

TURNING THE TIDE ON IMPUNITY

Protection and Access to Justice for Journalists
and Human Rights Defenders in Mexico

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SUMMARY

Photo: Propuesta Cívica

INTRODUCTION

As Mexico's human rights and security crisis continues, the situation of journalists and human rights defenders is of particular concern. Former President Enrique Peña Nieto's administration (December 2012–November 2018) was marred by a marked increase in hostility towards critical and dissident voices and a demonstrated failure to protect their spaces of action. During his term, at least 161 human rights defenders and 40 journalists were murdered in apparent retaliation for their work exposing crime and corruption, demanding accountability for human rights abuses, and defending the fundamental rights and freedoms of those most vulnerable.

In 2018 alone, civil society organizations documented 48 killings of human rights defenders and eight journalist murders. With these numbers, Mexico continues to be one of the most dangerous countries in the world for activists and media workers, taking a heavy toll on the fight for human rights, freedom of expression, and government accountability in the country.

At the time of publishing this report, at least 17 journalists and human rights defenders have been killed since December 1, 2018, when President Andrés Manuel López Obrador took office after campaigning on a platform focused heavily on combating corruption and insecurity and bringing peace and reconciliation to the Mexican people. This report focuses on how the new government can approach an important aspect of this endeavor: creating a safer and more enabling environment for journalists and human rights defenders to carry out their important work.

Previous reports on this issue by Peace Brigades International (PBI) and the Washington Office on Latin America (WOLA) have focused primarily on the performance of Mexico's national Mechanism to Protect Human Rights Defenders and Journalists (*Mecanismo de Protección para Personas Defensores de Derechos Humanos y Periodistas*). An important finding of those analyses was that since the Mechanism's primary function is to provide immediate protection, it is unable to address rampant impunity for crimes against journalists and human rights defenders, the biggest factor driving continued attacks. As the UN Special Rapporteur on the situation of human rights defenders affirmed after his visit to Mexico in 2017, "the failure to investigate and sanction perpetrators sends a dangerous message that such crimes have zero consequences, creating an environment conducive to serial violations and undermining the general aspirations for human rights in Mexico."

While the first section of this report provides an update to our previous research on the Mechanism, the report also examines what more the Mexican government must do beyond providing immediate protection to journalists and defenders. For instance, the report explores how experiences in the state of Chihuahua could serve as a model for developing long-term violence prevention programs more attuned to local contexts, and more focused on tackling the root causes behind the risks journalists and defenders face.

Using official data gathered from access-to-information requests, the report then analyzes the failure of Mexico's public prosecutor's offices to properly investigate and prosecute crimes against journalists and human rights defenders, highlighting grave shortcomings in investigations that have allowed threats and attacks to continue unabated.

INTRODUCTION

The report's final section provides a series of recommendations for how the López Obrador government can address these shortcomings and develop a more comprehensive strategy for protecting human rights defenders and journalists.

It is important to note that we conducted the majority of our work and research for this report prior to the formal establishment of Mexico's new National Prosecutor's Office (*Fiscalía General de la República*). This new office is replacing the federal Attorney General's Office (*Procuraduría General de la República*, PGR) based on 2014 reforms to Mexico's Constitution.

The report analyzes how this transformation will alter criminal investigations in Mexico as well as which departments within the National Prosecutor's Office will be in charge of investigating attacks against human rights defenders and journalists. As Mexico undergoes this transition, we believe the findings and recommendations included in this report can contribute to improving how these cases are handled.

KEY FINDINGS

- **Protection measures provided through Mexico's Mechanism to Protect Human Rights Defenders and Journalists are often insufficient.** The Mechanism has been unable to develop risk analysis protocols that effectively identify the different needs of female, rural, indigenous, and other particularly vulnerable journalists and defenders when it comes to receiving protections. Protection measures are often unreliable, are not adequately implemented, and do not take into account realities on the ground in different parts of the country. In some cases, they have been unable to provide sufficient protection: six Mechanism beneficiaries have been murdered since August 2017.
- **The Mechanism suffers from a serious lack of adequate staffing and budget levels.** There are only 35 Mechanism personnel overseeing the protection of 831 journalists and human rights defenders. Despite this context, Mexico's 2019 budget cut funds to the Ministry of the Interior's Human Rights Unit—which finances the Mechanism's staff salaries—by over USD\$610,500, meaning additional staff will likely not be hired in 2019. Moreover, while the Mechanism spent approximately \$13.6 million on the implementation of protection measures in 2018, Mexico's Congress only allocated up to \$10.9 million for protection measures in the 2019 budget.
- **The Mechanism has made progress in developing strategies that go beyond providing immediate protection to journalists and human rights defenders.** Experiences in the state of Chihuahua could serve as a model for developing comprehensive prevention strategies that are more comprehensive and more attuned to local contexts. Since 2016, Mechanism officials have been working alongside Chihuahua's state government, national and international human rights bodies, and local civil society groups to develop a Contingency Plan focused on addressing the root causes of violence against journalists and human rights defenders in that state.
- **Mexican authorities are frequently identified as the perpetrators behind crimes against journalists and human rights defenders.** Public officials were determined to be the likely aggressors in 39 percent of cases the Mechanism has overseen. Similarly, “abuse of authority” was the second-most common crime reported by prosecutor's offices that provided us with statistics on these crimes, pointing to how frequently public officials and security forces are involved in attacks. This helps to explain why many investigations into crimes against journalists and human rights defenders lack credibility and impartiality, particularly at the state level.
- **The Mexican government's failure to properly investigate and sanction crimes against journalists and human rights defenders has left these groups open to attack.** Between 2012 and June 2018, only three percent of investigations opened by the state prosecutor's offices analyzed by WOLA and PBI made it to the courts. Of the 1,077 cases investigated by the federal-level Special Prosecutor's Office for Crimes against Freedom of Expression (FEADLE) during this period, less than 12 percent were taken to court. Only five FEADLE cases—less than one percent—resulted in convictions. Aside from its overall poor track record in prosecuting cases, FEADLE rarely takes advantage of its power to take investigations out of the hands of state prosecutor's offices when state authorities are not handling the cases with due diligence.

KEY FINDINGS

- **FEADLE's capacity to fulfill its mandate has been severely limited by a lack of human and financial resources.** The agency's budget has been reduced by 54 percent since 2014, from over USD\$2 million to around \$942,000. The office only has 22 prosecutors and 15 investigative police officers on staff.
- **Many prosecutor's offices in Mexico do not maintain quality criminal statistics that could aid in criminal analysis and strengthen prosecutorial oversight.** Without systematized databases with reliable statistics on crimes against journalists and human rights defenders, prosecutors are unable to draw patterns and connections between cases, or identify any common *modus operandi* used to target victims. Some offices do not track the status and results of their investigations, such as the outcome of cases that are tried in court. This makes it difficult for authorities to identify and rectify gaps in their investigative practices and processes, and makes clear that prosecutors in these offices are not being evaluated based on their performance.
- **Some law enforcement institutions often devote valuable time and resources toward discrediting and criminalizing the work of journalists and human rights defenders, rather than guaranteeing their protection.** There is a clear pattern of Mexican authorities misusing criminal legislation to criminalize activists and media workers. In Chihuahua state, for example, we found that over the period reviewed for this report, the number of cases in which authorities deemed journalists to be the alleged aggressors was more than double the number of cases opened into crimes committed against them.
- **The U.S. government continues to provide significant funds to support the Protection Mechanism and to strengthen investigations into crimes against journalists and human rights defenders.** In September 2017, the U.S. Agency for International Development (USAID) initiated a USD\$7.1 million project called ProVoces. ProVoces consultants have provided trainings, mentorship, and technical assistance to the Mexican agencies charged with addressing violence against journalists and defenders and aims to strengthen coordination between prosecutor's offices, federal and state-level protection mechanisms, and civil society organizations.

RECOMMENDATIONS

FOR THE MEXICAN GOVERNMENT:

PROTECTION

- **The federal government should guarantee the Mechanism has the human and financial resources necessary to properly carry out its functions.** Each year, Mexico's Congress should take into consideration the Mechanism's growing caseload as it decides how much funding to allocate for the federal trust that funds the implementation of protection measures. It should also increase funding for the Ministry of the Interior's Human Rights Unit so that the Mechanism can hire more staff.
- **Mechanism officials should continue to improve their risk analysis practices.** Risk analysis assessments should incorporate differentiated perspectives in order to effectively meet the varying protection needs of female, rural, indigenous, and other particularly vulnerable journalists and defenders. Processes for determining and implementing collective protection measures for communities, human rights organizations, and media outlets must also be improved. The Mechanism's Governing Board should frequently meet with and consider insight from civil society organizations on how to improve risk analysis protocols.
- **Agencies charged with addressing violence against journalists and human rights defenders should strengthen avenues of coordination.** Public prosecutor's offices, the federal Mechanism, state-level protection units, the Executive Commission for Attention to Victims (*Comisión Ejecutiva de Atención a Víctimas*, CEAV), the CNDH, and state-level human rights commissions should increase their capacity to share information and provide holistic attention and protection to victims.
- **The Ministry of the Interior should reconsider the privatization of protection measures in the Mechanism.** The Mexican government should consider alternatives to contracting private companies to implement protection measures, and the Mechanism should be more transparent regarding the details of these contracts.

PREVENTION

- **Federal and state authorities should continue supporting the implementation of Chihuahua's Contingency Plan.** Officials from all levels of government should maintain participation in the Contingency Plan's working group meetings and fulfill their commitment to implement each of the actions items outlined in the plan.
- **Each state-level protection unit should work with local civil society organizations to conduct a detailed assessment of the risks posed to journalists and defenders in their state.**

RECOMMENDATIONS

- **The Mechanism’s Prevention, Follow-up, and Analysis Unit should complete and publish a detailed “risk map” that identifies the root causes of violence and most common forms of crime against journalists and human rights defenders in each state.** This risk map should be used to develop targeted violence prevention programs and to determine which protection measures may be most appropriate for beneficiaries in each state.
- **Federal, state, and municipal governments should carry out public campaigns recognizing the work of journalists and human rights defenders.** These campaigns should raise awareness about the causes human rights defenders fight for and the dangers and risks journalists and defenders face for their work. They should also raise awareness about the root causes behind those risks, such as corruption, organized crime, human rights abuses, and the overexploitation of natural resources.

INVESTIGATION

- **The new National Prosecutor’s Office should ensure adequate resources for the investigation of crimes against journalists and human rights defenders.** The forthcoming Special Prosecutor’s Office for Human Rights should be provided the funding and staffing levels necessary to properly fulfill its mandate. The National Prosecutor’s Office’s Criminal Prosecution Plan should outline a specific strategy for investigating these crimes.
- **The first head of the Special Prosecutor’s Office for Human Rights should be carefully selected through a public and participatory process that takes civil society input into account.** The special prosecutor should have experience working on human rights issues and investigating and prosecuting complex cases. He or she must have the political will and autonomy to carry out serious and impartial investigations into crimes against journalists and human rights defenders, including in cases involving powerful political, criminal, and economic interests.
- **State governments in states with special prosecutor’s offices for investigating crimes against journalists and/or human rights defenders should guarantee the proper functioning of these offices.** State congresses should establish procedures with clear criteria for appointing and removing the heads of special prosecutor’s offices. These offices should be guaranteed the human and financial resources needed to be successful.
- **Personnel within prosecutor’s offices at the federal and state level should receive specialized training on how to analyze crimes within the context of victims’ journalism or advocacy activities.** Prosecutor’s offices across the country should promptly be certified on the recently-passed Standardized Protocol for the Investigation of Crimes against Freedom of Expression. The National Prosecutor’s Office should collaborate with civil society organizations to develop a Standardized Protocol for Investigating Crimes against Human Rights Defenders that includes detailed information on the risks posed to defenders, lays out investigative actions needed to clarify cases, and outlines interinstitutional coordination mechanisms.

RECOMMENDATIONS

- **Prosecutor's offices should maintain databases with disaggregated information on crimes against journalists and human rights defenders, as well as the status and results of their investigations into these attacks.** These figures should be used to draw patterns and connections between cases, identify common shortcomings in investigative processes, and address the factors resulting in low prosecutorial success. These statistics should be made public in order to improve transparency and strengthen civil society organizations' capacity to engage on these issues.
- **Prosecutor's offices should develop oversight and accountability mechanisms that hold accountable prosecutors that do not manage cases with due diligence.** The heads of each prosecutor's office should develop policies that disincentivize prosecutors from prematurely archiving cases or allowing the statute of limitations on their investigations to pass.

FOR THE U.S. GOVERNMENT:

- **Members of Congress and State Department officials should continue to condemn attacks against journalists and human rights defenders.** Through public statements and public and private communications to the Mexican government, U.S. officials should express concern for threats and attacks against journalists and defenders as well as Mexican authorities' lack of progress in investigating these cases.
- **USAID should continue to provide financial and technical assistance to the Mexican agencies charged with addressing violence against journalists and human rights defenders as well as civil society organizations working on this issue.** U.S. officials should consult with the Civil Society Organizations' Space for the Protection of Journalists and Human Rights Defenders (CSO Space) and other human rights and press freedom groups to determine future funding priorities.
- **U.S. officials should make official visits to journalists and defenders at risk.** By making official visits to journalists, defenders, media outlets, and human rights organizations that have been threatened or attacked, U.S. officials can give important visibility to their work.

ABOUT WOLA

The Washington Office on Latin America (WOLA) is a leading research and advocacy organization advancing human rights in the Americas. We envision a future where public policies in the Americas protect human rights and recognize human dignity, and where justice overcomes violence.

ABOUT PBI

Peace Brigades International (PBI) is a nongovernmental organization with 30 years of experience in international accompaniment. PBI has maintained a permanent presence in Mexico since 1999 and aims to protect spaces for people and organizations that non-violently promote human rights and who suffer from repression as a result of their work.

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