

Report for Universal Periodic Review

Paraguay 2016

By the IFEX-SPP Coalition (IFEXSPPC)



ORGANISATIONS SUBMITTING THIS REPORT:

IFEX¹: The major global network defending and promoting the right to freedom of expression and information worldwide. It was founded in 1992 and now partners with 95 organisations in more than 65 countries. In Latin America and the Caribbean, IFEX has 19 partner organisations in various countries of the region, which combined make up the IFEX-ALC network. This alliance was created in 2009 to fill the need of various organisations to increase their capabilities and competencies, with the common objective of defending freedom of expression in Latin America and the Caribbean.

SPP: The Union of Journalists of Paraguay (*Sindicato de Periodistas del Paraguay* (SPP) is the partner organisation of IFEX in Paraguay. SPP² was founded in 1979 with the support of the Paraguayan Workers Confederation (*Confederación Paraguaya de Trabajadores* (CPT). The organisation was not formally recognized during the Alfredo Stroessner dictatorship, however, the State of Paraguay officially granted SPP recognition on July 25, 1988. Its areas of interest and action include denouncing media ownership concentration and impunity in cases of violence against journalists, as well as advocating for freedom of expression and better working conditions for communications professionals.

¹<https://www.ifex.org/>

² <http://sindicatodeperiodistas.org/sa/>

EXECUTIVE SUMMARY

1. This report is submitted by the IFEX-ALC Coalition. The objective of this report is to denounce and highlight to the UN Human Rights Council in Geneva, during the Universal Periodic Review (UPR) of the Republic of Paraguay in 2016, the impunity of violence and crimes against journalists and community radio stations. The findings outlined in this report are based on SPP reports and the information gathered and analyzed by a regional delegation from IFEX-ALC that visited Paraguay in May of 2015. The delegation interviewed families of murdered journalists, representatives from institutions of the State of Paraguay –Senate, Congress, Ministry of the Interior and Public Prosecutor’s Office–, journalists’ union leaders, journalists, representatives from community radio stations and human rights organisations³.

WHAT IS THE OBJECTIVE OF THIS REPORT?

2. To bring up for consideration before the United Nations Human Rights Council the grave situation regarding freedom of expression in the Republic of Paraguay, so that what is taking place in this nation can be examined within the UPR process utilizing these documented facts. As well, to make specific recommendations that may act as an alternative for dealing with impunity in cases of crimes against journalists. This input is particularly necessary if it is considered that the last UPR in which Paraguay was evaluated –in January of 2011– the issue of freedom of expression was not addressed in any of the submitted reports⁴.
3. SPP has recorded the murders of 17 journalists since 1991⁵. All of these crimes have gone unpunished. Since 2013, there has been an increase in the number of journalists murdered. Since February of that year until June 17, 2015, 7 murders have been recorded. In other words, 40% of all cases involving murdered journalists occurred in the last two and a half years.
4. In addition to these murders, it is also important to consider the police aggressions that journalists covering these stories endure and the environment of state violence under which community radio stations operate⁶,
5. Despite the gravity of this situation involving violence and crimes against journalists in Paraguay, there are no systemic studies or in-depth reports on this issue. Furthermore, information from the Public Prosecutor’s Office of the Republic of Paraguay regarding the 17 journalists murdered was not updated

³ The people interviewed by the IFEX-ALC delegation include: the families of murdered journalists who came from areas outside of the capital city of Paraguay, who shared their experiences regarding the psychological, emotional, and personal safety issues they were having; journalists’ union leaders who have recorded freedom of expression abuses; active journalists who have been assaulted by law enforcement; representatives of the State of Paraguay who are concerned with the issue of freedom of expression, and who have information regarding crimes against journalists; community radio leaders whose radio stations have been harassed by entities linked to the Paraguayan State; and local activists who have recorded official human rights and freedom of expression abuses.

⁴ <http://www.upr-info.org/es/review/Paraguay/Session-10---January-2011>

⁵ * See Appendix 1.

* The Director of the Forum for Paraguayan Journalists (*Foro de Periodistas del Paraguay* – FOPEP) wrote an article in which he details each one of these 17 cases: <http://w.ultimahora.com/dia-del-periodista-los-17-que-dieron-la-vida-informar-n890847.html>

⁶ These abuses were documented in the 2014 Report by the Special Rapporteur on Freedom of Expression: <http://www.oas.org/es/cidh/expresion/docs/informes/anauales/Informe%20Anual%202014.pdf>

until the IFEX-ALC delegation's visit from the 18th to the 20th of May, 2015⁷. As a result of a request made by the delegation, the Public Prosecutor issued a progress report, which was delivered to the SPP and only provides updates on 8 of the cases⁸.

THE STATE OF PARAGUAY'S OBLIGATIONS RELATED TO FREEDOM OF EXPRESSION

6. The Paraguayan constitution recognizes and guarantees the fundamental rights inherent to human dignity, and establishes assurances of their protection. The rights guaranteed in the Magna Carta are in line with international human rights instruments⁹.
7. The guarantees of freedom of expression are embedded in the Paraguayan legal system. The National Constitution, the international regulations incorporated into the national legal system and Paraguay's laws act as a safeguard to this right. Section 26 of the National Constitution guarantees free expression, the dissemination of thought and the right of every citizen to generate, process and circulate information using the resources at their disposal¹⁰.
8. Also enshrined in the Constitution is the freedom to practice journalism. Article 29 establishes that prior authorization to practice is not required, and it guarantees that journalists shall not be obligated to act against the dictates of their own conscience, or reveal their information sources, among other guarantees¹¹.

THE FREEDOM OF EXPRESSION CONTEXT IN PARAGUAY

9. In Paraguay, the exercise of freedom of expression faces obstacles and challenges at various levels. Violation of this fundamental right manifests itself through: violence against journalists and the murder of journalists; the way in which Paraguay's radio spectrum is regulated; the concentration of media ownership; State supervision of public advertising; and access to public information. All of these elements work as a system that limits the exercise of freedom of expression, which can be recognized on two levels: individually and collectively, since limiting freedom of expression not only affects people, but also impacts the right of a society to be informed.
10. With regard to State management of the radio spectrum, community radio collectives have made various specific complaints. These community radio stations believe that changes to the March 2011 Telecommunications Act undermine the operation of community radio, since they limit their scope and access to new frequencies and prohibit radio stations from securing public-private financial support. Combined, these halt any possibility for funding and investment in the equipment necessary for basic

⁷The IFEX-ALC delegation interviewed the Director of the Public Prosecutor's Office of the Republic of Paraguay, on May 20.

⁸See Appendix 2.

⁹Based on National UPR Report 2011. http://www.upr-info.org/sites/default/files/document/paraguay/session_10_-_january_2011/ahrcwg-610pry1s.pdf

¹⁰Based on 'Grave Dangers within the Narco-Politics Framework. Deaths and Threats to Life and Freedom of Expression' by Vicente Páez (SPP) in the 2014 Annual Human Rights Report of the Human Rights Coordinator of Paraguay (CODEHUPY). http://www.codehupy.org/index.php?option=com_docman&task=cat_view&gid=18&Itemid=21

¹¹Idem.

operations. By their very nature, community radio stations do not seek profits, which means that any obstacle to raising funds for their operations affects their very survival¹². The objective of this type of media is to offer communication services to marginalized peasant populations and vulnerable groups.

11. The Paraguayan constitution¹³ rejects the monopoly of media ownership. However, it does not refer to oligopoly or the over-concentration of media ownership, aspects which have sparked public debate¹⁴. There are also questions related to the role of the National Telecommunication Commission (Comision Nacional de Telecomunicaciones (CONATEL) regarding the actual supervision and control of media ownership in Paraguay¹⁵. CONATEL has been questioned for putting greater emphasis on economic efficiency within the telecommunications market, than on plurality of perspective, which should exist in the media context of a democratic society where freedom of expression is respected¹⁶. This issue has been highlighted by community radio organisations that believe their access to the radio spectrum has been diminished, even though the Telecommunications Act recognizes their presence¹⁷.
12. In accordance with international standards, the telecommunications regulatory authority must be independent, with “operational and administrative autonomy from any other person or entity, inclusive of the government or any of its agencies¹⁸.” The Telecommunications Act of Paraguay does not conform with international standards when designating the board members of CONATEL. These positions are not chosen through open and democratic appointment standards that would allow for public participation and consultation. Instead, the governing body of CONATEL, which is made up of 5 board members, is appointed by the Executive Branch¹⁹.
13. There have been criticisms related to discretionary allocation of public advertising. In past years, the General Assembly of the Inter American Press Association (IAPA) urged the Paraguayan government of Fernando Lugo to end discriminatory practices and support regulations for the equal distribution of advertising in order to ensure these are not used as an instrument for coercion. IAPA also urged the State to take into account the Declaration of Principles on Freedom of Expression of the OAS, which establishes that “the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law²⁰.”

¹²<http://www.alainet.org/es/active/44926>

http://www.conatel.gov.py/files/marcoregulatorio/leytelecomu/Ley_N_642-95.pdf

‘Grave Dangers within the Narco-Policy Framework. Deaths and Threats to Life and Freedom of Expression’ by Vicente Páez (SPP) in the 2014 Annual Human Rights Report of the Human Rights Coordinator of Paraguay (CODEHUPY) http://www.codehupy.org/index.php?option=com_docman&task=cat_view&gid=18&Itemid=21

¹³ http://www.oas.org/juridico/spanish/par_res3.htm

¹⁴ <http://www.abc.com.py/edicion-impresia/opinion/concentracion-de-medios-vs-libertad-de-expresion-1270718.html>

¹⁵ <http://www.ghp.com.py/boletin/pdf/CONCENTRACION%20DE%20LOS%20MEDIOS%20DE%20COMUNICACI%3N.%20UN%20ANALISIS%20DESDE%20LA%20LEGISLACION%20PARAGUAYA.pdf>

¹⁶ <http://www.ghp.com.py/boletin/pdf/CONCENTRACION%20DE%20LOS%20MEDIOS%20DE%20COMUNICACI%3N.%20UN%20ANALISIS%20DESDE%20LA%20LEGISLACION%20PARAGUAYA.pdf>

<http://bibliotecavirtual.clacso.org.ar/Paraguay/cde/20121001034524/libertad2003.pdf>

¹⁷ <http://bibliotecavirtual.clacso.org.ar/Paraguay/cde/20121001034524/libertad2003.pdf>

¹⁸ <http://www.article19.org/data/files/pdfs/standards/access-to-the-airwaves-sp.pdf>

¹⁹ http://www.conatel.gov.py/files/marcoregulatorio/leytelecomu/Ley_N_642-95.pdf

²⁰ <https://www.oas.org/es/cidh/expresion/docs/publicaciones/PUBLICIDAD%20OFICIAL%202012%2005%2007.pdf>

14. In terms of access to public information, the current President of Paraguay, Horacio Cartes, enacted Law No. 5.282 on September 18, 2014, “Regarding open access for citizens to public information, and government transparency.” This law forces State institutions and officials to disclose any information requested by citizens, such as salaries, official trips and contracts, or other data not defined as secret²¹. Some of the factors that led to this law were a decade of pressure from civil society organisations, the decision by the Supreme Court of Justice to release information about the positions and salaries of judicial officers, and the subsequent disclosure of expenses by the Chamber of Deputies of the Republic of Paraguay²². Given that this law was recently enacted, more evidence has yet to surface about its implementation. However, it is important to note that the creation of an autonomous body to regulate its implementation is a key component, so that the law does not remain a mere theoretical statement.
15. One of the greatest challenges for the State of Paraguay is to give attention to, and keep track of, the 17 cases of murdered journalists that remain unpunished. Each one of these cases forms part of a typology, which highlights the risky environment under which Paraguayan journalists have to work on a daily basis. On the face of this violence, media professionals are neglected by the justice system and left at the mercy of local political bosses and organized crime.

DESCRIPTION OF THE VIOLENCE AND IMPUNITY AGAINST JOURNALISTS IN PARAGUAY

16. Based on the IFEX-ALC investigations in Paraguay, carried out in collaboration with various types of participants, civil society organisations and State representatives, it is possible to formulate a typology of the risk factors faced by journalists. In order to develop this typology, the common factors found in the 17 cases of journalists murdered since 1991 have been taken into particular consideration:

Conflictive Areas To Work In

17. The murders of journalists have most often occurred in the Northeast region of Paraguay, where the influence of illegal drug-trafficking activities associated with neighbouring countries, such as Brazil and Argentina, is present. These crimes have occurred in the Departments of San Pedro, Concepción, Amambay and Itapúa.
18. In these regions, drug-trafficking has permeated local political bodies and the police.
19. Additionally, it is common for elected officials to be the owners of media, especially radio stations used for electoral purposes and to attack political opponents. Given the scarce sources of employment, it is in these radio stations that local journalists must often work.
20. Under these circumstances, journalists are threatened, and even killed, when they criticize local bosses through their work. Additionally, family members of the murdered journalists are also fearful of possible retaliation for reporting these crimes²³. ABC Color, one of the largest newspapers in Paraguay, has moved

²¹ https://www.ifex.org/paraguay/2014/09/25/access_info_law/es/ <http://www.ceamso.org.py/media/docs/ley-acceso-a-la-informacion-publica-ultima-version.pdf>

²² <http://www.abc.com.py/nacionales/paraguay-es-el-pais-numero-100-en-tener-una-ley-de-acceso-a-la-informacion-1288450.html>

²³ <http://www.hoy.com.py/nacionales/hijos-de-pablo-medina-sin-custodia-me-da-miedo-salir-a-la-calle>

journalists who worked outside of the capital city, whose lives were being threatened²⁴, to Asunción and even to countries such as Norway²⁵.

Limited And Precarious Working Conditions For Journalists

21. In the previously-mentioned conflictive Northeast region, there are limited work opportunities for journalists, and they often have to survive as “freelancers”.
22. This exposes journalists to situations where local bosses may look to co-opt them through special remunerations or bribes in the form of favourable reports²⁶. This may cause journalists to become vulnerable or involved with dangerous networks of organized crime.
23. It is also noteworthy that journalists who work for small or community media outlets receive less coverage when they are attacked or murdered. As a result, several murder cases involving journalists have not reached public debate, which, in turn, helps increase the levels of impunity.

The Precariousness Of Community Radio Stations

24. Community radio stations are in a very different situation than other media in Paraguay, as they are often rural and indigenous organisations that have been subjected to marginalization and a lack of operational resources.
25. Various members of community radio stations interviewed by the IFEX-ALC delegation indicated they have been harassed and had their equipment seized by police, under the excuse that these radio stations were operating outside the law. This causes irreparable damage, as it is impossible for them to replace this equipment²⁷.
26. The violence endured by journalists who work at community radio stations is systemic. It manifests itself through harassment by local authorities and police, who often accuse these journalists of cooperating with guerrilla groups. This is a kind of violence that, even it does not result in deaths, nevertheless creates obstacles to exercising freedom of expression for journalists working at community radio stations.

²⁴This was the case for Pablo Medina, who was receiving death threats years before he was murdered. <http://www.abc.com.py/edicion-impresa/politica/periodista-obligado-a-andar-con-guardia-por-amenaza-de-politico-180945.html>

²⁵This information was provided to the IFEX-ALC delegation by the newspaper ABC Color. This is the case for Candido Figueredo, who has received multiple death threats: <http://www.abc.com.py/nacionales/new-york-times-retrata-el-trabajo-de-periodista-paraguayo-409662.html>

²⁶This is a complex subject, and the reason for which members of the Bicameral Committee of the Senate and Congress decided to investigate the murders of journalists Pablo Medina and his assistant Antonia Almada.

²⁷These abuses have been documented in the 2014 Report of the Special Rapporteur on Freedom of Expression: <http://www.oas.org/es/cidh/expresion/docs/informes/anales/Informe%20Anual%202014.pdf>

DESCRIPTION OF PARAGUAYAN STATE OPERATION IN RELATION TO GUARANTEES OF FREEDOM OF EXPRESSION

27. The actions of institutions in the State of Paraguay, or the lack thereof, also impede the exercise of freedom of expression. The current situation, which favours violence and impunity of crimes against journalists, can be explained by the ineffectiveness of the justice system, the pervasiveness of corruption in State institutions, and by State violence.

Ineffectiveness Of The Justice System

28. For the justice system, defending freedom of expression and prosecuting crimes against journalists are not priorities. This is demonstrated by the almost complete lack of attention given to most of the 17 cases of murdered journalists since 1991.
29. Threatening a journalist is considered a misdemeanour of private penal action. As such, it is the responsibility journalists to defend themselves, with the accompanying investment of time and money. Commencing a lawsuit in Paraguay costs approximately US\$ 400, while the average monthly salary of a journalist in US\$ 600²⁸. Additionally, this also means the Public Prosecutor is not authorized to investigate these threats. Together, these factors create a state of helplessness for threatened journalists.
30. The inadequate investigation of crimes against journalists makes it impossible to know if they are actually related to their professional life. As a result, the authorities often explain these deaths as “crimes of passion”, “traffic accidents” or “acts of revenge”.²⁹
31. The Specialized Human Rights Unit of the Public Prosecutor’s Office does not have the sufficient resources to deal with abuses against journalists, nor does it have the support needed to take action in cases where local politicians may be involved.
32. There is also no unit within the Office of the Public Prosecutor that follows-up on cases where journalists have been assaulted or murdered on the job.

Penetration Of Drug-Trafficking Within State Institutions

33. The Paraguayan authorities interviewed by the IFEX-ALC delegation recognize that organized crime has penetrated security forces. According to the Bicameral Committee’s final report on the investigation of the

²⁸ Source SPP

²⁹“Crime of passion” was the explanation given by the authorities for the murder of Yamila Cantero in July of 2002. This version of the events was not accepted by her family members and journalists’ union members. Authorities offered the same explanation for the murder of journalist Ángela Acosta in December of 2006. According to the family of radio broadcaster Calixto Mendoza, who was found dead at the edge of a country road in March of 1997, Calixto was hung to death. However, the Police maintained that it was a “traffic accident”. The murder of Martín Ocampos, in January of 2009, was explained by Police as an act of revenge by a guerrilla group he supposedly used to be a part of.
<http://www.ultimahora.com/dia-del-periodista-los-17-que-dieron-la-vida-informar-n890847.html>

murders of journalist Pablo Medina and Antonia Almada, 70% of the National Police is infiltrated by organized crime³⁰.

34. Criminal networks financed by drug-traffickers permeate sectors of the political power structures at a local and national level³¹.
35. The geographical location of Paraguay, which shares an extensive border with Brazil and Argentina, explains the presence of criminal activity and drug-trafficking in certain areas with high levels of violence. Some statistics that highlight this situation include: The homicide rate in Paraguay for 2014 was 7.98 for every 100,000 inhabitants; however, the rate in the Department of Amambay, which borders Brazil, was 66.73 for every 100,000 inhabitants. It is also in the regions neighbouring Brazil and Argentina that high rates of crimes against journalists are recorded³².

State Violence

36. The individuals interviewed by the IFEX-ALC delegation unanimously denounced the escalation in violence against journalists in Paraguay.
37. The police force and State agents, which constitute the groups permeated by organized crime, are identified by journalists as the alleged perpetrators of crimes against journalists.
38. There are constant reports about the increase in police abuse and the failure of the Specialized Human Rights Unit of the Public Prosecutor's Office to fulfill its duties.

³⁰ http://www.senado.gov.py/index.php/comisiones/75190-integrantes-de-la-comision?id_comi=100392&id_perio=100063

³¹ This is one of the conclusions from the above-mentioned Committee in their final report.

³² <http://www.infobae.com/2015/01/26/1623129-la-frontera-paraguay-y-brasil-tiene-una-las-peores-tasas-homicidio-del-mundo>

RECOMMENDATIONS

Based on the assessments made by this report, which reviews the information provided by representatives of the State of Paraguay, journalist associations, individual journalists, relatives of murdered journalists, organisations defending human rights and organisations that bring together community radio stations, the IFEX-SPP coalition proposes the following recommendations so that the United Nations Human Rights Council may extend them to the State of Paraguay during the next UPR evaluation in 2016:

- Investigation and reparation of the 17 cases of murdered journalists since 1991. The creation of a special commission for this purpose and the implementation by the Public Prosecutor's Office of a plan for dealing with the files of these murdered journalists.
- Creation of a special prosecutor or specialized unit focused on violations of freedom of expression, which would be a part of the Specialized Human Rights Unit of the Public Prosecutor's Office, with its own resources and trained personnel to carry out effective investigations. The primary objective of this prosecutor/special unit will be to deal with the impunity that is prevalent in Paraguay, with regard to crimes against journalists.
- Creation of an ongoing three-party roundtable that brings together the State, media and journalists, with a focus on discussing measures to protect journalists and concrete policies for guaranteeing freedom of expression in Paraguay.
- Full guarantee of the right of community media in terms of access to adequate conditions for operating, as well as securing funding. The implementation of procedures for granting licenses must include regulations adapted to the particular circumstances of community radio stations, so that they are not competing with private-sector media. Community radio stations must be guaranteed the ability to access financial resources, specifically through non-profit advertising.

APPENDICES

1. List of murdered journalists whose cases have gone unpunished (Source:SPP)
2. Progress report on the 17 cases of assassinated journalists (Source: Public Prosecutor's Office of the Republic of Paraguay)