JOURNALISM: MONITORING CORRUPTION AND DEMANDING ACCOUNTABILITY

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The media is one aspect of Mexican civil society that has been deeply impacted by the violence associated with organized criminal groups. As the mouthpiece of civil society, journalists and the press play an integral role in combatting the effects of organized crime. This paper will outline the dangers faced by the media in Mexico as a result of organized crime, and will attempt to determine what factors have endangered journalists and what has afforded protection to members of the press. It will also examine the role that policy has played in protecting journalists in Mexico, and how those policies can be strengthened or reinforced to protect and enable a well-functioning media.

This paper will first outline the importance of a free press in Mexico and in any democracy. It will then detail the current security situation faced by journalists in Mexico using metrics and case studies of journalists who have been targeted. After outlining the current legal protections that journalists are afforded by international and Mexican law, this paper will offer policy recommendations to the 2018 Mexican presidential administration to strengthen protections for journalists in pursuit of a free, secure, and more democratic Mexico.

The Importance of Journalism in a Free Society

Freedom of speech is the cornerstone of every well-functioning democracy. Without a free and fair press acting as the mouthpiece of civil society, dissent, differing opinions, and educated discourse would be absent from the political sphere, paving the way for oppressive and autocratic politics that are unrepresentative of the will of the people. Often described as the Fourth Estate of government, an adversarial press acts as a check and balance on the powers of the executive, legislative, and judicial branches. Without civil oversight of these arms of governance, power could lie disproportionately in one over the other, leading to political action that is inconsistent with democratic values. Journalists also keep people informed on current events and lead the national discourse, disseminating information from the government to the people while simultaneously informing policymakers of what is going on at the grassroots level.
Since Mexico adopted its Constitution after La Reforma in 1857, the country has demonstrated its commitment to the tradition of liberal democratic values. Now more than ever, these values are integral to a resilient democracy. Today, Mexican policymakers should continue to uphold these traditions to foster fair, balanced, and thoughtful lawmaking that accurately represents the will of their constituents.

**The Current State of Journalism in Mexico**

Today, the power of the press in Mexico has been vastly curtailed. With the rise of violence associated with organized criminal groups, Mexican journalists now face threats of violence, kidnapping, and censorship, and many have been attacked or summarily executed for their work. Therefore, the ability of the Mexican press to monitor government officials and demand accountability has been severely impeded. This section will outline a number of different threats to journalists and the press in Mexico. It should be noted that because no two parts of the country are alike, threats differ by geographic location.

**Violence Against Journalists**

According to the journalism protection watchdog agency Reporters Without Borders (RSF), Mexico is the most dangerous countries for journalists in the Western Hemisphere, and is ranked 149 out of 180 countries on its World Press Freedom Index.\(^1\) In fact, according to prominent Mexican journalist Carmen Aristegui, “one out of every three journalists killed in the Western Hemisphere is Mexican.”\(^2\) While estimates vary, some statistics indicate that as many as 80 journalists have been killed in Mexico since 2006.\(^3\) According to the Knight Center for Journalism in the Americas, 12 journalists were killed in Mexico in 2016.\(^4\) The 2017 statistics do not bode well, with at least seven journalists killed in the first three months of the year, and other instances of violence directed against human rights defenders and news outlets.\(^5\)

There is a misconception that attacks on journalists are always carried out by organized criminal groups. While the media is one of the first institutions to suffer the effects of rival criminal

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4. Five journalists were killed in Oaxaca, three in Veracruz, and one in each of the following states: Guerrero, Puebla, Tabasco, and Tamaulipas. Again, because the situation in Mexico is so dangerous for journalists, the data on the number of journalists killed may vary, and violent incidents are often underreported out of fear for violent reprisals. Teresa Mioli, “On the Day of the Dead, Mexicans Join the International Fight against Impunity in Murders of Journalists,” Knight Center for Journalism in the Americas, November 3, 2016, https://knightcenter.utexas.edu/blog/00-17735-day-dead-mexicans-join-international-fight-against-impunity-murders-journalists.
organizations seeking to control public opinion, attacks on journalists can also come from politicians, unions, police, or local law enforcement. According to Mexican NGO Artículo 19, there were 218 violent incidents against journalists in the first six months of 2016, 101 of which were carried out by public servants including police and military personnel. Although violence enacted by organized criminal groups toward journalists is often more visible and receives more attention in the international press, corruption and a disregard for the safety of Mexican journalists by state-sponsored actors is also ongoing.

Self-Censorship

Another challenge for journalists is self-censorship. Fearing extortion or attack, independent journalists and mainstream news outlets have limited the scope of their reporting, under-investigated, or selectively ignored many instances of violence in Mexico, especially in areas affected by organized crime. If journalists fear for their own safety, they are not adequately performing their duties, which are essential for a robust civil and political discourse.

For example, “in February 2015, alleged cartel members kidnapped Enrique Juárez Torres, editor of the newspaper El Mañana, from his offices in Matamoros and threatened to kill him if he continued to run stories on violence related to drug trafficking.” Since 2010, at least three Mexican newspapers have published editorials stating they would not cover drug-related crime in their communities out of fear for instigating further attacks. These instances are not uncommon, and seriously undermine the role of a free press in Mexico. Moreover, citizens affected by organized criminal violence may have little faith that local journalists will adequately cover news in their communities. According to a 2015 survey by the MEPI Foundation, a nonprofit that promotes investigative journalism, “eight out of ten respondents living in regions of high-intensity drug trafficking said they knew that local media would not report on crime in their area.”

The practice of self-censorship has two deleterious effects. First, it skews the statistics on crime, violence, and drug trafficking in Mexico. Because policymakers and government agencies often rely on journalists to report violent crime or drug-related deaths in their communities, this limited reporting paints an incomplete or misleading picture of the security situation on the ground. Second, self-censorship by journalists legitimizes the actions of organized criminal groups in these communities, often allowing individuals to commit crimes with impunity. Without accountability in the press, local criminals are emboldened to engage in greater acts of larceny, kidnapping, extortion, drug trafficking, or violent crime.

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6 Organized criminal groups, however, continue to remain a major threat to journalists, especially in Northern Mexico where organized criminal activity is high.
9 Ibid.
10 Ibid.
**Impunity**

Mexico suffers from one of the highest rates of judicial impunity in the world, and the perpetrators of attacks against journalists often go unpunished. According to prominent Mexican journalist Carmen Aristegui, “In many parts of Mexico, an inconvenient journalist can be silenced—even murdered—and nothing will happen.”

There have been a total of 798 preliminary investigations instigated for crimes against freedom of speech from 2010 to 2016, according to the Special Prosecutor for Crimes against Freedom of Expression (FEADLE). Unfortunately, only 101, or 12.6 percent of these cases were brought before a judge, and only two were convicted. These statistics are echoed by the Committee to Protect Journalists, which lists Mexico as sixth on its Global Impunity Index for the number of unresolved journalist killings as a percentage of the population.

**Soft Censorship: Government Advertisements in the Mexican Press**

The power of the Mexican press to truly fulfill its role as a watchdog is significantly undermined by the ongoing use of government advertisements in the media. Often called “soft censorship,” political parties that take out advertisements in the media weaken the ability of a news outlet to be truly independent of the government. According to the World Association of Newspapers and News Publishers (WAN-IFRA), soft censorship influences news coverage and shapes the media landscape when non-transparent government subsidies or advertising in specific media outlets bias or color editorial decisions to publish or withhold news stories. In short, political advertisements in Mexican news outlets influence the way that journalists cover and publish information about the government, and because many news outlets have limited access to funding and rely on advertising revenue to operate, they are often forced to make a decision between undermining their journalistic credibility and staying in business.

**Corruption Within the Media**

While violence against journalists is a major problem, journalists themselves are not immune from corruption and the negative influences of organized crime. Newspapers may slant their coverage to receive favorable advertising contracts from political parties, and some media

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1. Aristegui, “Carmen Aristegui Accepts the Knight International Journalism Award | ICFJ - International Center for Journalists.”
4. The CPJ Global Impunity Index is calculated by taking the number of unresolved journalists killings as a percentage of each country’s population. Only countries with five or more journalist killings are included in the index. See Elisabeth Witchel, “Getting Away With Murder - Committee to Protect Journalists,” accessed November 23, 2016, https://cpj.org/reports/2016/10/impunity-index-getting-away-with-murder-killed-justice.php.
owners are active in a corrupt system that rewards propaganda over actual news reporting. Furthermore, poorly paid journalists are sometimes offered bribes, known as *chayote*, to influence their reporting. However, while corruption within the media is a serious problem, it should not implicate all journalists, and allegations of corruption within the media should be addressed on an *ad hoc* basis.

**Overview of Protections Currently Afforded to Journalists**

Currently, there is legislation that affords legal protections to journalists in Mexico. Primarily, freedom of speech in Mexico is protected under Articles 6 and 7 of the Mexican Constitution. Although the Constitution protects the right to speech, it can only guarantee protections for journalists from state-sponsored censorship or the physical and financial intimidation of journalists by government actors. As such, constitutional protections do nothing to safeguard journalists from organized criminal groups and other actors who operate outside of the law. In addition to national legislation that protects freedom of speech, Mexico is a signatory to the UN Declaration on Human Rights Defenders. This declaration affords legal protections to journalists as well as to advocates, activists, community organizers, and lawyers under international law. However, this agreement is only binding to the state, and like constitutional protections, can do little to combat the problem of violence imposed on journalists by organized crime.

Furthermore, these measures cannot protect freedom of speech when impunity for violence against journalists is allowed to thrive. In an attempt to combat these failures in judicial accountability and raise awareness of killings and attacks on journalists, a number of local and transnational civil society organizations monitor and attempt to provide security to journalists reporting on organized criminal violence. International organizations such as Reporters Without Borders, the Committee to Protect Journalists, Freedom House, the Inter-American Press Association, Human Rights Watch, and Amnesty International all attempt to monitor and report on such crimes. Local organizations such as Artículo 19, Periodistas en Riesgo, and Periodistas de a Pie also document abuses against journalists and advocate for greater protections for the press.

In 2010, Mexico also created the Office of the Special Prosecutor for Crimes Against Freedom of Expression (FEADLE) under the Office of the Attorney General of the Republic. While FEADLE was an important step to combat impunity for crimes against journalists, the office has been hesitant to assert its jurisdiction over these cases without the state’s official approval. According to Freedom House, “many governmental officials dismiss potential journalism related motives for attacks and threats with questionable haste, often invoking journalists’ personal lives

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16 Ibid.
17 Ibid.
as motives for their deaths despite evidence to the contrary.” This culture is indicative of the Mexican expression, “por algo, le pasó,” or that the corrupt will get what they deserve. While corruption among journalists is an issue, Mexico’s recent switch to the adversarial justice system demands that journalists be considered innocent—or victims of violence—until proven otherwise.

Mexico has also attempted to protect the press through the Law for the Protection of Human Rights Defenders and Journalists. This legislation, passed in 2012, established the Mechanism to Protect Human Rights Defenders and Journalists, which is designed to take on cases of violence and abuse. In practice, this involved documenting cases of journalists under threat and providing protections such as panic buttons or relocation to mitigate potential risks. The legislation, however, has come under intense scrutiny as it failed to adequately provide the protections it championed.

According to a report issued by the Washington Office on Latin America (WOLA), the Mechanism has faced numerous funding and staffing challenges. In fact, under the auspices of SEGOB, Mexico’s Interior Ministry, the Mechanism lost a third of its staff in the spring of 2014, including the head of the Human Rights Unit. According to WOLA, this staff was “poorly trained, under-qualified, and temporary,” and as a result, the Mechanism has not been able to adequately coordinate with state and local authorities. Many human rights defenders have complained of insensitivity and incompetence on the part of the staff members, and inadequate resources led to a backlog of cases and problems implementing security measures. Furthermore, a report issued by Organizaciones de la Sociedad Civil (El Espacio OSC), criticized the law’s lack of political support at all levels of government. The report also critiqued the Mechanism for its inability to adequately recognize journalists and human rights defenders’ work, its limited ability to investigate crimes against journalists, and its poor performance in implementing the tools defined by the Mechanism to limit abuse and attacks.

In an attempt to rectify the mismanaged agency, Mexican policymakers implemented a new law in 2015 that sought to strengthen it. Fortunately, there has been demonstrable progress. For instance, the Mechanism has largely overcome its backlog of cases, and its long-awaited unit for Prevention, Follow-Up, and Analysis was finally established in August 2015.

Problems, however, still persist. In a follow-up to the 2015 report, WOLA outlined a number of ongoing issues with the Mechanism. For example, in 38 percent of cases brought forward, the presumed aggressors have been government authorities. Furthermore, the Mechanism continues

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22 Ibid.
to be under-budgeted and under-staffed, protection measures are inadequate or poorly implemented, and a disconnect exists between recommended protection measures and the journalist’s individual situation. Often, displaced journalists and human rights defenders have found it difficult to return to work after being relocated for their protection. Despite its shortcomings, the Mechanism has potential to provide real protection to members of the press and those who advocate for human rights in Mexico.

**Policy Recommendations**

There is still a long way to go toward ensuring that journalists are protected and that the press can operate freely in Mexico. This final section will make recommendations to Mexican policymakers for a better functioning press in the interest of Mexicans’ security and a government that adequately serves the needs of its citizens.

1. **Publicly State a Commitment to a Free Press and Protections for Journalists.** First and foremost, the incoming presidential administration should publicly reiterate its commitment to facilitating a free press in Mexico. The administration should openly state that its goal is to continue working with the press, as well as federal, state, and local governments, and civil society organizations to foster freedom of speech in Mexico. It should also publicly state its commitment to providing protections for journalists and human rights defenders. These statements would align the new administration’s position with the interests of the media, thereby fostering the aforementioned goal of a robust and free interchange between the government and the press. Mexico’s state and municipal governments should also follow the federal government’s lead in publicly recognizing their commitment to a free and enabled press, and to protecting the safety of the country’s journalists and human rights defenders.

2. **Demand a Greater Public Presence by Top Officials in Mexico’s Federal Mechanism for Human Rights Defenders and Journalists and FEADLE.** The heads of these departments are best suited to publicly state the importance of protections for freedom of speech, as well as the challenges that come along with protecting speech. Therefore, the federal government should demand that the head of the Federal Mechanism, as well as the head of FEADLE publicly state the goals of their offices and a commitment to their work. These officials should also continue to cultivate a public presence, and should become figureheads for freedom of speech in Mexico. By continually interfacing with the public through the media, these officials can put the issue of journalist safety at the forefront of the national discourse and strengthen the credibility and voice of both offices.

3. **Continue to Strengthen the Mechanism for Human Rights Defenders and Journalists.** Another way in which the Mexican government can encourage protections for journalists is to continue strengthening the Mechanism for Human Rights Defenders and Journalists. First, the

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24 “Mexico’s Mechanism to Protect Human Rights Defenders and Journalists: Progress and Continued Challenges” (WOLA, PBI, May 2016).

25 Needless to say, this initiative should also come with greater public and private security measures for these officials, such as around-the-clock security detail.
government should require a complete commitment by the federal and state governments to continue working toward the Mechanism’s goals. It should also be open to the possibility of modifying the law after direct consultation with civil society groups. According to a report issued by WOLA and Peace Brigades International, the federal government can also strengthen the Mechanism in the following ways:

a) Continue working to improve risk analysis practices by ensuring that the protection measures granted to journalists are directly applicable to the beneficiary’s unique situation, including their gender, to assure that the measures adequately address the beneficiary’s individual situation. Greater staffing and training better-qualified employees will also allow the Mechanism to operate as it was intended.

b) Guarantee access to the Mechanism by ensuring that beneficiaries of protection are able to attend meetings in which their case will be discussed, and ensure that the Mechanism guarantees protections to journalists and other civil society actors as “human rights defenders,” as defined in the Mechanism Law and the UN Declaration on Human Rights defenders.

c) Foster cooperation at the state and local levels by improving communication and coordination among varying levels of government by utilizing local contacts who are responsible for implementing protection measures.

d) Report on the effectiveness of protection measures by evaluating commonly granted protections, and report these findings to the Mechanism’s Governing Board. This information should also be made available to civil society organizations and the public.

[4] Mandate an Evaluation of the Office of the Special Prosecutor for Crimes Against Freedom of Expression (FEADLE). The incoming administration should also mandate an evaluation of the office of the Special Prosecutor for Crimes Against Freedom of Expression (FEADLE). This evaluation, executed by the Office of the Attorney General of the Republic, would audit the office’s budgeting and staffing decisions, and should offer recommendations on how to use the office’s capabilities to better protect journalists. Furthermore, the incoming presidential administration should encourage greater cooperation between FEADLE and other offices designed to protect human rights defenders and journalists such as the National Commission for Human Rights and the Mechanism for the Protection of Human Rights Defenders and Journalists.

[5] Mandate Educational Training for Law Practitioners at All Levels of the Judicial System. Another initiative the federal government should implement is mandatory training for legal practitioners in freedom of expression and international human rights protections for human rights defenders and journalists. Currently, a number of free Massive Open Online Courses, or MOOCs, exist that could educate lawyers, clerks, and judges on the international legal framework for the protection of journalists. One course, offered by the Knight Center for

27 “Mexico’s Mechanism to Protect Human Rights Defenders and Journalists: Progress and Continued Challenges.”
Journalism in the Americas, is already educating judges and law practitioners through a free Spanish-language course in coordination with UNESCO and the Office of the Special Rapporteur on Freedom of Expression at the IACHR. This initiative will not only develop professionalism among lawyers, judges, and clerks, it will also strengthen national and regional judicial systems, and encourage Mexican jurists to standardize practices in accordance with international norms.

[6] Pass a Law that Makes Intimidating, Attacking, Killing, or Otherwise Engaging in Violence Against a Journalist or Human Rights Defender a Federal Offense. The federal government should also work with the legislature to pass a law that explicitly defines violence against a journalist or human rights defender as a federal offense. This motive would send a strong message to those who would harm journalists or human rights defenders, and would begin to address the culture of impunity associated with killing members of these groups. Overall, stronger sentencing for criminals who hurt or kill journalists will act as a deterrent for others who might do the same, thereby delivering justice to those affected while limiting future violent crime.

[7] Pass Legislation to Regulate and to Limit Government Advertising in the Media. Next, the president and his or her administration should attempt to build a broad-based coalition of support to pass a law that limits and regulates political parties’ use of advertising in the media. Although this measure has been attempted a number of times, an independent press, free from financial obligations to political players should be considered paramount to a free and functioning democracy in Mexico. According to a report issued by the WAN-IFRA the federal government should:

a) Document all federal advertising expenditures through a publicly accessible ledger or website. This measure would create a culture of transparency and would demand accountability among the government’s advertising budget.

b) Pass a law guaranteeing fair and transparent official advertising. It should develop criteria for the allocation of funds for government advertising; limit the use of government advertising to proper public information purposes; implement adequate oversight of government advertising; and promote mechanisms to encourage media pluralism.

c) Continue to implement and enforce the provisions of the 2013 constitutional reform on telecommunications that aim to boost pluralism and competitiveness in the Mexican media.

d) Mandate that all broadcast licenses be regulated based on criteria that is fair, democratic, objective, and clear.


29 While this measure has been attempted in the legislature a number of times, there has been a consistent lack of political will to pass such a law, principally because policymakers have vested interest in their ability to advertise in the media for their own re-election campaigns.
e) Establish impartial audience measuring systems based on certified standards. This would ensure that government advertising metrics are based on real-world data.

f) Encourage public discourse on the relationship between the government and the press to “better discuss proposals for institutional reforms and the State’s role in promoting information pluralism.”

[8] Demand Greater Cooperation with Civil Society Organizations and Human Rights Protections NGOs. As stated above, the new presidential administration should encourage a robust discourse with civil society organizations. Because Mexico is signatory to the UN Declaration on the Rights of Human Rights Defenders, it should facilitate cooperation with international and domestic NGOs that monitor and advocate for human rights and protections for journalists and human rights defenders. Again, these groups should directly participate in strengthening the federal Mechanism, and should be used as a resource in formulating new policies going forward.

Concluding Remarks

Regrettably, on May 15, 2017, only days before the publication of this paper, another prominent journalist—Javier Valdez Cárdenas—was gunned down in the Mexican state of Sinaloa. The loss of another public servant dedicated to uncovering the truth only further demonstrates that Mexico has a long way to go until it can guarantee every journalist the right to safely exercise freedom of speech. Though not a panacea, the recommendations outlined in this paper are a place to start, and can help the incoming presidential administration initiate a culture in which a free press is held in the highest regard. By facilitating a press that monitors corruption, reports on criminal activity, and demands accountability from government officials, the incoming administration can return power to its electorate, and in turn, help mitigate the violence associated with organized crime.

30 “Buying Compliance: Governmental Advertising and Soft Censorship in Mexico.”