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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Mexico\***

#### **Note by the Secretariat**

The Special Rapporteur visited Mexico, 27 November- 4 December 2017, on an official joint mission with the Special Rapporteur for freedom of expression of the Inter-American Commission on Human Rights. The mission was a follow-up to the joint visit conducted in 2010. The situation for journalists and for the practice of journalism in Mexico is one of acute danger, with severe consequences for individual journalists and their families as well as for the public's right to information. The Special Rapporteurs call on the Government to urgently remedy the shortcomings of the existing framework for the protection of journalists and to implement a broader, preventive strategy on safety of journalists.

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\* The present document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B.

## Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Mexico\*\*

### Contents

	<i>Page</i>
I. Introduction.....	3
II. Legal framework.....	4
International legal standards and domestic legal framework.....	4
III. Attacks on journalists.....	6
A. Murder and other physical assaults and threats against journalists.....	6
B. Special risks faced by women and indigenous journalists.....	7
IV. Institutional framework for the protection of journalists.....	8
A. Protection of journalists.....	8
B. Prevention of attacks against journalists.....	10
C. Accountability for crimes against journalists.....	10
V. Surveillance of journalists, public figures and others.....	12
VI. Access to information.....	13
VII. Media diversity.....	14
A. Media concentration and community radio.....	14
B. Government advertising.....	15
VIII. Conclusions and recommendations.....	15
A. Safety of journalists.....	15
B. Surveillance.....	18
C. Access to information.....	18
D. Government advertising.....	19
E. Diversity and pluralism in media.....	19
F. Legislative action.....	19

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\*\*Circulated in the language of submission and in Spanish only.

## I. Introduction

1. Pursuant to Human Rights Council Resolution 34/18, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression undertook an official visit to Mexico from 27 November to 4 December 2017 at the invitation of the Government. The mission, conducted jointly with the Special Rapporteur for Freedom of Expression of the Inter-American Commission for Human Rights (IACHR), Mr. Edison Lanza, was a follow-up to the 2010 joint visit by the rapporteurs' predecessors, Mr. Frank La Rue and Ms. Catalina Botero. The Special Rapporteurs visited five states: Mexico City, Guerrero, Veracruz, Tamaulipas and Sinaloa.
2. The Special Rapporteurs are grateful to the Government for its invitation and cooperation and for facilitating government meetings. The Special Rapporteurs met with, at the federal level, the President of the Supreme Court; the Undersecretary for Human Rights of the Ministry of Foreign Affairs; the Undersecretary for Human Rights of the Ministry of Interior; the head of the Federal Institute on Telecommunications; the chairperson of the National Commission on Human Rights; the Head of the National Commission on Prevention of Discrimination; a Counsellor of the National Electoral Institute; the Deputy Prosecutor on Human Rights; the Specialized Prosecutor on Freedom of Expression; the Protection Mechanism for Human Rights Defenders and Journalists; the National Security Commission; the Army; the Navy; members of the Senate; members of the Chamber of Representatives; the National Institute on Access to Information; and the Executive Commission on Attention to Victims. Additionally, at the state level, the Special Rapporteurs met representatives of the governments of Mexico City, Guerrero, Sinaloa, Tamaulipas and Veracruz; the State Attorney General's Office of Mexico City, Guerrero, Sinaloa, Tamaulipas and Veracruz; the Human Rights Commissions of Mexico City; Guerrero and Veracruz; and the Commission on Attention and Protection of Journalists of Veracruz.
3. The Special Rapporteurs met with over 250 journalists and civil society representatives from 21 different states. They would like to thank all the authorities, journalists, civil society representatives and victims and victims' relatives who met with them, providing detailed information and powerful testimony about the situation for freedom of expression in the country. The Special Rapporteurs would like to remind the State of its obligation to guarantee the safety of all persons and organizations that participated in meetings and provided information, testimony or evidence of any kind during the course of the mission.
4. The Special Rapporteurs also met with media outlets and representatives of diplomatic missions and greatly appreciate the support and assistance provided by the Mexico Office of the UN High Commissioner for Human Rights. The team at OHCHR Mexico exemplify why it is essential for the Office to have expert and committed staff at State and regional locations.
5. Mexico faces a profound security crisis severely affecting the human rights of its people. At the heart of the crisis is a breakdown in the rule of law and governance at local levels across the country, simultaneously leading to and exacerbated by murders, disappearances and torture. The suffering is widespread, yet the violence has often singled out those most essential to telling the story of conflict and insecurity, corruption and criminality: journalists. It is violence seeking to undermine public debate and civic participation, a widespread attack on the roots of democratic life in Mexico, at local, state and national levels. During the visit, the Special Rapporteurs heard repeated stories of killings and disappearances, physical and psychological attacks on the media, and other forms of interference designed not only to harm individual journalists but the public's right to know.
6. Any fair-minded assessment must acknowledge that addressing such violence is not simple. Organized crime has deeply infiltrated the public life of the country, especially at the level of states and municipalities, as the Special

Rapporteurs heard from dozens of government officials, journalists, and non-governmental organizations repeatedly throughout the visit. In addition to the use of violence in all its forms, criminal actors and public authorities attempt to co-opt journalists for their purposes and coerce them to disseminate information favourable to the criminal groups or against their opponents. Organized crime has generated hybrid ways to interfere with journalism, generating division and distrust among journalists, and between journalists and local officials. Some regions of the country are “silenced zones”, highly dangerous areas for the exercise of freedom of expression, where journalists are not only limited regarding what they can publish, they are also forced to publish messages from said criminal groups.

7. The pervasive assault on journalists and journalism present the most immediate and challenging threat to freedom of expression in Mexico today. However, that does not exclude consideration of other factors, for there is a broader environment in which deep challenges to press freedom and individual expression persists. In part, this environment involves a historic transition from past authoritarian practices in government to emerging political pluralism and demands for democratic standards. That transition has not done away with the problematic and intimidating practices of the past, such as the expectations of good coverage under official advertising; the dismissal of critical journalists by media outlets at the demand of authorities; and the lack of pluralism in the property and the editorial line of the media system. The well-documented examples of digital surveillance of journalists and human rights defenders, among others, seem to be both a relic of the approaches of the past and an example of the challenges journalists face in the digital age.

## II. Legal framework

### International legal standards and domestic legal framework

8. Article 19(1) of the International Covenant on Civil and Political Rights (ICCPR), acceded by Mexico on 21 March 1981, guarantees everyone’s right to hold opinions without interference. Article 19(2) protects everyone’s right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, through any media. In accordance with Article 19(3), any restriction imposed on this right must be provided by law and be necessary and proportionate to protect the rights or reputations of others, national security or public order, or public health and morals.

9. Mexico is also State Party to the American Convention on Human Rights, which guarantees freedom of expression, including the right to information, in articles 13. Article 13(2) provides that freedom of expression “shall not be subject to prior censorship but shall be subject to subsequent imposition of liability”, which must be provided by law, pursue a legitimate aim and be necessary and proportionate to achieve that goal. Article 13(3) provides that “the right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions”.

10. The Constitution of Mexico recognizes the country’s international human rights obligations: “all persons shall enjoy the human rights recognized in the Constitution and in the international treaties to which the Mexican State is a party” (Article 1). In July 2011, constitutional reforms established the obligation to comply with international human rights law in state and federal law making and adjudication (Articles 1 and 133). The reform requires that on occasions where there is contradiction between the Constitution and international human rights treaties, the norm most favourable to the protection of the person shall be applied. The process of harmonizing domestic legislation with this constitutional advance

has been slow. The Special Rapporteurs urge that new legislation be adopted and that existing legislation be revised to comply with the constitutional reform.

11. The Constitution of Mexico provides a comprehensive and detailed protection for freedom of expression in articles 6 and 7. Constitutional amendments in 2015 sought to elaborate and strengthen the legal protections available for freedom of expression.

12. The Constitution establishes that Government authorities have the obligation to promote, respect, protect, and guarantee human rights in accordance with the principles of universality, interdependence, indivisibility and progressiveness. It also highlights that the State must prevent, investigate, punish and redress human rights violations established by the law (Article 1).

13. In 2012, the Law for the Protection of Human Rights Defenders and Journalists was adopted, creating the Protection Mechanism at the federal level. During the visit, the Special Rapporteurs learned that nine states have enacted similar legislation at state level, and 15 initiatives are currently being considered. However, many of the laws have a restrictive definition of "journalists". A narrow approach to defining "journalists" may exclude them from protection or from statistics concerning attacks against journalists. The Special Rapporteurs welcome the comprehensive definition of journalist provided in General Comment 24 by the National Human Rights Commission, which includes anyone who collects, generates, processes, edits, comments, expresses, disseminates, publishes or provides information through any means of dissemination and communication, whether in an eventual or permanent manner, that includes the communicators, the media and their facilities, as well as their workers. The Special Rapporteurs urge all authorities at federal and state level to comply with this definition.

14. A country's legal framework must guarantee exercise of freedom of expression and ensure against arbitrary or disproportionate restrictions. During the visit, Congress was considering several pieces of legislation of which the Special Rapporteurs took note.

15. The bill on Internal Security was approved by the Senate on the day after the official visit and signed into law by the President on 21 December 2017. Pursuant to protests by civil society and the formal request by a number of institutions, the law is now under review by the Supreme Court. Also, according to information provided by the State, local judges in Guanajuato and Mexico City ruled the law unconstitutional in two separate proceedings. The authorities have justified the law by arguing that it is a critical tool to combat drug-related violence and that it would lead to a regulation of the use of Armed Forces in a legal framework. The Special Rapporteurs are concerned about provisions that could negatively impact access to information, the level of oversight for intelligence gathering, and the use of force during demonstrations.

16. Granting the Armed Forces power to gather domestic intelligence raises serious concerns about the limitations on civilian and judicial oversight as required by international standards. The law appears to permit the automatic classification of information gathered by the Armed Forces on national security grounds. The Special Rapporteurs note with concern that the law detracts from the progress achieved in the past fifteen years in terms of transparency and access to information. It would also run counter to the authorities exercised by the National Institute for Transparency, Access to Information and Personal Data Protection (INAI) to ascertain what information should be protected for national security purposes. It may prevent disclosure of information relating to serious human rights violations, countering standards on victims' right to truth and access to information. The law also contains ambiguous wording on the role of the Armed Forces in the context of social protests and the use of force against "acts of resistance". These provisions may open the door for the Armed Forces to carry out policing functions, with a different set of rules regulating the use of force, in context of social protest.

17. The Special Rapporteurs welcome the abolition of criminal defamation at the

federal level in 2007. However, criminal defamation continues to exist at the state level in five states, while five others maintain other types of crimes against honour on their penal codes. The Special Rapporteurs call upon authorities in these states to take steps to repeal such provisions in order to bring their legal framework in line with the national and international framework. In addition, civil defamation is used to pressure journalists, often in lawsuits brought by public officials. Several journalists throughout the country have faced frivolous lawsuits demanding that they pay exorbitant amounts for alleged damage caused in relation to their reporting. The lack of regulations on the use of frivolous lawsuits may deter journalists from conducting rigorous public interest reporting. The Special Rapporteurs call upon the legislative and judicial branches to ensure that this practice will be regulated, either through laws sanctioning strategic lawsuits against public participation (SLAPP) or the adoption of criteria for judges to be able to exclude frivolous claims after careful consideration. In this context, the Special Rapporteurs are concerned with the amendments proposed for the Law of Telecommunications and Broadcasting (article 304) and the Federal Criminal Code (article 172 TER). If adopted, these amendments could restrict freedom of expression in ways incompatible with international human rights law.

### **III. Attacks on journalists**

18. Attacks on journalists, in the context of generalized violence, require a targeted form of recognition, attention and response. Since the previous visit in 2010, Mexico has put in place legislation and institutions at federal and state levels dedicated to the protection of journalists. The Special Rapporteurs welcome these advances, among which are FEADLE (Fiscalía Especial Para la Atención de Delitos Cometidos contra la Libertad de Expresión), established in 2010 to conduct criminal investigations and prosecutions; the Mechanism for the Protection of Human Rights Defenders and Journalists (the Protection Mechanism), established in 2012 to provide protection and preventive measures; and CEAV (Comisión Ejecutiva de Atención a Víctimas) established in 2014 to promote attention to victims. Several states have also recently implemented similar mechanisms.

19. Physical threats and intimidation constitute the most widespread form of attack against journalists. In addition, physical attacks and kidnappings are common forms of aggression. The Special Rapporteurs also found examples of stigmatization, discrimination and poor working conditions that exacerbate the vulnerability of journalists. Digital attacks against journalists and their sources, social media harassment, and unsupervised secret surveillance have emerged as new and troubling challenges. In addition, structural obstacles within the judiciary and government institutions often prevent journalists from seeking redress, which may lead to a re-victimization of journalists subject to intimidations. Journalists and media owners voiced their concern regarding Government's use of the law and legal proceedings as tools to harass and silence critical reporting, for example by conducting unsubstantiated tax audits and bringing groundless criminal and civil suits. In a number of cases, attacks are not reported out of fear that the situation may worsen or simply because of mistrust.

#### **A. Murder and other physical assaults and threats against journalists**

20. There is no single system that obtains and collects data on attacks against journalists, and the criteria and methodology for obtaining such data differs between and among federal and state institutions. Data gathered by the National Human Rights Commission present a catastrophic picture concerning the situation of journalists in Mexico. Since 2010, the National Human Rights Commission has registered 73 journalists killed; 12 journalists subject of enforced disappearances, and 44 attempted killings. Since 2006, the National Human Rights Commission has registered 52 attacks against media outlets. In 2017, at least 12 journalists were

registered killed. They are Cecilio Pineda, Ricardo Monlui, Miroslava Breach, Maximino Rodríguez, Filiberto Álvarez, Javier Arturo Valdez, Salvador Adame, Héctor Jonathan Rodríguez, Cándido Ríos, Juan Carlos Hernández Ríos, Edgar Daniel Esqueda Castro and Gumaro Pérez Aguilando. In 2018 and until the time of the writing of this report, five journalists were killed: Carlos Domínguez, Pamela Montenegro, Leobardo Vázquez, Juan Carlos Huerta and Alicia Díaz; one journalist, Agustin Silva, remains disappeared. Many of the attacks have been carried out against journalists reporting on corruption, drug trafficking, collusion of public officials with organized crime, police violence and matters related to elections.

21. Kidnapping of journalists continues to be a widespread form of aggression, often used as a form of intimidation, to scare off those intending to investigate and inform on certain issues. In the majority of such enforced disappearances the journalist is later found killed. Despite the recently approved General Law on Disappearances and the existence of a specialised investigation protocol on the matter, investigations are launched with delay even when suspects are identified. The Special Rapporteurs call upon authorities to make it a priority to immediately begin investigations in such cases.

22. Internal displacement of journalists has become a major feature of the national situation. Though data does not indicate the numbers of displaced journalists nationwide, the Special Rapporteurs found that many come to Mexico City, while some are displaced in other states or even other countries. Many leave families behind and are unable to find employment. The Special Rapporteurs learned from journalists who have protection measures that such measures are often inadequate and lack comprehensive attention to their family situation. Internally displaced journalists have been killed in the new state of refuge. No comprehensive strategy protects displaced journalists, let alone one with a strategy for safe return or adequate relocation. Many journalists also avoid filing claims for protection out of fear that this will place them at further risk. Few receive assistance from local authorities, and temporary measures generally seem insufficient. All of these problems apply to the families of journalists as well. The lack of coordination among and between federal and state level authorities leads to inadequate attention to their health situation, educational needs for their children and employment, leaving them in a constant situation of insecurity. As a result, many journalists do not see displacement as a realistic alternative; many simply avoid filing claims for protection.

23. In this connection, the Special Rapporteurs welcome the report and recommendation issued by the National Human Rights Commission about internally displaced persons in Mexico and urge that its recommendations are implemented<sup>1</sup>.

24. Mexico has a strong tradition of social protest. With upcoming elections scheduled for July 2018 – simultaneous at national, state and municipal levels, the most extensive in Mexico's history – special attention should be given to ensuring that persons can assemble and protest without risk to their personal integrity and life, without disproportionate bureaucratic requirements and that police forces are adequately trained in controlling large gatherings. The adoption, both by the Federal Police and by Mexico City authorities, of protocols on the use of force, including in contexts of protests, are welcome developments. However, certain aspects of these, and a series of bills and laws that have been presented at federal and state-level (including in Jalisco, Mexico City, Quintana Roo and San Luis Potosí)

<sup>1</sup> National Human Rights Commission, Recommendation No. 39/2017. The Special Rapporteurs further recognize the importance of the work that the National Human Rights Commission has carried out to address the situation of internally displaced persons in Mexico, including its Special Report on Forced Internal Displacement (2016); the elaboration and publication of the Protocol for Attention to and Protection of Victims of Forced Internal Displacement in Mexico (2017); the International Forum regarding Forced Internal Displacement (August 2017); and the Declaration of Mexico regarding Forced Internal Displacement (August 2017).

raise serious concerns. In particular, these regulations have provisions that allow the use of lethal weapons in the close perimeters of protests, impose a series of administrative hurdles that de facto restrict the rights in question, and increase penalties for those who commit certain felonies within protests. These aspects must, as a matter of urgency, be reviewed to ensure conformity with international human rights standards.

25. The Special Rapporteurs underline the importance of journalism in the context of elections, in particular as it is a condition for the public's right to information and subsequent political participation in the electoral process. As a result of this function, journalists are in the midst of competing interest and are likely to become targets of threats and physical attacks by both political actors and non-state actors. The Special Rapporteurs call on the Government to publicly encourage full and efficient disclosure of information to journalists covering the electoral process, and to adopt a particular strategy to ensure their safety during this process.

## **B. Special risks faced by women and indigenous journalists**

26. In the context of severe violence and insecurity in general, many journalists face additional vulnerabilities in their work because of their gender or ethnicity. There is no centralized data on attacks against indigenous journalists. The Special Rapporteurs note that community journalists and journalists belonging to indigenous groups often are the only channels of bringing information to their communities, and have the additional function of informing in their own language and bringing attention to cultural and social issues in their community which would otherwise not be covered by other media. They often face harassment and stigmatization on part of public officials and particularly difficult conditions due to working in remote areas, with few resources and rudimentary equipment. They often find themselves in regions involving extraction industries, with additional threats and restrictions imposed by non-state actors, sometimes in cooperation with local authorities.

27. While Mexico has played a leading role in the UN Declaration on the Rights of Indigenous Peoples, the reality faced by indigenous journalists falls short of the commitments made at the international level. Indigenous journalists reported to the Special Rapporteurs their experiences of racial discrimination, often in conjunction with physical threats, and general inaccessibility to justice due to distance, lack of adequate legal assistance, language barriers and fears of reprisals. Many cases of attacks against indigenous journalists are not reported to the authorities. The Special Rapporteurs underline the urgency to consider the specific needs of indigenous journalists at state and federal levels, including by the Protection Mechanism and the Law for the Protection of Human Rights Defenders and Journalists.

28. Women journalists face specific threatening environments. There is no centralized data on attacks against women journalists. In the State of Guerrero, members of civil society reported that they had registered at least 23 cases of serious aggressions against women journalists since 2014. Online harassment expands the threats against women and yet several organizations reported a lack of public documentation of online violence against women journalists. Women journalists reported about harassment, often by public authorities and sometimes even physical attacks by police or public security officers during their reporting. Additional vulnerabilities come from their work as investigative journalists, and the fact that they are often paid less than their male colleagues. While there are many women reporters, they continue to be a minority in editorial positions. Many women journalists reported to the Special Rapporteurs about particularly threatening and infantilizing meetings with male public authorities.

29. Moreover, the lack of gender perspective in investigation, prosecution or

protection stage, lead to inadequate attention to the particularity of the situation of women journalists. The Special Rapporteurs highlight that in 2012, in its concluding observations to Mexico, the Committee on the Elimination on All Forms of Discrimination against Women recommended that the Protection Mechanism and the Law for the Protection of Human Rights Defenders and Journalists include a gender approach and that the authorities take concrete, adequate and effective measures to prevent, investigate, prosecute and punish attacks and other forms of abuse perpetrated against women human rights defenders and journalists.

#### **IV. Institutional framework for the protection of journalists**

30. The systematic and multi-faceted nature of the violence described above demands the strengthening of national institutions responsible for fulfilling State obligations for the protection of journalists, and the implementation of a set of urgent, comprehensive and coherent strategies for prevention, protection and accountability.

##### **A. Protection of Journalists**

###### **The Mechanism for the Protection of Human Rights Defenders and Journalists**

31. With the strong contribution of Mexican civil society, the Government adopted in 2012 the Law for Protection of Human Rights Defenders and Journalists, which created the Mechanism for the Protection of Human Rights Defenders and Journalists (the Mechanism), the most important public policy for protection of journalists in Mexico. Since its creation the Mechanism has provided protection for at least 310 journalists, from a total of 370 who have requested protection.

32. The Government has taken important steps to strengthen the Mechanism's operation and effectiveness and to implement recommendations made by civil society and experts in the field, and that has helped to build more confidence among beneficiaries and journalists. However, many of its challenges have yet to be adequately addressed. Coordination between the Mechanism and local authorities for the implementation of preventive and protective measures continues to be a challenge. The Special Rapporteurs welcome the adoption in 2017 of protocol to standardize operational procedures and facilitate coordination. The Government should ensure that local personnel are trained on how to perform their obligations under the protocol and fully understand the importance of the role of journalists in a democratic society. The Government should give priority to strengthening the Federal Mechanism over state mechanisms, not only to ensure effective coordination with local authorities but to provide it with the ability to operate locally in a sustainable way. Coordination between the Mechanism and other federal agencies and national institutions, such as the PGR, CEAV and CNDH should also be strengthened. In particular, the fulfilment of PGR's responsibilities ensuring the risks facing beneficiaries are identified and duly investigated should be seen as an essential aspect of any protection program.

33. Risk assessment methodologies still need to effectively include a differentiated approach taking into consideration specific risks facing certain groups of journalists, including women and indigenous journalists. The Government should take further steps to include the digital safety of journalists in the risks assessments conducted by the Mechanism and provide, when appropriate, digital protection measures, including the secure management of personal communications data. Additionally, physical attacks perpetrated by state officials and other forms of institutional violence against journalists (i.e. discrediting campaigns and criminalization) should be effectively addressed by the Mechanism.

34. The Mechanism lacks sufficient resources to fully perform its mandate. It

needs resources to add significantly the number of personnel; to protect its staff and ensure their retention; to ensure timely analysis of threats; and to train its personnel on gender and indigenous specific issues. The Mechanism should be provided with resources to deliver comprehensive psychological support to displaced journalists and their families. It should provide support to enable journalists to continue working in their new location and pursue strategies to enable the return of journalists under necessary security conditions. An ambitious Government effort to increase the Mechanism's capabilities and budget will serve the goal of better protection and would also send a message of political will to make journalist safety a national priority.

35. International law requires that the Mechanism be transparent to ensure its efficacy is open to oversight and promote trust among stakeholders, subject to limitations narrowly construed for legitimate purposes, such as the protection of the privacy and safety of the affected individuals. The Mechanism should, at a minimum, be transparent about its legal framework, its rules and procedures, its policies for risk assessment, its budget (allocated and spent) and all data necessary to monitor implementation. Restrictions on information should not be applied in a way to shield the Mechanism from oversight and conceal wrongdoing.

### **The Role of Media Companies**

36. Very few journalists under threat expressed a sense that their media employers offered sufficient, if any, support. The Special Rapporteurs hope that media support will change and urge media companies to improve working conditions on an urgent basis and in addition to provide support – ideally in the form of work, permanent or freelance – to journalists displaced in their cities. They stress that the role of media companies complements, but does in no way substitute for, the State obligation to prevent crimes against journalists and to ensure their safety.

37. The Special Rapporteurs reiterate their support to the Solidarity Protocol presented by 39 media outlets, which recognizes their role in advocating for protection and accountability for crimes against journalists, as well as providing adequate capacity building schemes, social security, fair salaries and life insurance policies for journalists whose coverage implies an obvious risk.

### **Collective Self-Protection Initiatives**

38. The importance of solidarity extends to the journalists themselves. The Special Rapporteurs observed how journalists and civil society organizations are able to work in networks to demand justice, advocate for advances on government protection, share best practices, and establish their own collective protection schemes. The current context fuels mistrust among journalists and hinders solidarity and collaboration among peers. The Special Rapporteurs especially welcome collective self-protection efforts in which journalists, informal groups and civil society organizations cooperate to identify, register, analyse and prevent threats.

39. During the meetings with journalists, the Special Rapporteurs realised how in many cases it was the intervention of informal groups of journalists that allowed colleagues at risk to discover different possibilities for protection and prosecution of justice. Such groups play a fundamental role in sharing tools and strategies for self-protection. It is important that authorities recognise the importance of these structures and contribute to their strengthening.

## **B. Prevention of attacks against journalists**

40. The Special Rapporteurs emphasize the importance of a comprehensive policy to combat violence against journalists, which includes the adoption of prevention measures to address its root causes and promote an enabling

environment for freedom of expression.

41. The Special Rapporteurs welcome the Mechanism's adoption of early warning systems for Veracruz and Chihuahua. Nonetheless, the existence of these plans has not deterred subsequent journalist killings in Veracruz and Chihuahua during 2017. The actions put forth so far – especially in Veracruz – are insufficient to generate the changes that the current situation requires. The Special Rapporteurs encourage the Mexican Government to strengthen efforts of preventive measures, consistent with its international obligations, taking into account the specific nature of the risks and its particular contexts, such as security situation in conflict zones, during election periods, and at public demonstrations. The Contingency Plan in Chihuahua, if developed properly and in a transparent manner, has the potential of becoming one of the best practices in the region regarding prevention measures for HRDs and Journalists.

42. Prevention also implies ensuring journalists' ability to contribute effectively to public debate, without being subject to criminal prosecution or civil lawsuits. Therefore, it is important that the Mechanism assumes a leading role regarding the promotion of legislative initiatives to combat censorship, considering it is within its faculties and attributions.

### **C. Accountability for crimes against journalists**

43. The Special Rapporteurs found that Mexico has made little if any progress in eradicating impunity since 2010. The impunity for killings and other attacks against journalists has been documented by government institutions and civil society organizations, suggesting that at least 99.6% of these crimes remain unsolved. It is unconscionable that the Mexican Government has continued to fail to fully investigate these crimes and prosecute those responsible. During the visit, the Special Rapporteurs heard several stories that reveal the significant levels of fear and self-censorship caused in journalists and their communities by impunity and the profound lack of trust in public authorities to achieve justice and protect the rule of law.

44. The Special Rapporteurs recognize that at the federal level, legal and institutional reforms were made to strengthen FEADLE's authority to investigate and prosecute these crimes. The Special Rapporteurs were informed about recent efforts made to improve FEADLE's capabilities to perform its mandate, including appointing a new special prosecutor, adopting an investigation protocol, reinforcing investigation strategies and training, reorganizing its internal structure, improving communication with victims and increasing coordination with local authorities. Also, they were informed of actions recently taken by FEADLE and local prosecutors to bring to justice public officials involved in cases of harassment and attacks against journalists. The Rapporteurs welcome FEADLE's decision to exercise jurisdiction regarding the investigations of the murders of journalists Javier Valdez and Miroslava Breach in 2017.

45. However, the fact remains that over the last eight years FEADLE has not been able to contribute in an appreciable way toward ending impunity in Mexico and rebuilding public confidence. The Special Rapporteurs are particularly concerned by the complete lack of progress in the investigations concerning the disappearance of journalists as well as in most emblematic cases of killings of journalists<sup>2</sup>. According to official data, of the 84 killings of journalists committed in Mexico since 2010, FEADLE declined to exercise jurisdiction in 37 cases on finding

<sup>2</sup> According to information provided by the State, investigations are still pending regarding the killings and disappearances of Roberto Mora (2004), Bradley Roland Will (2006), José Antonio García Apac (2006), Armando Rodríguez Carreón, (2008), Mauricio Estada Zamora (2008), José Vladimir Antuna (2009), María Ester Aguilar Casimbe (2009), Ramón Ángeles Alpa (2010), Pedro Arguello y Miguel Ángel Rodríguez (2010), José Luis Romero (2010), Fabián Ramírez López (2010), Humberto Millán (2011).

they were not motivated by the journalistic activities of the victims. In the 47 crimes where FEADLE found a link to the victims' journalism work, 28 investigations are pending, 16 investigations have been closed or suspended, and criminal prosecutions have been launched in only 3 cases. Throughout these years, FEADLE's personnel and material capacities have been inadequate. Between 2014 and 2018 the office's budget has been reduced in over 50%, undermining even modest attempts to carry out the office's legal mandate.

46. Journalists, victims, civil society organizations and the National Human Rights Commission led the Special Rapporteurs to conclude that FEADLE lacks effective investigative plans, does not exhaust all lines of inquiry, does not identify all individuals responsible for the crimes (including masterminds and accomplices), and does not analyse the context in which the crimes took place, particularly the way in which political and criminal power operate at the local level and other local realities. The Special Rapporteurs learned about failure to protect the security of witnesses and effectively collect and preserve police and forensic evidence. The Special Rapporteurs received with great concern information about ineffective investigations of threats and harassment of journalists online and offline, stalled by burdensome legal requirements, such as psychological tests of the victims, and lack of real coordination between the protection mechanisms. The Special Rapporteurs also learned about obstacles for the participation of victims in the investigation and stigmatization. FEADLE has not included a gender perspective on its work to better deal with crimes against women journalists, who often go underreported as a result of discrimination. They are also concerned about the institution's failure to use its legal power to assert jurisdiction over cases of killings, kidnapping or disappearance of journalists in states with the highest levels of violence and impunity.

47. At the local level, journalists expressed profound distrust with local authorities in charge of investigations, many of which are believed to have colluded with organized crime. In meetings with the Special Rapporteurs, several local journalists expressed fear and frustration with local judicial authorities and emphasized that filing claims before them is "useless" and will only increase their risks.

48. Given the severity and scale of the current crisis and the lack of independence of many local authorities, the Special Rapporteurs believe it is imperative for Government authorities to reinvigorate FEADLE's use of legal authority to investigate and prosecute crimes against journalists and adopt far-reaching measures to ending impunity. With that aim, FEADLE should be provided with all the necessary human, material and financial resources to implement its mandate. Investigators and law enforcement officials should be appropriately equipped and receive specialized training in all aspects of the investigation of crimes against freedom of expression. Clear and objective criteria for FEADLE's authority in carrying out investigations of crimes against journalists that do not fall in its "original jurisdiction" should be established, in order to prevent undermining criminal investigations with unreasonable delays and confusion over jurisdiction. This is particularly important with regard to the investigation of killings and disappearances of journalists. In these cases the Special Rapporteurs call on FEADLE to effectively exercise its jurisdiction whenever it appears that local authorities or powerful criminal gangs are involved, and the capacity of state level law enforcement authorities to conduct an independent and impartial investigation is reasonably questioned. Moreover, FEADLE should adopt a specific protocol that outlines the principles and legal obligations of those in charge of investigating crimes against freedom expression and sets a common standard on how to conduct prompt, diligent, independent and transparent investigation of these cases, consistent with international standards and in consultation with civil society<sup>3</sup>.

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<sup>3</sup> The protocol should be able to provide detailed guidance to investigators on all aspects of the investigative process necessary to pursue lines of inquiry related to the journalistic activities of victims. These may include specific guidance on conducting a crime-scene

FEADLE must also be able to perform all of their duties without intimidation, harassment or improper interference from government authorities or third parties. The enactment of long-due legislation that establishes an autonomous, transparent, and effective public prosecutor national office should provide guarantees for FEADLE to operate with independence institutionally and in practice and perception.

49. The judiciary should play a central role in combating impunity and the Special Rapporteurs stress the importance that in addition to being independent and impartial, the judiciary should be equipped with appropriate material and human resources and training to provide, within a reasonable time, access to justice and reparation to victims.

50. The Special Rapporteurs are particularly concerned about the lack of oversight mechanisms of the progress of the investigations and the effectiveness of accountability measures in place. These mechanisms can draw the attention to failures and remedial action when necessary. Oversight can be greatly increased by improvement of criminal statistics on violence against journalists and the criminal prosecutions of these crimes. Mexico should guarantee, in law and practice, that public officials that do not meet their legal obligations to duly investigate crimes against journalists are subject to sanctions.

51. The Special Rapporteurs urge the Mexican Government to replace this paradigm of impunity with one of effective investigation, prosecution and monitoring consistent with its international obligations.

## V. Surveillance of journalists, public figures and others

52. A series of well-documented reports in 2017 demonstrated that the Government of Mexico and a number of state governments purchased or deployed software designed to monitor individuals through their mobile phones. Those reports have shown, compellingly, that targets of the spyware – produced by the Israel-based NSO Group and called “Pegasus” – included, among others, politicians, journalists, human rights defenders, lawyers, public health and anti-corruption experts, and even the international body established to investigate the mass disappearances of students in Iguala in 2014.

53. The Special Rapporteurs met with victims of surveillance and attempted surveillance in order to understand the way in which the use of the technology threatened their work and their feelings of safety. Indeed, surveillance technology has profound implications for the exercise of freedom of expression, undermining the ability of individuals to share or receive information and establish contacts with others. It creates incentives for self-censorship and directly undermines the ability of journalists and human rights defenders to conduct investigations and build and maintain relationships with sources of information. Only under the very strictest rules in the context of law enforcement, publicly available and publicly adopted, operating on principles of necessity and proportionality and providing for close judicial supervision, should surveillance ever be an option for governments.

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investigation and collecting physical evidence; finding, interviewing and protecting witnesses; collecting digital evidence; evaluating political and social context; identifying a motive for the crime; and facilitating international technical assistance. The protocol should include policies concerning the protection of journalistic sources during the investigation. This tool should help investigators to be familiar with the functional definition of journalists provided for in the national legislation and international standards, so as to prevent stigmatization and exclusion of non-traditional media journalists, such as bloggers and citizen journalists. The protocol should also offer concrete guidance on how to identify and conduct diligent investigations of sexual and gender-based crimes against journalists. The protocol should include policies regarding the participation and protection of victims, the transparency of the investigations and the oversight mechanisms available to ensure FEADLE meets its goals and responsibilities.

54. In June 2017, President Peña Nieto acknowledged that the Government had purchased software providing it with the capacity to conduct digital surveillance. Though he denied that the Government directed the use of Pegasus, the Government thereafter established an internal investigation, led by FEADLE. In the Special Rapporteurs' discussions with FEADLE, they learned that FEADLE has initiated that investigation, aiming to identify governmental purchasers, and to review individual targets of surveillance. In Guerrero, one state government official, when asked by a Special Rapporteur about allegations of the purchase and use of Pegasus, denied such activity categorically.

55. The Special Rapporteurs are concerned that FEADLE, even with a good faith effort, lacks the independence to investigate this very serious issue. Indeed, the Procuraduría General de la República (Prosecutor General's Office), of which FEADLE is part, is alleged to be one of the purchasers of Pegasus. In July 2017, UN experts, including the UN Special Rapporteur, called upon Mexico to establish an independent and impartial investigation into the deployment of Pegasus, and he reiterates that call. The Special Rapporteurs underline that any investigation should be independent of the federal and state governments alleged to have purchased or used the spyware and include experts from academic and civil society organizations, including potentially from outside of Mexico. Such a step would demonstrate an understanding of the principles of due process and rule of law that must govern law enforcement in a democratic society. In the meantime, any ongoing investigation must respect the rights of targets of surveillance, including their security and privacy. It must also comprehensively examine and query all potential purchasers and users of Pegasus (and any other potential spyware products), all sources of information that may demonstrate the use of the spyware, and provide regular public updates on the status of the investigation. In this connection, the Special Rapporteurs strongly support the order given by INAI on 31 January 2018 to the Procuraduría General de la República (PGR) to make public the contracts related to the acquisition of the Pegasus spyware.

## VI. Access to information

56. Mexico has an admirable legal and institutional framework for the protection and promotion of access to information held by public authorities, an essential element of freedom of expression. The General Law on Transparency and Access to Public Information entered into force in May 2015. In discussions with INAI, the public authority responsible for implementing Mexico's access to information laws and commitments, the Special Rapporteurs were impressed with the knowledge and commitment of the institution to ensure proactive access as well as open processes for requesting information.

57. In discussions with civil society organizations, the Special Rapporteurs found significant concerns about how access to information operates in the context of allegations of serious human rights violations. Researchers appear to have difficulties obtaining full information, with significant amounts of data redacted and no reasons given for non-disclosure. Adding to this problem is the lack of accessible Government provided data concerning such crimes as disappearances or information in the languages of indigenous communities.

58. Experts voiced particular concern regarding article 27 of the Federal Law on National Archives, which allows for historical documents to be kept confidential for 30 or 70 years on grounds of data protection. According to the information received, this provision has been used by the authorities to withhold or redact the names of public officials and other information concerning past abuses and serious human rights violations in ways inconsistent with the requirement of necessity and proportionality. A bill to reform the national archives legislation, approved by the Senate in December 2017, maintains these restrictions. The Special Rapporteurs urge Congress to review the proposed legislation to ensure compliance with international human rights standards. The public has the right to

access historical archives, including those regarding human rights violations.

59. In the wake of the earthquake in September 2017, Government and civil society organizations were afforded a real-time test of access to information mechanisms during natural disasters. Many organizations expressed dissatisfaction about the speed, reliability and lack of information available before and after the earthquake. As far as the Special Rapporteurs understand, the country lacks a publicly available national register of people missing during natural disasters – in spite of the recent adoption of a General Law on Disappearances – nor is there a database that collects information about damage needed for access to information during rebuilding to ensure accountability. The Special Rapporteurs strongly urge the Government to work with civil society to identify gaps in the information available to all individuals in the context of natural disasters.

## VII. Media diversity

60. Democratic societies rest in part upon the access individuals have to diverse sources of news, opinion, ideas and debate. The Special Rapporteurs' predecessors noted in 2010 that Mexico's media environment lacked some of the necessary elements of diversity and pluralism.<sup>4</sup> They noted problems in the broadcast media's legal framework, concentration of media ownership particularly in broadcast media, the lack of an independent regulatory body, and deficiencies in the support of community radio. The Special Rapporteurs note continuing problems of diversity and pluralism, in particular the following areas:

### A. Media concentration and community radio

61. First, while according to the OECD, Mexico has achieved progress in development of the broadcast and telecommunications markets, there remain problems of concentration in the media that undermine the competition necessary for pluralism to thrive. According to information received during the visit, Mexico remains among the countries with the highest level of media concentration, in broadcast, print and online. Laws adopted since the 2010 visit have sought to address competition concerns. In particular, the Special Rapporteurs welcome the creation of the Telecommunications Institute (IFT) established in 2013 – thus complying with the Recommendations of their predecessors – which has begun to take steps to strengthen diverse access to broadcast spectrum and broadband.

62. In the radio market, an estimated 70% of privately operated radio stations are still owned by roughly 10 media conglomerates. Many are still said to be hostile against community stations that require space on the radio spectrum. Despite changes in the legislation that required IFT to maintain and update public registries with relevant information on broadcast spectrum management, civil society organizations assert that information regarding media ownership is available only in formats difficult to use and understand, turning it inaccessible. The Special Rapporteurs also learned the IFT ruled in March 2018 to reverse an earlier decision in which it found that one of the major broadcasting companies in Mexico has "substantive market power" in Pay TV, thus needed to be subject to specific regulations. The decision was reversed following a ruling of the Supreme Court that stroke it down on procedural grounds. The Special Rapporteurs will continue to monitor the steps being taken by the Government to counter media concentration and promote its diversity.

63. Second, while Mexico has been making efforts to expand access, there are significant gaps in community radio coverage. This is unfortunate, as community radio offers indigenous communities access to information that they would not otherwise obtain, particularly one that is tailored to them. Community radio enables

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<sup>4</sup> A/HRC/17/27/Add.3, para.78.

the development of local means of sharing and disseminating information and, indeed, the development of local forms of professionalization. According to information received during the visit, only four of sixty-eight indigenous languages in Mexico are reflected in the concessions available to them to exploit radio spectrum. Information from the Oaxaca Indigenous Community, for instance, suggested significant barriers to community radio development, including high fees for the use of radio spectrum. For community radios that are run as a community service – and not as commercial radio – such fees represent a barrier for their sustainability. The Special Rapporteurs heard from journalists in Guerrero of the difficulty of navigating the process for obtaining concessions for spectrum and permission to broadcasting, which includes costs that can be significant among poor communities. The Special Rapporteurs understand that only three concessions have been granted to indigenous radio since the adoption of legislation four years ago to expand such availability.

64. Third, access to the internet varies in strength and reliability across the country, and yet broad access from all corners of Mexican society is critical to the development of diversity online. The IFT has made efforts to expand internet access, but major barriers remain. For instance, in rural and indigenous communities, the lack of reliable broadband infrastructure often shunts people into mobile access, which lacks the strength available through fixed access.

## **B. Government advertising**

65. Proposed legislation to regulate official advertising was introduced in Congress in March 2018, following a landmark ruling by the Supreme Court. In a fast-track process the Senate passed the proposed legislation, later signed into law by the President on 11 May 2018, without any changes.

66. The Special Rapporteurs are concerned that the new legislation fails to meet basic principles and recommendations of international human rights bodies and experts<sup>5</sup>. In particular, the law does not establish clear rules regarding its objectives, allocation criteria and procedures, and oversight mechanisms, leaving a wide margin for Government discretion and abuse. The IACHR's report "Guiding Principles on the Regulation of Government Advertising and Freedom of Expression" (2012) finds that the establishment of specific, clear, and precise laws is essential to prevent abuse and excessive spending. The Special Rapporteurs call on the Mexican Government to amend the legislation, according to these principles and best practices.

## **VIII. Conclusion and recommendations**

### **A. Safety of journalists**

67. **The Special Rapporteurs call on authorities to**

#### **Prevention**

68. **Compile and publish detailed and disaggregated statistics of attacks against journalists and human rights defenders, including data concerning the criminal prosecution of these crimes.**

69. **Continue to recognize, at the highest levels of the State, the legitimacy and value of the work of journalists and condemn at all times crimes committed against them.**

70. **Continue to provide appropriate training on safety of journalists, including**

<sup>5</sup> IACHR. Principles on the Regulation of Government Advertising and Freedom of Expression. OEA/Ser.L/V/II. CIDH/RELE/INF. 6/12 7 March 2011.

gender and culturally sensitive training, to relevant law enforcement officials and ensure all their operation manuals and guidelines comply with international human rights law standards on freedom of expression.

71. Provide training for journalists who may be at risk of becoming victims of attacks and promote safety of journalists forms part of the school of journalism and communications' curriculum.

72. Ensure the implementation of the contingency plans in Chihuahua and Veracruz includes an effective participation of civil society, journalists, and federal and state level authorities, and guarantee the sustainability of these plans. Identify other regions and periods of particular risk for journalists, particularly in cases of social protest or political changes, and adopt adequate measures or new contingency plans to prevent attacks. Identify other regions and periods of particular risk for journalists, particularly in situations of social protest, and during elections or political changes, and adopt adequate measures or new contingency plans to prevent attacks.

73. Adopt measures to prevent the repetition of crimes against journalists in Guerrero, Tamaulipas, Sinaloa and Veracruz, and promote policies to restore public trust among journalists and media of such states, and regularly consult civil society.

#### Protection

74. Continue to strengthen the Federal Mechanism for Protection of Journalists and Human Rights Defenders and ensure effective implementation of its decisions and measures.

75. Adopt legal reforms necessary to ensure effective cooperation and coordination between the federal and state level to protect journalists and human rights defenders. In the meantime, all states should count with functioning units to coordinate and implement in a compelling manner the protection measures for journalists and human rights defenders established at the federal level. To ensure an adequate implementation of protection measures, a system that includes administrative sanctions to public officials who disregard their duties should be put in place and accessible to the beneficiaries.

76. Provide the federal protection mechanism with the necessary human and material resources to carry out its mandate. In particular, increase the number of risk analysts working within the federal protection mechanism as well as the number of officers in charge of monitoring the implementation of measures. With adequate resourcing, the Mechanism should aim to place analysts on a more regular basis in the states where the situation shows most seriousness and urgency. Analysts and other officers who carry out field work should be provided with adequate working conditions and protection.

77. Enhance the capacity of the federal mechanism to monitor the situation of journalists who are beneficiaries of protection measures and critically assess their effectiveness. The Special Rapporteurs welcome the plan to carry out a diagnosis of the implementation of measures and stress the need to include civil society in its design and evaluation. Particular attention should be given to the risks and threats experienced by displaced journalists and include measures for a safe return or, when unfeasible, reintegration in a new community.

78. Adopt all necessary measures to guarantee transparency of the federal protection mechanism to ensure its efficacy is open to oversight and promote trust among stakeholders, subject to limitations narrowly construed for legitimate purposes, such as the protection of the privacy and safety of the affected individuals. The Mechanism should, at a minimum, be transparent about its legal framework, its rules and procedures, its policies for risk assessment, its budget (allocated and spent) and all data necessary to monitor implementation.

## **Accountability**

79. Adopt a series of substantive and sustainable measures to strengthen FEADLE's capacity to address the structural situation of impunity in which crimes against journalists continue, including:

(a) Increase FEADLE's financing and ensure that its budget lines are allocated in accordance with its main obligation to investigate violations of freedom of expression. In particular, this should involve a significant increase in the number of investigators and police personnel under its jurisdiction;

(b) Adopt a protocol that outlines the principles and legal obligations of those in charge of investigating crimes against freedom expression and sets a common standard on how to conduct a prompt, diligent, independent and transparent investigation on these cases, consistent to international human rights standards and best practices and in consultation with civil society;

(c) Establish clear, objective and transparent criteria for FEADLE's authority in carrying out investigations of crimes against journalists that do not fall in its "original jurisdiction", in order to prevent undermining criminal investigations with unreasonable delays and confusion over jurisdiction;

(d) Prioritize the investigation of a series of cases of journalists whose contribution was fundamental to their communities;

(e) Strengthen the capacity of investigators and prosecutors to handle criminal cases concerning violence against journalists and take them to court, including by establishing a program with the participation of external experts aimed at advising and training FEADLE's investigators, designing plans for investigation of priority cases of attacks against journalists on account of their exercise of the right to freedom of expression. With a view to ensure accountability, follow up measures should be adopted in cooperation with national and international actors, including the participation of the UN and IAHR Special Rapporteurs and the OHCHR;

(f) Establish, within FEADLE, a witness protection program that also includes protection of sources;

(g) Establish a gender focal point/unit or specialists on violence against women journalists and establish a training program within the FEADLE focusing in particular on attacks suffered by women journalists;

(h) Compile and publish detailed statistics regarding the activities of the FEADLE, namely number of investigators, available budget, number of cases under its jurisdiction, type of crimes investigated, status of the investigation, type of suspected perpetrator, and successful convictions.

80. Ensure that FEADLE remains a specialized prosecutor's office in the organization chart/structure in the autonomous framework of the new General Attorney's Office and ensure its independence.

81. Ensure all investigations of crimes against journalists at the local level are carried out in a prompt, independent, impartial and transparent manner by specialised law enforcement officials that have received adequate training in international human rights law principles and standards.

82. Guarantee the application of appropriate sanctions against public officials who obstruct the investigation or prosecution of those responsible for crimes against journalists or other media actors.

83. Ensure judges and other law enforcement officials use a functional definition of journalism that is consistent with international human rights standards and case law. In particular, it is fundamental that judges do not decline competence due to a narrow understanding of the definition of journalist.

84. Train members of the judiciary on international human rights norms and

standards regarding freedom of expression and develop guidelines and protocols that strengthen their capacity to implement those standards in practice.

#### Attention to Victims

85. Strengthen CEAV's capacities to guarantee comprehensive legal and psycho-social assistance to victims and next of kin of victims' having suffered crimes pertaining to violations against freedom of expression. When dealing with victims and family members, CEAV must take care to minimize the potential harm of their procedures on their mental well-being and train their officials accordingly.

86. Create a working group between CEAV, SEGOB and PGR, with the participation of civil society, to ensure coordination – and particularly avoid confusion – within their separate mandates regarding the assistance to victims, protection and prosecution of justice. Information regarding the roles and functions of each institution should be made available to victims in a clear manner so they can proceed to address their cases to the corresponding authority.

#### Journalists and media actors

87. Establish networks to strengthen cooperation with the federal protection mechanism to ensure effective implementation of protection measures.

88. Provide adequate training on security and self-protection to their employees, both permanent ones and freelancers, providing adequate security equipment, adequate working and life insurance.

### B. Surveillance

89. The Special Rapporteurs call on the authorities to:

(a) Conduct an independent investigation into the purchase and use of malware (including "Pegasus") to monitor journalists, activists, and human rights defenders. Such an investigation should be conducted independent of the federal and state governments alleged to have purchased or used the spyware and include experts from academic and civil society organizations, including potentially from outside of Mexico. In the meantime, any ongoing investigation must respect the rights of targets of surveillance, including their security and privacy;

(b) Establish a legal framework to protect people from arbitrary and/or clandestine interferences in their privacy, including the protection of journalistic sources according to international standards on the matter. Guarantees and judicial oversight of state agencies engaging in surveillance should be established, within the permissible limitations of a democratic society. Mexico should consider creating an independent body to effectively oversee the State's surveillance tasks.

### C. Access to information

90. The Special Rapporteurs call on authorities to continue to strengthen the framework for access to information, including through:

(a) Continue to strengthen the capacities of the national institution for access to information (INAI), ensuring its autonomy, adequate budget and effectiveness of its decisions;

(b) Guaranteeing access to public information by communities at risk, especially indigenous peoples;

(c) Facilitating access by victims and their representatives to the judicial files of gross human rights violations, in line with international human rights law;

(d) Ensure the pre-eminence of public interest in the classification of information involving human rights violations, corruption cases and public interest

information, assuring that personal data identifying persons involved should not be deleted in public versions;

(e) Ensure that the classification of historical archives is based on the principle on maximum publicity and right to truth, bearing in mind the no harm principle.

#### **D. Government advertising**

91. The Special Rapporteurs call upon authorities to:

(a) In consultation with civil society and experts, amend the law regulating government advertising (Ley de Comunicación Social) to ensure compliance with international human rights principles and standards. Official advertisement resources should be assigned according to pre-established, clear, objective and transparent criteria;

(b) Enforce the legal obligation to proactively publish relevant information on hiring criteria, reasons to assign budgets, expenses and advertisement contracts of public entities.

#### **E. Diversity and pluralism in media**

92. The Special Rapporteurs call upon competent authorities to:

(a) Collect and make public all information necessary to identify the ownership of media outlets, and ensure all information submitted to the national media and telecommunications registries is available to the public in accessible formats;

(b) Continue to establish policies to promote diversity and pluralism of media and enhance efforts to counter concentration in media, particularly within broadcasting and pay television;

(c) Refrain from criminalizing the use of radio frequencies as this would be an unnecessary and disproportionate restriction to freedom of expression. This should be considered by the Senate when debating amendments currently being discussed in Congress on the Law of Telecommunications and Broadcasting (article 304) and the Federal Criminal Code (article 172 TER);

(d) Adopt measures to expand access of indigenous peoples and rural areas to community broadcasting, including by encouraging the development and resources available to community broadcasting, and continue to strengthen access to broadband in areas that lack reliable access.

#### **F. Legislative action**

93. The Special Rapporteurs call upon relevant authorities to:

(a) Repeal the law of Internal Security in its current version and instead initiate an open and comprehensive dialogue regarding the security model the country needs, reaffirming the role of civilian security agencies in addressing public security challenges. No laws should be adopted which counter the powers given to access to information authorities or standards relating to access to information for serious human rights violations;

(b) Repeal the 1917 Print Offences Act and amend state criminal codes in order to remove offences that are used to criminalize freedom of expression and refrain from using other criminal law provisions to punish the lawful exercise of freedom of expression. Simultaneously amend state civil codes to ensure protection to honor through civil proceedings, establishing limits and criteria to sanctions, according to international standards. SEGOB and the Mechanism should play a key role on this;

(c) **Adopt legislation to protect sources and whistle-blowers. Include civil society in the process and take into consideration the reports of the Special Rapporteurs on the matter.**

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