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Argentina

Country:

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Year:

2016

Press Freedom Status:

Partly Free

PFS Score:

50

Legal Environment:

14

Political Environment:

20

Economic Environment:

16

Overview

The climate for freedom of the press in Argentina remained tense in 2015, due in large part to the frayed relationship between the government of President Cristina Fernández de Kirchner and critical media outlets. This situation was exacerbated by the pressures of an election year and a media frenzy surrounding the mysterious death of Alberto Nisman, a federal prosecutor, shortly before he was due to present a report that was highly critical of the Fernández de Kirchner administration. The election of center-right opposition presidential candidate Mauricio Macri in November brought an end to 12 years of government under Fernández de Kirchner and her late husband, Néstor Kirchner. While the change in administration eased tensions with the conservative press, it remained unclear at year's end whether the new president would facilitate genuinely impartial media regulation.

Key Developments

- A journalist who broke the story of Nisman's death fled to Israel in January, claiming intimidation by the Argentine government.
- A provincial court, ruling in June, upheld a law requiring newspapers to carry political parties' advertisements free of charge in the run-up to elections.

- In December, Macri used presidential decrees to replace the leadership of the two main media regulators and merge them into a new entity under the Ministry of Communications.

Legal Environment: 14 / 30 (↑1)

Argentina's constitution provides for freedom of the media and of expression, and restricts Congress from passing legislation that would affect those freedoms. Defamation-related offenses were decriminalized for journalists in 2009 and can no longer result in prison sentences. However, fines can still be issued in civil cases.

A 2011 amendment to the antiterrorism law increased penalties for terrorist acts. An interpretation by the head of Argentina's Financial Investigations Unit stated that news outlets could be held accountable under the law if they published material that "terrorizes" the public. Although the government stated that the measure was not intended for use against the media, it was invoked in 2014 to charge a journalist, Juan Pablo Suárez, for publishing video footage of a police protest in Santiago del Estero. The aggravated "terrorism" charge was later dropped, but Suárez still faced a charge of incitement to violence, and the law itself remained in place.

Argentina has no federal law on access to information, despite numerous attempts to pass one in Congress. However, some provinces and municipalities have such legislation in place, and the Supreme Court has upheld information requests on constitutional grounds in recent years. The lack of federal legislation is particularly problematic given the Fernández de Kirchner government's record of manipulating key economic and other statistics. In the absence of reliable official figures, journalists often used estimates from private economists and consultants. In the past, the secretary of commerce has issued fines to journalists who published independent data for "defrauding commerce and industry." The Macri administration pledged to restore the integrity of the national statistics agency, though the effort was still in its early stages at the end of 2015.

The 2009 Law on Audiovisual Communications Services, also known as the Ley de Medios (Media Law), created two media regulatory bodies, the Federal Communications Services Authority (Afsca) and the Federal Authority for Information Technology and Communications (Aftic). They were tasked with implementing the original law as well as a 2014 update, known as Argentina Digital, that introduced new regulations on cable, telephone, and internet service providers. The ostensible aim of these laws was to break up media monopolies and improve competition and service quality, but many observers argued that they were implemented with political bias. The Media Law was used to target the Clarín Group, which was critical of the Fernández de Kirchner administration, with attempts to dismantle its extensive media holdings. There was also evidence that the regulatory bodies displayed bias in the licensing process, granting new operating licenses almost exclusively to government or progovernment entities.

In late December 2015, newly elected president Macri issued a decree that brought both Afsca and Aftic under trusteeship for 180 days, replacing their heads with presidential appointees and designating auditors to scrutinize their practices during the previous administration. Afsca chief Martín Sabbatella immediately filed for an injunction to block

the move, but a federal judge ordered him and all Afsca employees to vacate their offices and comply with the decree, a decision that was enforced by police. The presidential takeover was criticized by pro-Fernández de Kirchner politicians who claimed that Macri's move violated mechanisms established under the Media Law to select the agencies' heads and ensure their independence.

On December 30, Macri issued a second presidential decree announcing that Afsca and Aftic would be merged into a single new entity that would be responsible for media regulation in Argentina, the National Communications Authority (Enacom). The new body would have a seven-member board, with four chosen by the executive branch and three by the parliament, and be housed within the Ministry of Communications, a structure that drew criticism due to the possibility of undue executive influence. In addition, the administration announced that it was amending certain provisions of the Media Law, such as a prohibition on the sale of broadcast licenses between media companies. A federal judge issued a preliminary ruling to block the administration from making unilateral changes to the regulatory bodies, but it was unclear at year's end whether that order would be enforced. Organizations including the Argentine Journalism Forum (FOPEA) and pro-Fernández de Kirchner politicians criticized Macri's use of presidential decrees to enact substantial changes to the regulatory framework.

Political Environment: 20 / 40

The level of hostility between the Fernández de Kirchner government and major private news outlets, particularly those in the Clarín Group, created a highly polarized media climate. Fernández de Kirchner held few official press conferences; instead, she made use of *cadenas*—nationwide presidential addresses that preempt programming on all radio and television stations. By law, *cadenas* are only valid as a means of communicating with the public in times of crisis, but Fernández de Kirchner used them nearly 40 times in 2015, in many cases denouncing critical journalists and the media. The president also used social media, especially her Twitter account, to assail critical outlets and the legitimacy of their reporting. The government continued to promote the slogan “Clarín miente” (“Clarín lies”) in its official advertising. In February 2015, then cabinet chief Jorge Capitanich tore up two pages of the daily *Clarín* at a press conference in response to negative reporting on the government. Macri held press conferences both before and after his election in November, signaling that the new administration would be more open to the media.

One of the main factors behind the Fernández de Kirchner government's deteriorating relations with the press in 2015 was the media's reporting on the mysterious death of federal prosecutor Alberto Nisman in January, shortly before he was to present Congress with a report accusing the government of covering up Iran's alleged role in the 1994 terrorist bombing of a Jewish community center in Buenos Aires. Amid speculation that the administration was somehow involved in Nisman's death, journalist Damián Pachter, who had broken the story, fled to Israel in late January due to concerns for his safety. He accused the government of misrepresenting his reporting in official media and sending intelligence agents to monitor his movements. The government published details of his air travel on Twitter, which were provided by the state airline, Aerolíneas Argentinas. In February, the embassy of Belgium requested consular protection for a Belgian-Spanish

journalist, Teresita Dussart, complaining that she had been the target of harassment for her reporting on the Nisman case. The government also revived old claims that critical outlets reporting on the case had cooperated with the military dictatorship, in an apparent bid to discredit them.

The media, including the internet, are generally free from official censorship. There have been some cases of the government taking down or blocking access to websites that facilitate illegal commercial activity or publish copyrighted or defamatory material, but the practice is not pervasive. A 2014 self-censorship survey conducted by FOPEA found that 53 percent of journalists reported the existence of self-censorship at the outlets where they worked. The most affected topics were those related to the national government, human trafficking, and drug trafficking. Many journalists reported editorial pressure from the business departments of their outlets or directly from advertisers.

Extreme violence against members of the press is very rare in Argentina, and no journalists were murdered in 2015. FOPEA registered 94 attacks against the media—including threats, assaults, attacks on media facilities, confiscation of equipment, and obstruction of coverage—in 2015, which represented a 52 percent reduction from the previous year's figure. Journalists sometimes face violence from police or other government officials in the course of their reporting. In April, journalist Rodrigo Mansilla of FM El Chubut and the affiliated newspaper *El Chubut* was severely beaten and threatened by a municipal employee in Trelew who believed that Mansilla was covering him in a negative light. The employee was later fired. Another journalist, cameraman Jorge Ahualli from the cable channel CCC in the northwestern city of Tucumán, was badly beaten in August after filming ruling party members distributing goods to voters in violation of electoral rules.

Journalists also face attacks in reprisal for their work—especially coverage of corruption or drug trafficking. In August 2015, journalists from the television networks Canal 5 and Canal 3, located in the eastern city of Rosario, were attacked by armed individuals in the neighborhood of a murder victim in an attempt to dissuade them from investigating the killing. In September, Maximiliano Pascual, director of a local paper and radio station in the eastern province of Santa Fe, was attacked by two unidentified men who cut his face and ears after he reported on a criminal case against a local drug trafficker.

Economic Environment: 16 / 30

Argentina has a large private media sector, with more than 150 daily newspapers, hundreds of commercial radio stations, and dozens of television stations. However, private ownership remained concentrated as of 2015, with the Clarín Group commanding a significant share of the print, broadcast, and internet service markets. Meanwhile, many radio stations operate on temporary licenses pending regulatory reform. Public media are less influential; the country's largest public television, TV Pública, has a much lower audience share than its private competitors. Public radio has also declined in importance since the privatization of the industry in 1980. The internet is widely available, with over 69 percent of Argentines accessing the medium as of 2015.

A 2011 law designated newsprint as a commodity of public interest, making it subject to government regulation. Under the law, the government can increase its minority stake in the only Argentine company that manufactures newsprint, Papel Prensa, in order to produce enough newsprint to satisfy the demand of all newspapers in the country; the rule could lead to eventual government control of the newsprint supply. Since 2010, the government has pursued an investigation into the two private media groups that control a majority stake in Papel Prensa, Clarín and La Nación, alleging that they acquired the shares at a time when the seller was under coercion by the military dictatorship of 1976–83. The investigation, which has been criticized as politically motivated, remained stalled during 2015, and was not expected to be a priority for the new government.

As in past years, the Fernández de Kirchner government was accused in 2015 of manipulating the distribution of official advertising to limit free speech, a form of “soft censorship” that had been institutionalized under the administration of former president Néstor Kirchner. The problem has persisted, including at the subnational level, despite a 2007 Supreme Court ruling that “the government may not manipulate advertising by giving it to or taking it away from media outlets on the basis of discriminatory criteria.” In September, the newspaper *Democracia* from the city of Junín had its municipal advertising abruptly cut after it published critical coverage of the city’s mayor, who allegedly transferred public land free of charge to the progovernment newspaper *La Verdad*, the principal competitor to *Democracia* in the city, for an expansion of its facilities. Several provincial laws in Argentina also require newspapers to grant a certain amount of advertising space free of charge to political parties during election periods. In June 2015, a provincial court in Córdoba rejected a challenge to the laws brought by two media companies, affirming their constitutionality.

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