promoted by official stigmatizations.<sup>11</sup>

# Systematic use of stigmatizing language

So far, there are only two known decisions on stigmatization of the press by high-ranking officials. The decisions of Costa Rica<sup>12</sup> and Brazil.<sup>15</sup> Although they protect the press from such verbal violence, the Inter-American system needs to develop standards on freedom of expression of public officials and the duty of respect for the press so that the protections are robust, preventive, and not symbolic.<sup>14</sup>





# Diversion and co-optation of press audiences

On the other hand, governments seek to strengthen one-way communication with citizens to disseminate information, without any intermediate debate, which is usually carried out by the press. For this purpose, the use of social networks and broadcasting platforms have become the ideal means to avoid all kinds of press conferences.

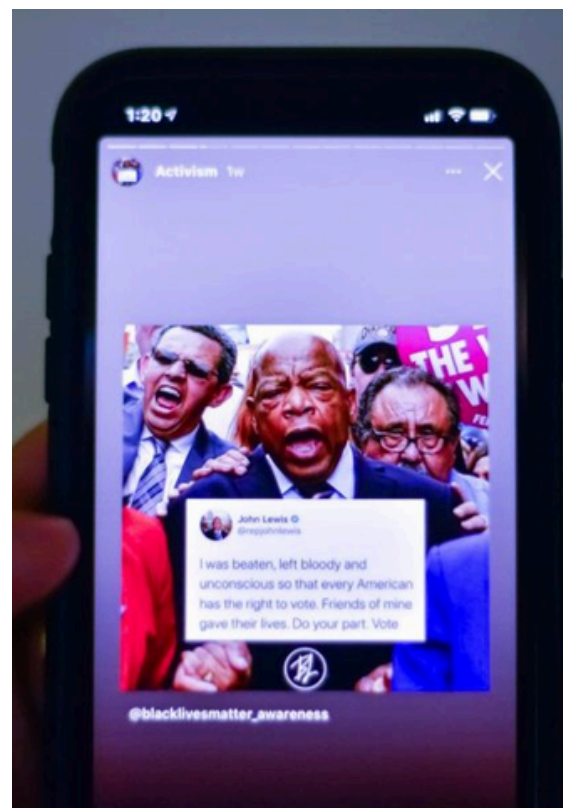
For example, the president of **Mexico**, in the style of the **Venezuelan** (Hugo Chavez / Nicolas Maduro) and **Colombian** (Alvaro Uribe - community councils) presidents, aims at dominating the public agenda through programs or 'press conferences' every day at prime time. This practice was already used a decade ago in **Ecuador** by then President Correa, known for the 'sabatina' sessions as a way to implant the official discourse, in the face of what he considered a 'lying' press and opposition. During his mandate, **Jair Bolsonaro** also made weekly live broadcasts through his social networks, in which he insulted the media and journalists daily. Likewise, hostility against journalists covering speeches to the press in front of the Government Palace reached such violence that journalists as a whole withdrew from the premises during the pandemic period.<sup>15</sup> For his part, the Colombian President (**Petro**) created a daily radio program and a newspaper, which would become a "new information channel of the Presidency with the citizens and the media".<sup>16</sup>



# Diversion and co-optation of press audiences

Regarding Milei's behavior on social networks, it has been said that he seeks to "affirm himself politically through communication and his style is a mixture of disseminator-evangelizer and troll", and "embodies the profile of the troll influencer".<sup>17</sup>

This strategy is reinforced thanks to means of dissemination that allow "dodging the press" such as social networks and other platforms.



In the case of [Mexico](#), ARTICLE 19 has insisted that government authorities should not audit the work of journalists, as this should be done by society.

# Diversion and co-optation of press audiences

The morning conference concentrates the voice of the Federal Executive in a single person, which restricts the type of message that is communicated to society. This is configured as a form of "gatekeeping" or filter zone in a system that delivers to the audience only a small amount of unilaterally selected messages. In [Argentina](#), most journalists have limited and restricted access to the National Executive Branch. The presidential spokesperson holds daily press conferences, but access to ministers and senior officials is limited. There were two cases of on-air censorship<sup>18</sup> on the TV channel of the National Chamber of Deputies. Several journalists accredited in the Government House had their authorization to enter or to ask questions canceled without explanation or response. In [El Salvador](#), Bukele's viral strategy is evident through livestreamings, whereas others resort to "novel" formats, such as podcasts in Venezuela, where even the use of artificial intelligence in the executive's programs has been used.<sup>20</sup>

**Another parallel measure is the overlapping and amplification of official content while silencing other narratives.** For example, in [Brazil](#), during the government of Jair Bolsonaro, 193 hours of interruptions to TV Brazil programming with government events were counted between August 2021 and July 2022, according to a report by EBC employees and journalists' unions in Rio de Janeiro, Federal District and São Paulo. Similarly, in [Colombia](#), the use of presidential speeches has been observed in a repetitive manner to superimpose speeches of the president on national newscasts, which has become part of the public debate as a strategy to impose an official narrative.<sup>21</sup>

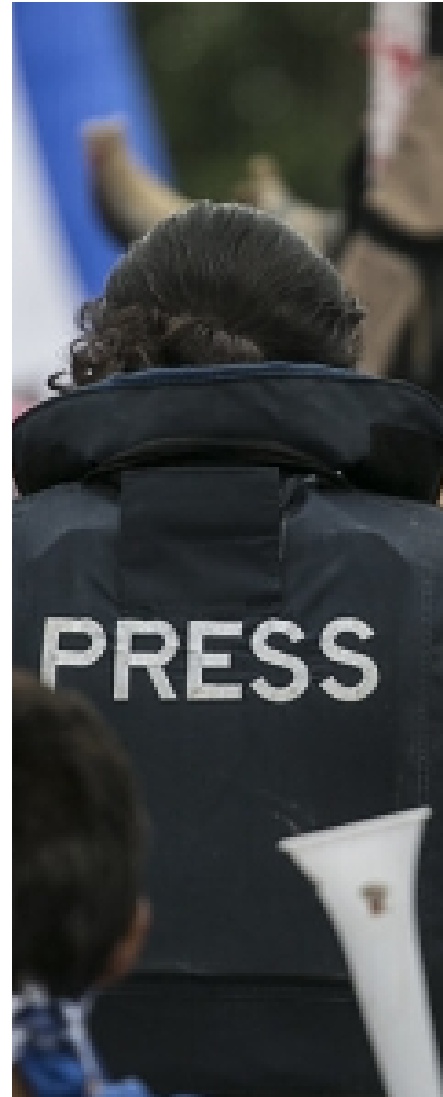
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**DEFEND  
PRESS  
FREEDOM!**  
**UJP-UP**

# "Moral debasement": Implanting smear narratives against the press

According to the documentation of ARTICLE 19, smear campaigns are a form of intimidation and harassment of the press: they occurred on 248 occasions throughout Mexico in the last six-year term, while a total of 224 official stigmatizing speeches were documented. According to the records of CIMAC, discrediting the work of Mexican journalists is the fifth most common form of violence they face for their work, followed by smear campaigns. The Mexican State was the main perpetrator of this type of aggressions, with 111 smear campaigns (44.76%) and 219 stigmatizing speeches, 97.77% of the cases, the rest were perpetrated by political parties. Similarly, so far this year, in Argentina, FOPEA's Freedom of Expression Monitoring surveyed 61 attacks on freedom of expression, 76.5% of which came from State sources and 53% from the President himself.





# "Moral debasement": Implanting smear narratives against the press

In the **case of Nicaragua**, ARTICLE 19 has identified that the strategy has consisted of imposing a propagandistic narrative in the official media that labels journalists as coup perpetrators and terrorists for doing their job of reporting. An example of this were the statements that the head of the Nicaraguan Army, Julio César Avilés, made on the anniversary of the institution in 2023. He described those who dedicate themselves to independent reporting as "vividores and mercenaries of information, financed by foreign interests," in addition to pointing out that the media are "employees of foreign interests and everything they do is not for the benefit of the homeland," but "to sell it, stain it and destroy it, as the scum of the country have done throughout history."

This strategy has become more sophisticated in El Salvador. During the government of Nayib Bukele, social networks have been the cornerstone of the promotion of disinformation and governmental smear campaigns against journalists. The social network X has become the only official source<sup>24</sup> of access to public information regarding issues of interest such as the so-called "Territorial Control Plan." According to what was found in ARTICLE 19,<sup>25</sup> given the lack of counterweights to Bukele, independent media that obtain verified information through unofficial sources automatically become enemies of both the Executive and his supporters, who are made up of groups of a wide network of trolls and bots.

# "Moral debasement": Implanting smear narratives against the press

They operate to the detriment of the prestige of independent media and journalists such as Focos, Factum, MalaYerba, La Brújula, Alharaca, El Faro, among others.<sup>26</sup> According to research by the Association of Journalists of El Salvador (APES), from October 2023 to January 2024, women journalists faced 40 insults a day through their social networks.<sup>27</sup> This situation has forced media outlets to consider exile or going into exile as a way to maintain their work. El Faro, considered one of the most critical media of Bukele's administration, has been accused of terrorism on countless occasions. The situation has reached such a point that in 2023, for security reasons, it moved its legal status to Costa Rica.

In the case of **Guatemala**, during the administration of Alejandro Giammattei, bot accounts and Net Centers linked to the Foundation Against Terrorism<sup>28</sup> and the government of the time were identified. These coordinated accounts not only promoted this type of narrative, but in some cases also disseminated information on public interest trials held against personalities such as José Rubén Zamora Marroquin or Virginia Laparra. Even hours before their hearings, information that was supposedly under reserve was disclosed.

# "Moral debasement": Implanting smear narratives against the press

In **Honduras**, during 2023 ARTICLE 19 issued at least three alerts to denounce smear campaigns through the dissemination of false reports against journalists Wendy Funes and Dina Meza,<sup>29</sup> as well as the stigmatization on social networks against the media outlet Reportar Sin Miedo. In the first two cases, the journalists were accused of being involved with organized crime groups and former president Juan Orlando Hernandez. Reportar Sin Miedo<sup>30</sup> has been subjected to stigmatizing discourse and smear campaigns following the publication of its journalistic articles. In addition, being a media outlet with a gendered and feminist approach, they receive digital attacks characterized by differentiated violence which seeks to damage their subjectivities, corporealities, and sex/gender and health identities at the individual level.

In **Colombia**, President Petro, for his part, has accused the press of being part of a 'soft coup' aimed at destabilizing his government. The president's messages against the media and reporters who investigate and question his administration, policies and proposals are becoming more and more forceful according to FLIP's analysis.<sup>31</sup> This threat was also underscored in the recent Annual Report of the Rapporteurship and in the in-loco visit carried out in April.<sup>32</sup>

# "Moral debasement": Implanting smear narratives against the press

In **Mexico**, President López Obrador, after being criticized for having revealed the contact information of the correspondent of The New York Times, Natalie Kitroeff, opted for a narrative that journalists "feel they are hand-embroidered, like a divine, privileged caste" and seek to exercise freedom of expression without limits and with impunity. As urged by the Committee to Protect Journalists (CPJ), taking this action instead of recognizing his error and position as guarantor of the safety of the press, represents a context of extremely high violence.

In **Argentina**, at the end of June, digital operators linked to the ruling party started a series of attacks against the reputation of the Argentine Journalism Forum (FOPEA). First they spread a false chat about the work of the Freedom of Expression Monitoring, followed by a smear attack and insults against FOPEA and its members, through a hashtag that in minutes was trending on X; and then, it was the President of the Nation himself who called FOPEA "shameful". The attack took place after FOPEA issued an alert on the incompatibility of the government's initiative to reintroduce mandatory registration of journalists. Amnesty International, ADEPA, IFEX and Fundamedios, among others, expressed their concern over the attack on FOPEA.<sup>34</sup>



A blue-tinted photograph of a person holding a lit candle. In the background, a sign with the text "#PressFreedom" is visible. A large white number "5" is overlaid on the left side of the image.

# 5

# Amplification through the public system

As in other cases, the manual followed by some of the Central American countries has been the Cuban model. In [Cuba](#), the State monopoly over the media tries to maintain an unquestionable official narrative meaning that dissenters are at the risk of being subject to smear campaigns even in the least serious cases. In [Argentina](#), after announcing in the campaign the privatization of the public system (Radio Nacional, Télam and Public TV),<sup>35</sup> the government, for the moment, has started the closure of the Télam agency and has reduced positions and expenses of Radio Nacional and Public TV.<sup>36</sup> In [Brazil](#), Empresa Brasil de Comunicação was threatened with privatization by Bolsonaro during his mandate,<sup>37</sup> as he continued attacking public media. During 2021, the company was investigated by Congress for being one of the instruments used by the government to reinforce the denialist theses that undermined the fight against the coronavirus. A report by the EBC Employee Commission and the company's unions recorded a record 161 cases of censorship and 89 cases of governance in coverage between July 2020 and August 2021.



# Amplification through the public system

On the other hand, in [El Salvador](#), "various actors have reported to the Rapporteurship on the instrumentalization of various state media, such as Canal 10, Radio Nacional and Diario El Salvador, for political purposes and the dissemination of government propaganda".<sup>38</sup> In turn, in [Colombia](#), in the last year there have been debates regarding the management of the public media system due to the promotion of an environment of censorship, self-censorship and redirection of an editorial line that favors the government, weakening the pluralism and informative balance that should be the central axis in this type of media. This is manifested in the omission of the publication of information that may be considered inconvenient for the national government, the lack of transparency in the non-renewal of contracts to media collaborators and the hiring of activists or influencers related to the government.<sup>39</sup>





**The adoption of social control measures facilitated by digital technologies with surveillance capabilities, which implies the establishment of an invisible and omnipresent system of repression.**



This second axis of silencing consists in the **strengthening of social surveillance mechanisms**, both in the analog and digital worlds. It is in this context that civil society denounces the opacity of the acquisition of technologies with surveillance capacity by the State, illegal geolocation, cyber patrolling, the deployment of surveillance, facial recognition technologies, and state access to data kept by companies and other practices that seem to be taking root in the region.

# Spyware

On July 18, 2021, an investigation called "Pegasus Project"<sup>40</sup> revealed new information about the magnitude of attacks with NSO Group's Pegasus malware in different countries. Within the countries of the Americas, both Amnesty International's Security Lab<sup>41</sup> and Citizen Lab — a laboratory of the University of Toronto— have confirmed through forensic analysis the use of Pegasus malware against journalists and human rights defenders in 3 countries: [Mexico, El Salvador and the Dominican Republic](#).

Regarding [Mexico](#), in June 2017, Citizen Lab, ARTICLE 19, the Red en Defensa de los Derechos Digitales (R3D) and SocialTIC published the report Gobierno Espía: Vigilancia sistemática a periodistas y defensores de derechos humanos en México (Spy Government: Systematic Surveillance of Journalists and Human Rights Defenders in Mexico)<sup>42</sup>, in which multiple cases of attempted infections with Pegasus are reported. Subsequently, the investigation Ejército Espía (Spy Army)<sup>43</sup> revealed new cases of surveillance with Pegasus attributable with a high degree of certainty to the Mexican Army.<sup>44</sup>

# Spyware

A large number of the Pegasus infections occurred at times when the victims were carrying out work related to human rights violations committed by the Armed Forces. Among the documented victims are human rights defenders and organizations including: members of the Centro Prodh who were allegedly attacked with the malware during two different government administrations, relatives of the 43 students from the Ayotzinapa Rural Normal School, investigators from the IACHR, a member of the GIEI and a member of the IACHR in the Ayotzinapa case, the undersecretary of Human Rights, the coordinator of the Truth Commission for the "Dirty War," and more than 25 journalists, including Guerrero journalist Cecilio Pineda Brito, who was murdered in March 2017, just weeks after being attacked with Pegasus.

The seriousness of the reported facts has motivated the pronouncement of international organizations. In June 2023, in accordance with previous pronouncements,<sup>45</sup> the IACHR and the RELE urged the Mexican State to redouble its efforts in the investigations into the illegitimate use of software to monitor journalists and human rights defenders, considering that no substantial progress has been made and the number of reports of affected persons continues to increase.<sup>46</sup>

# Spyware

On the other hand, in 2022, Citizen Lab and Access Now conducted a joint investigation<sup>47</sup> in collaboration with Frontline Defenders, SocialTIC and Fundación Acceso, confirming 35 cases of journalists and members of civil society in [El Salvador](#) whose phones were infected with Pegasus between July 2020 and November 2021. The likelihood of being spied on by this type of software set alarm bells ringing in media outlets beyond those tapped by Pegasus, causing self-censorship and silencing, as confirmed by organizations such as Counterpart in [El Salvador](#).

As part of the pattern followed in these cases, the surveillance took place while the organizations or journalists were reporting on sensitive issues related to President Bukele's administration, such as a scandal related to the government's negotiation of a "pact" with the MS-13 gang for violence reduction and electoral support.

In May 2023, an Amnesty International investigation<sup>48</sup> confirmed the first case in the [Dominican Republic](#) of Pegasus infection of the phone of a journalist, Nuria Piera, on three occasions between 2020 and 2021 while she was investigating corruption cases related to high-ranking government officials and relatives of the country's former president.

Finally, in March 2024, the Israeli media Haaretz,<sup>49</sup> published an investigation into the purchase of Pegasus by the [Colombian](#) government. Although government officials have denied the availability of this tool, doubts persist as to the response provided by the government.



# Illegal geolocation

A journalistic investigation published by the Israeli newspaper Haaretz<sup>50</sup> revealed a global surveillance infrastructure, maintained by Andreas Fink, that takes advantage of vulnerabilities in the mobile communications system to allow governments and companies to geolocate devices. Among the cases is that of journalist Fredid Román Román, whose phone was geolocated a day before his murder in Chilpancingo, Guerrero, on August 22, 2022.

In the investigation, Fisk admits that one of his current clients is the Israeli firm Rayzone Group, best known for the Geomatrix software, a program that allows real-time geolocation of a mobile device through searches by phone number and IMSI number. In [Mexico](#), there have been documented acquisitions of Geomatrix by different state authorities, as well as the Attorney General's Office; with investigations indicating that the latter has used it to spy on the campaigns of the presidential candidates in 2018.<sup>51</sup>

Similarly, cases of illegal geolocation have been documented with services provided by companies such as NSO Group, FinFisher and Hacking Team.

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# Cyber patrolling

In Colombia, the State often calls the use of open source software Cyberpatrolling.<sup>52</sup> The surveillance of journalists and media by means of intelligence tools in use by intelligence agencies continues to be a latent threat. This is exacerbated by the lack of progress in the investigation and prosecution of this type of conduct and the lack of implementation of legal reforms that establish stricter controls on such activities. In 2020, Semana Magazine published the investigation "Las Carpetas Secretas" (Secret Folders) in which the use of technologies associated with intelligence and counterintelligence activities for the profiling of journalists and media<sup>53</sup> was made evident. Four years later, no substantial progress has been made in the investigations carried out by the Attorney General's Office and the Attorney General's Office, and no reforms have been adopted within the intelligence agencies to establish stricter controls on the use of these technologies.

# Cyber patrolling

In 2023, an investigation by the Foundation for Freedom of the Press found that the agencies in charge of Intelligence in **Colombia** are increasing their surveillance capacity on the online activity of citizens, through the acquisition of technological tools with the potential to conduct mass surveillance against journalists, media and virtually anyone with a digital presence in Colombia. Particularly noteworthy is the indiscriminate use of OSINT (Open Source Intelligence) technologies.<sup>54</sup> OSINT consists of a series of techniques to collect and analyze data that are hosted in open access information sources. However, according to Karisma Foundation,<sup>55</sup> OSINT tools not only have the capacity to search for information on the Internet, but also allow actions such as profiling and de-anonymization of individuals, localization of profiles and elimination of data from searches made by the State.

For example, the Colombian Military Forces' worrying campaign of "The truth in a sea of lies #ColombiaEsMiVerdad"<sup>56</sup> is focused on classifying websites and profiles that discredit the work of the public forces in the framework of social demonstrations as "digital terrorism."<sup>57</sup>

# Cyber patrolling

In [Mexico](#)<sup>58</sup>, under the vague concept of "military operations in cyberspace", a unit of the Secretariat of National Defense uses HIWIRE software, developed by the Israeli company WebintPro, to monitor social network users who make publications critical of the Armed Forces or the federal government. They not only monitor them on digital platforms: they also create fake profiles to obtain more information about their friends, family and networks. In addition, they use this software to operate farms of simulated users (bots) to "exert soft influence on public opinion."

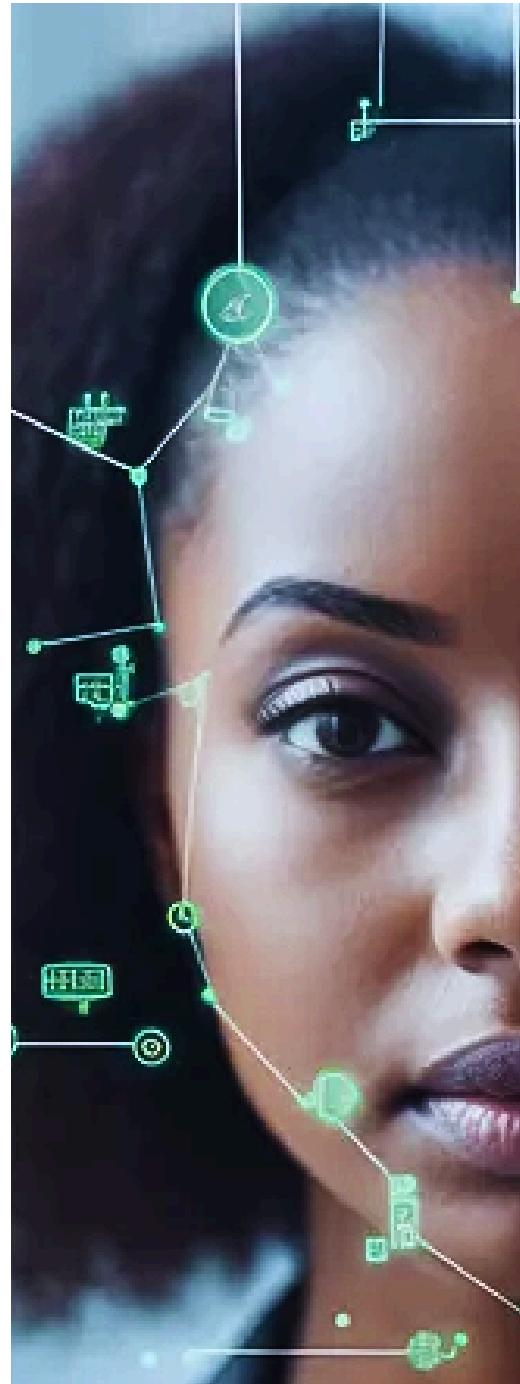




# Deployment of surveillance and facial recognition technologies <sup>59</sup>

Most of the companies that provide facial recognition systems technology in Latin American countries have been internationally questioned for their alleged involvement in human rights violations. For example, Chinese companies Dahua and Hikvision, banned from operating in the United States, have contracted millions of dollars in Mexico. The French IDEMIA (ex-Morpho Safran), present in at least four countries in the region, and the English company FaceWatch, whose software is used in one of the initiatives identified in Brazil, have also been the object of concern by international organizations.

Behavior monitoring and prediction capabilities compromise the exercise of the right to free association, expression and peaceful assembly, as they allow the profiling of individuals and facilitate their criminalization.



# Access to data held by companies and others

In [Mexico](#),<sup>60</sup> it has been documented the acquisition and deployment of fake mobile telephone antennas (IMSI catchers), capable of intercepting communications traffic data —and even the content of communications— of an undetermined number of people located within a radius of such antennas. These tools have been acquired and operated by authorities with neither explicit nor implicit powers to intercept private communications and without any kind of regulation or control measure.

Similarly, a report by The New York Times<sup>61</sup> recently revealed the disturbing modus operandi used by prosecutors in [Mexico](#), where they open an investigation or use an existing one and, based on "anonymous information", ask telecommunications companies to give them information on numbers that have nothing to do with the commission of a crime. They use files on kidnapping or other serious crimes and thus avoid the obligation to obtain prior federal judicial authorization, as happened when the Mexico City Attorney General's Office accessed telephone records, text messages and location data of various high-ranking political figures.

This modus operandi of the authorities had already been denounced in 2019<sup>62</sup> by journalist Marcela Turati; the co-founder of the Argentine Forensic Anthropology Team (EAAF), Mercedes Doretti and human rights defender Ana Lorena Delgadillo, who pointed out that the Specialized Assistant Attorney General's Office for Organized Crime Investigation (SEIDO) accessed their telephone records by including them in the same folder where members of a criminal organization were being investigated.

# Access to data held by companies and others

On the other hand, in 2021, Meta reported that in [Nicaragua](#), it removed more than a thousand accounts from the social network Facebook that since 2018, were linked to the government itself and the ruling Sandinista National Liberation Front party, the Supreme Court and the Nicaraguan Institute of Social Security. These accounts were intended to alter public opinion through government propaganda, creating disinformation and hate speech against voices critical of the Ortega-Murillo regime.<sup>63</sup>

At the other extreme, even when the [Cuban](#) government authorized Internet access from cell phones, the service is controlled by the Cuban Telecommunications Company (Etecsa). This control has been evident in critical moments of the social repertoire in Cuba through massive internet cut-offs. Some of these junctures have been the 17+ China Summit in Havana, Cuba<sup>64</sup> and the International Human Rights Day in 2023 or the commemoration of Labor Day this year 2024.<sup>65</sup> In 2023 alone, the suppression of internet services was documented at least 60 times.<sup>66</sup>



# The judicialization of freedom of expression on matters of public interest by abusing legal tools.



**Attempts to censor the exercise of freedom of expression occur in different ways. Stigmatization, as detailed above, is one of the strategies aimed at eliminating the credibility of journalists who reveal facts of public interest. By attacking the messenger, disqualifying his or her voice, the message that was intended to reach public opinion is silenced.**

**Similarly, stigmatization and indirect censorship can occur in different ways. Lawsuits, which should be a way of guaranteeing access to rights, holding aggressors responsible and punishing them for attacks against journalists, often do not fulfill their function; on the contrary, they end up operating as a tool for stigmatizing and making victims vulnerable.**

**In order to silence facts of public interest, powerful agents such as politicians, public officials and the judiciary abuse legal tools, in order to prevent discussions of rights violations, since the lawsuit itself becomes a violation of freedom of speech and press.**



The use of legal tools to activate criminal, civil and administrative complaints against journalists, human rights defenders and activists, as well as collectives and civil society organizations is a *modus operandi* to silence<sup>67</sup> not only the voices but also the work they do with the intention of undermining scrutiny and public debate. The lawsuits and/or complaints activate judicial processes that turn out to be long and extremely costly for journalists, human rights defenders and activists as well as for civil organizations, since the intention is to wear us down psychologically and financially. These suits even increase the threats and intimidations that put at risk not only those who receive them but also indirect people such as family, friends and collaborators.

In recent studies such as one carried out by Columbia University's Global Freedom of Expression in relation to Strategic Lawsuits Against Public Participation (SLAPPs) or "abusive litigation,"<sup>68</sup> researchers established that there are no claims of legitimate rights. Instead, SLAPPs are part of a broad and deliberate strategy to intimidate, distract and silence public criticism. It also constitutes an improper but also abusive use of legal tools with the intention of causing irreversible and unequal damage. A 2022 Unesco report<sup>69</sup> warned that defamation laws and SLAPPs are used in several countries in the Americas, democratic or authoritarian, to criminalize freedom of expression, intimidate critical journalists and exert undue pressure on the media, regardless of the outcome.

Judicial harassment has a negative effect by fostering a culture of self-censorship that, in addition to affecting journalistic work, harms the public's right to information and the role of citizens in democracy. In many cases, judges indiscriminately admit them without considering Inter-American jurisprudence and standards that warn against the abuse of this type of strategy.

**In the last 5 years, there has been a clear increase in judicial harassment in the region. Media Defence received 140 requests for funds for the legal defense of journalists or media victims of SLAPPs, from Colombia, Brazil and Mexico. Seventy-four percent of the cases refer to civil lawsuits. Indeed, according to the latest biannual report of the Inter American Press Association, the use of lawsuits - civil and criminal - as an instrument to inhibit criticism, discourage journalistic investigations and generate self-censorship, represents a serious and growing threat to press freedom in the Americas.**

**The abuse of defamation laws is one of the main legal threats to journalists and the media, but it is not the only form of harassment through criminal or civil actions. In this regard, the Inter-American Court of Human Rights has issued landmark rulings recommending that defamation should be a civil and not a criminal offense.**

**In different countries of the region, journalism is persecuted by means of an "industry"<sup>70</sup> of lawsuits which affect freedom of the press and the public's right to remain informed. Laws have been enacted or reformed to increase penalties for defamation, anti-terrorist or extremist activity, national security, espionage, treason, disclosure of state secrets, collusion against the state, collaboration with foreign entities, false news, public disorder, cyber crimes, among other statutes to prosecute journalists and media.**

**Also, national authorities increasingly charge, try and convict journalists for financial crimes, such as tax evasion, fraud and money laundering, often for political reasons. Laws are used to suppress dissent and curb criticism.**

The following are emblematic episodes of judicialization against the practice of journalism through this common strategy in different countries of the region

In **Argentina**, the use of the judicial system to intimidate journalists by demanding substantial financial compensation as a sanction for journalistic articles critical of officials or powerful people is a repeated practice. In recent times, it has also been observed that the criminal courts are being used to charge journalists with common crimes with potential prison sentences. This happened with journalists Daniel Santoro (Clarín), Irene Benito (La Gaceta) and Daniel Enz (Revista Análisis), despite the fact that, since 2009 and in compliance with a decision of the Inter-American Court of Human Rights, Argentina amended its Criminal Code<sup>71</sup> by removing the crimes of slander and libel in matters of public interest from the code, leaving only the civil action with a fine. Due to the cases of Santoro, Benito and Enz, FOPEA submitted a request to the UN to include them in the Universal Periodic Review of Argentina, which was admitted in January 2023.<sup>72</sup> In 2024, however, there were again criminal complaints against journalists in which criminal offenses have been attributed to them.



Journalist Daniel Enz, editor of Revista Análisis magazine and of the portal analisisdigital.com.ar of Paraná, Entre Ríos province, was criminally denounced in April 2024 by the former governor of that province, Sergio Urribarri. Urribarri was sentenced to eight years in prison by the Justice of Entre Ríos for corruption offenses, largely in cases originating from investigations published by Análisis. While he is trying to reverse his conviction before the Supreme Court, he filed a criminal complaint before a Federal Prosecutor's Office of the City of Buenos Aires to initiate a different case, in which he accuses several prosecutors and Daniel Enz of having formed a "journalistic-judicial table" to build cases against him. He asks for the file on his conviction, which he considers null and void, and for the list of telephone and e-mail communications between Enz and the prosecutors for a year, as well as the geolocation of the telephones. The Foro de Periodismo Argentino -FOPEA<sup>73</sup> and the Asociación de Entidades Periodísticas Argentinas -Adepa<sup>74</sup> spoke out against the complaint, considering that it is an attempt to intimidate and silence not only Enz but all investigative journalism.

The Minister of Justice of the Nation, Mariano Cúneo Libarona, filed a criminal complaint against journalist Nancy Pazos (Radio Mega) as a result of a journalistic analysis she made on a speech made by President Javier Milei. The Argentine Journalism Forum -FOPEA- considered the complaint<sup>75</sup> an attempt to "criminalize" the practice of journalism and recalled that slander and libel were decriminalized in Argentina after the "Kimel" ruling of the Inter-American Court of Human Rights. A prosecutor dismissed the complaint on the grounds that the facts did not constitute a crime.

In the region of **Central America and Cuba**, the improper use of criminal and/or civil law against journalists and/or human rights defenders is a latent and growing trend.

This situation faced by some journalists in the region stems from legal frameworks that facilitate the criminalization of journalists and communicators or their families in order to inhibit their work of disseminating, disclosing, or investigating cases of public interest in the exercise of their journalistic work.

One case of journalist criminalization \ documented by ARTICLE 19 in 2023 in **Cuba** is the case of the collaborator of CubaNet media, Luis Angél Cuza Alfonso.<sup>76</sup> He was sentenced to one year and six months in prison for the alleged crime of public disorder last November . This is not the first time that the reporter has been detained. During the April 2021 demonstrations in support of the San Isidro Movement he was arbitrarily detained until January 2022, when he was released. Between January 2022 and November 2023 Cuza suffered about ten arbitrary detentions. There is also the case of Lázaro Yuri Valle Roca, a journalist of the Delibera media, who was recently released in deteriorated health condition.<sup>77</sup>

In **Nicaragua**,<sup>78</sup> the government detained several partisan journalists because they issued critical comments against the government. In February 2023 Nicaragua declared 94 dissidents (including journalists) traitors, canceled their citizenships and expelled them from the country.<sup>79</sup>

An emblematic case in **Nicaragua** is that of Victor Ticay,<sup>80</sup> who was found guilty of spreading false news and conspiracy to undermine national integrity after being arrested for covering a religious celebration. The authorities used the Special Law on Cybercrimes against him. Similar to Ticay's case, Confidencial<sup>81</sup> reported that Canal 10 journalist Hazel Lilliette Zamora Hernández was detained on the afternoon of May 5 along with her six and 11 year old children. The alleged crimes committed by Zamora were conspiracy, undermining national integrity, and propagating false news.



In **El Salvador**, the Attorney General's Office continues to have plenipotentiary powers to define any citizen as a terrorist and to direct arrest without a warrant in the context of the emergency regime. This has resulted in a chilling effect on journalists. Last year the journalist of El Diario de Hoy, Jorge Beltran Luna had to face the initiation of a civil lawsuit for alleged moral damages against the businessman Yakov Fauster.<sup>82</sup> The lawsuit arose after the journalist took up an article in the Mexican media Proceso accusing the businessman of having links with companies dedicated to cyber espionage.

In February 2024, the court decided not to award compensation to the businessman but the journalist was asked to make a public apology, supposedly in order to respect the right to freedom of expression. This ignored the fact that maintaining the public apology also affects this right because the lawsuit should not have proceeded.<sup>83</sup> This situation also set a dangerous precedent that could be repeated in other cases such as that of MalaYerba,<sup>84</sup> whose director, Carolina Amaya, in February 2023 had to face the arrest of her father after carrying out some publications referring to the family of Nayib Bukele and receiving threats for her publication.<sup>85</sup>

In the particular case of **Guatemala**, Red Rompe el Miedo Guatemala has documented that at least 26 people left the country between 2022 and 2023 due to the increase in prosecutions against journalists through judicial harassment, threats and intimidation. At least eight journalists, columnists and staff of the newspaper El Periódico went into exile and have not returned to the country according to IAPA data.<sup>86</sup> The peak of these departures was detected between February and March 2023, after at least eight journalists and columnists of elPeriódico were involved in one of the cases of José Rubén Zamora Marroquín.

The case of José Ruben Zamora Marroquin is emblematic because his trial was politicized from the beginning as a reprisal for his journalistic work and instrumentalized to promote self-censorship and the silencing of other journalists.<sup>87</sup> Red Rompe el Miedo Guatemala, as well as various organizations and collectives have accompanied and documented this case from the moment of his arrest in July 2022.

The criminal proceedings faced by José Rubén Zamora have been marked by a series of irregularities ranging from the abusive use of criminal law, the illegal deprivation of liberty using the concept of pre-trial detention, the threat and harassment of his more than nine defenders, as well as his support networks. The granting of house arrest to Zamora last May is a positive step, but it is urgent that action be taken in the two cases still open against him.<sup>88</sup> On two occasions, Reporters Without Borders had the opportunity to visit Zamora in prison and his conditions of detention continue to be worrying.<sup>89</sup>

In **Mexico**, ARTICLE 19 Mexico and Central America Office<sup>90</sup> have also had to face the abusive use of litigation aimed at silencing their work and intimidating them. The criminal complaint against them is due to their work accompanying journalists and human rights defenders in Mexico on issues of freedom of expression and access to information.<sup>91</sup> The criminal complaint against ARTICLE 19 is related to the filing of an amicus curiae brief<sup>92</sup> in the Ulrich vs Google case<sup>93</sup> at the end of 2023. The organization presented a solid argument on the dangerous precedent that could be validated by the Supreme Court of Justice of the Nation by granting responsibilities to platforms for content created by third parties. This precedent could mean that over-regulation and content removal schemes are prioritized over international standards on freedom of expression in the digital sphere.

The abuse of legal tools to silence dissenting voices and expose issues of public interest poses a threat to freedom of expression and above all is a tool with exponential potential to drag people into years of legal proceedings and create significant financial risk due to legal costs. Unfortunately, currently in Mexico there is no forceful legislative reform to protect and prevent abuse of legal tools so that they can be dismissed at an early stage. It is important to maintain a threshold of protection based on the Inter-American framework for the protection of human rights to avoid complaints against journalists, activists and civil society organizations that expose issues of public interest. In **Mexico**, during the last few years, several emblematic cases have been filed, such as those against journalist and academic Sergio Aguayo,<sup>94</sup> investigative journalist Humberto Padgett,<sup>95</sup> journalist Roxana Romero,<sup>96</sup> and a group of journalists from Baja California Sur.<sup>97</sup> It should be noted that practically all of these lawsuits have been won by the journalists in question, which evidences the dubious merits of the cases.



In **Colombia** there has been a notorious increase in the judicialization of freedom of expression, especially against the press. According to reports and figures from the Foundation for Press Freedom, 12 cases were registered in 2017, a number that increased to 36 in 2018 and 67 in 2019.<sup>98</sup> Since then, the trend of judicializing expressions of public interest has persisted. In 2020, 36 cases of judicial harassment were registered, in 2021 there were 36 cases, in 2022 there were 27, and in 2023 there were 38.<sup>99</sup> As of June 2024, 14 cases have been registered.<sup>100</sup>

The Constitutional Court's Ruling T-452 of 2022 was issued in a tutela action brought by **Ciro Guerra** against **Catalina Ruiz-Navarro** and **Matilde Jaramillo**,<sup>101</sup> journalists of the feminist magazine **Volcánicas**, in connection with a report on<sup>102</sup> allegations of sexual violence perpetrated by him. The Constitutional Court recognized that Guerra's use of the judicial system had elements of judicial harassment. Such consideration was taken into account, since there was an inequality between the parties in their possibility of avoiding the costs involved in submitting to a judicial process. Additionally, the amount of money requested for compensation in a civil process also initiated by Guerra was disproportionate and, in general, the actions initiated before the judicial authorities by the filmmaker had censorship purposes.<sup>103</sup>

This judgment, in addition to determining a series of elements that make it possible to identify judicial harassment, brought into the picture a debate regarding the way in which the phenomenon is enunciated. The Court indicated that the term judicial harassment suggests that it is perpetrated by judges when, in reality, it is carried out by legal professionals who abuse the administration of justice.

**This opens the door to a breakthrough that seems obvious, but which until then did not exist in the country: to counteract litigious harassment, the first thing that must be achieved is to name the use of the judicial system for purposes of persecution of freedom of expression, freedom of association and assembly, and silencing of issues of public interest as such within the applicable legal framework. When a social phenomenon is named within the legal practice it is possible to identify it and, eventually, regulate it. In the absence of regulation, this has been possible in Colombia as a result of strategic litigation for the recognition of the phenomenon.**

**This, however, may result in contradictory rulings and, eventually, be unfavorable for freedom of expression. In 2023, Ruling C 487 of the Constitutional Court declared the constitutionality of the prison sentence for criminal libel and slander, as it considered that the number of criminal convictions in this area is low. This ruling disregards international and inter-American trends on the decriminalization of defamation and lessens the intensity of the judicialization of freedom of expression.**

**In addition to the non-existence of a regulation that prevents the abuse of the judicial system to silence expressions of public interest and the persistence of crimes such as libel and slander in the Colombian legal system, new elements have been identified that are key for the increase of the already known practices of judicial harassment. There is an increased interest in the country in the regulation of expressions, especially in digital environments. This comes under the banner of "security" or in relation to efforts to counteract discrimination. Ultimately, legislative initiatives without consideration of their effects on freedom of expression, may provide judicial harassers with more and better instruments to harm journalists, activists, defenders and Internet users, through judicial and extrajudicial actions that limit their expression; call for self-censorship; narrow the public debate and harm its quality.**



On March 27th, in **Peru**, the Attorney General's Office has opened an investigation against the country's best-known investigative journalist, Gustavo Gorriti,<sup>104</sup> for allegedly corrupting prosecutors of a special unit investigating bribes paid in Peru by the Brazilian public works company Odebrecht since 2016. This is a maneuver to intimidate the reporter and all investigative journalists who monitor the work of power. The complaint that triggered the investigation against Gustavo Gorriti was filed by a member and former elected official of the Aprista Party (APR) of Alan Garcia, the former president of Peru who committed suicide in 2019, when he was to be arrested in the framework of the Odebrecht case. The journalist is accused of having influenced the investigation against former presidential candidate Keiko Fujimori, whose trial for money laundering is scheduled to begin next July 1st. The supreme prosecutor has ordered the director of IDL-Reporteros to provide the telephone number he was using at the time of the alleged events, thus forcing him to reveal his sources.

Reporters Without Borders (RSF) has documented that Gustavo Gorriti's home and the offices of IDL-Reporteros are constantly targeted by militants of the party of former president Alberto Fujimori (1990-2000) and other extreme right-wing groups, who meet several times a month to demand the journalist's arrest and make death threats.

In **Brazil**,<sup>105</sup> civil and criminal proceedings have been used as a tool to silence and censor journalistic work which has been a major challenge for at least 15 years, when the case of journalist Elvira Lobato was recorded. She was the target of 111 civil lawsuits for publishing articles investigating the Universal Church of the Kingdom of God. The church itself coordinated this strategy using its followers to disseminate lawsuits in special courts throughout the territory.

Defined as the use of intimidating judicial measures against journalism as a disproportionate reaction to lawful journalistic activity on issues of public interest, Abraji<sup>106</sup> registered 654 lawsuits characterized as judicial harassment in Brazil from 2009 to 2024. More serious strategies stand out as the use of the criminal system to harass Brazilian journalists. In November 2023, journalist Schirlei Alves was sentenced to one year in prison and a payment of 400,000 reais for the crime of defamation. The sentence stemmed from the publication of a report on the case of an influencer who was subjected to vexation during her testimony as a victim in the trial against the individual accused of raping her in 2018. The lawsuits that led to Schirlei's conviction were initiated by the judge and prosecutor involved in the rape trial.



# Conclusion and Petition

The measures identified above coexist and, when understood together, generate a factual and legal context that removes in practice any guarantee to exercise freedom of opinion and expression on matters of public interest, whether from the citizenry, human rights defenders or the press. This should be understood as a warning sign, since the IACHR itself has observed that "the determination regarding the opening or closing of civic space in a State depends on the legal conditions and factual circumstances that favor or restrict the exercise of those rights identified as enabling individuals and groups to play a meaningful role in their societies and contribute to decision-making processes in matters that affect them, in particular: freedom of expression, the right of assembly, freedom of association, and the right to participate in the conduct of public affairs."<sup>107</sup>

These measures have a highly negative impact on the democratic system and on the exercise of the broadest range of human rights in the region. In addition to representing a violation of the right to freedom of expression, freedom of opinion, and freedom of the press, which cannot be tolerated in a democratic system, this broad censorship strategy jeopardizes the entire institutional framework and the closure of civic space. This is due to the inhibitory effect caused by the instrumentalization of institutions and laws, as well as state media against any person critical or contradictory to the government without distinction, whether a human rights defender or activist, a public watchdog, a journalist or simply a person interested in matters of public interest. In this way, collective democratic principles— participation, security, integrity, pluralism, the right not to be persecuted for one's opinions, and the enjoyment of civil and political rights, including judicial guarantees—are harmed.

# Conclusion and Petition

Now, at the current juncture of evident democratic setbacks in the region, this summary of the strategies provides a regional view of how freedom of expression is being stifled in particular and, in general, how civic space is being closed from different angles. Based on these inputs, the IACHR and its Office of the Special Rapporteur for Freedom of Expression will be able to take measures, presented by the signatory organizations, that contribute to redirect the current trend and foster a culture of recognition of public oversight, pluralism of opinions and political positions, and dissent.



# Conclusion and Petition

In view of the foregoing, we respectfully request that the Inter-American Commission on Human Rights:

1. Call the attention of the States in the region to the importance of protecting the rights to freedom of expression and the right to defend human rights in the face of State censorship measures, and continue to closely monitor the situation described above;

2. Develop a Model Protocol that delves into the standards already established by the Inter-American system regarding freedom of expression of officials, the rights and obligations involved, and their impact on State communications and the digital world. This Model Protocol may provide States with a useful tool that contributes to the prevention of violence derived from stigmatizations disseminated online, which can be understood as enabling messages. This initiative can have a preventive effect in a context in which a parallelism is already evident between the increase in physical violence against journalists and the hostile environment promoted by official stigmatizations;

# Conclusion and Petition

3. To advance the prioritization of petitions pending admissibility and merits that address the issues discussed herein and that allow for the expansion of the consolidation of standards in this area;

4. To advance a report on the effects that the surveillance tools exposed in this hearing have on the free exercise of freedom of expression;

5. Finally, we would like to reiterate the request made by several organizations, including some of those present, at the hearing held during the 187th session on the preparation of a report on strategic lawsuits against public participation as a threat to freedom of expression. We also request that this issue be studied in parallel to other contexts of judicialization and criminalization against freedom of expression.

**El Veinte**

**Miguel Agustín Pro Juárez Human Rights Center (Centro Prodh)**

**FOPEA**

**Communication and Information for Women, A.C. (CIMAC)**

**ARTICLE 19 Mexico and Central America**

**Media Defence**

**Inter American Press Association (IAPA)**

**Robert F. Kennedy Human Rights**

**Abraji**

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