



CORRUPTION, IMPUNITY, SILENCE:

THE **WAR** ON
MEXICO'S JOURNALISTS

EXECUTIVE SUMMARY

This publication is the result of a joint research project by the International Human Rights Program (IHRP) at the University of Toronto, Faculty of Law and PEN Canada, the Canadian centre of PEN International.

Authors: Cara Gibbons and Beth Spratt

Editors: Brendan de Caires, Renu Mandhane,
Nader Hasan, Clayton Ruby

Design: Diana Tyszko

Translation: Ioana Luca

Cover image: March protesting rising violence against
journalists, Mexico City, August 2010

Photo credit: Keith Dannemiller for John S. and James L.
Knight Foundation
(Creative Commons Attribution License, 2010)

Copies available from:

PEN Canada

24 Ryerson Avenue, Suite 301

Toronto, Ontario, Canada M5T 2P3

Tel: +1 416-703-8448, Fax: +1 416-703-3870

<http://www.pencanada.ca>

International Human Rights Program (IHRP)

University of Toronto, Faculty of Law

39 Queen's Park, Room 106

Toronto, Ontario, Canada M5S 2C3

Tel: +1 416-946-8730, Fax: +1 416-978-8894

<http://www.utorontoihrp.com/>

Copyright © 2011 PEN Canada | IHRP

All rights reserved.

Printed in Canada.

EXECUTIVE SUMMARY

Sixty-six Mexican journalists have been killed since 2000¹, at least 34 since President Calderón launched a “war on drugs” after taking office at the end of 2006. During that time, the government’s highly militarized campaigns, particularly in the northern border states, have created staggering levels of violence and an atmosphere in which working journalists face constant threats and vicious, often lethal, attacks. Few of these crimes are investigated properly, much less prosecuted, despite successive administrations’ promises to end the country’s shameful record of impunity. Instead, the government has beguiled international observers and its own citizens with meretricious reforms that do little to halt a grave and worsening human rights crisis.

In these extraordinary circumstances, Mexico’s journalists have also contended with laws that limit freedom of expression and muzzle their attempts to expose corruption at both local and state levels. Consequently, accurate reporting on the drug war has become all but impossible. Yet, faced with this crisis, the Mexican government has dithered over reforms that could protect reporters, while prosecuting citizen journalists who run afoul of the country’s labyrinthine communications legislation.

This report examines why Mexico has failed to confront the sources of its internal corruption. It also looks at the state’s failure to defend Mexico’s journalists from the extreme violence they face at the hands of drug trafficking organizations and corrupt state agents who carry out the most brazen assaults on free and open communication with almost complete impunity. It finds that Mexico is breaching its binding international human rights obligations, including the right to life and the right to freedom of expression.

Key findings

- In addition to the ten journalists murdered in 2010, media workers are regularly targeted for kidnappings, threats, theft, and judicial harassment. Last year, Mexico tied with Pakistan as the deadliest country in the world for journalists.
- Most crimes against journalists are not properly investigated and the authorities have failed to successfully prosecute over 90 percent of cases.
- Despite the broad powers implied by its name, the Special Prosecutor’s Office for the Attention to Crimes Committed against Freedom of Expression has no formal ability to investigate crimes or lay charges, nor is it empowered to tackle cases involving drug traffickers or organized crime. As a result, during its first four years, the Prosecutor has averaged just one prosecution per year.
- One freedom of expression group has reported that state agents were responsible for two out of every three attacks recorded in 2009. However, despite similar findings by other NGOs, the Mexican government maintains the position that crimes against journalists are perpetrated, essentially without exception, by organized crime.

1 Comisión Nacional de los Derechos Humanos (Mexico), “Press Release: Exige CNDH Mayor Protección A Periodistas”, January 2, 2011, CNDH online at: http://www.cndh.org.mx/comsoc/compre/2011/COM_2011_0001.pdf (See page 13 of this report for more detailed statistics.)

- The ongoing violence and killings have forced many journalists to steer clear of provocative local reportage. In Tamaulipas and Ciudad Juárez the chill has become so severe that practically no information enters or leaves the state unless it has been vetted by state authorities or drug-trafficking organizations.
- Community radio broadcasters — a group which faces no threats from drug trafficking organizations — are more vulnerable to violence and intimidation than professional journalists. This violence and intimidation comes, instead, from state officials. The state's ongoing failure to create proper licensing regulations leaves community radio broadcasters in an extremely precarious position vis-à-vis the law and constitutes a serious violation of the government's responsibility to protect freedom of expression.

Most crimes against journalists are not properly investigated and the authorities have failed to successfully prosecute over 90 percent of cases.

- At least 950 human rights recommendations have been submitted to the government of Mexico since 2000, and it has signed or ratified more than 20 human rights treaties. However, despite its vociferous support for human rights in international fora such as the United Nations, it has allowed serious rights violations within its own borders to continue with almost complete impunity.
- Criminal libel, slander and defamation laws remain on the books in 15 states in Mexico and civil defamation laws continue to be used to harass journalists who work to uncover corruption.
- Despite repeated attempts to diversify media ownership in Mexico, 96 percent of commercial television stations are owned by two families, and 86 percent of radio stations are held by 13 business groups. Only 13 out of the 1,200 radio licenses issued in Mexico have been allocated to community radio stations.
- A lack of employment standards also contributes to journalists' vulnerable situation. Media companies often require journalists to sign contracts waiving their right to sue in the event they are injured during the course of their employment.

RECOMMENDATIONS

TO THE GOVERNMENT OF MEXICO:

- i. Publically condemn all forms of violence against journalists as a violation of the right to life, the right to freedom of expression and the public's right to be informed;
- ii. Acknowledge the role of state actors in violence against journalists and take concrete measures to address it;
- iii. Expedite passing of the proposed constitutional amendment federalizing crimes against freedom of expression, and the passing of all necessary procedural reforms that would empower the federal government to investigate all crimes committed against freedom of expression exercised by journalistic activity;
- iv. Expedite passing of the proposed amendment of the Federal Penal Code to include Section XXVII "Of crimes against freedom of expression exercised by journalistic activity";
- v. Adopt protocols to ensure that crimes against journalists are effectively investigated;
- vi. Ensure that all Mexican states complete the broad criminal law reforms approved in 2008;
- vii. Strengthen the Office of the Special Prosecutor for the Attention to Crimes Committed against Freedom of Expression by formally empowering it to investigate crimes and make charges, including in cases involving organized crime, and by strengthening its institutional autonomy;
- viii. Prioritize the creation of a protective mechanism for journalists, similar to the mechanism used in Colombia, that will involve professional and civil society organizations in a decision-making capacity, and will set out a plan for the provision of resources and technical expertise;
- ix. Amend radio, television and telecommunications laws so that they no longer impede media diversity;
- x. Create a regulatory framework that provides provisions for community broadcasters to obtain licenses, ideally through a state organ independent of the government;
- xi. Amend the regulatory framework governing media advertising contracts so that media outlets are protected from reprisal from public authorities;
- xii. Amend employment laws in order to guarantee employment protections for journalists;
- xiii. Amend laws relating to military jurisdiction so that the investigation and prosecution of all human rights abuses alleged to have been committed by

members of the armed forces are exclusively investigated and prosecuted by civilian authorities;

- xiv. Pass legislation that will give international human rights treaties constitutional status in Mexico; and
- xv. Completely abolish the use of military jurisdiction for all alleged human rights abuses, in accordance with decisions of the Inter-American Court of Human Rights.

The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression.

TO MEXICAN
MEDIA
CORPORATIONS:

- xvi. Provide staff with the security and wages necessary to do their jobs, regardless of whether they are full employees or contractors. Acknowledge dangers in their work and provide adequate support.

TO CANADA,
THE UNITED
STATES, AND
THE REST OF THE
INTERNATIONAL
COMMUNITY:

- xvii. Place the need for the protection of media workers in Mexico on the foreign policy agenda and insist on the implementation of the above recommendations to protect journalists and the end impunity for crimes against them;
- xviii. Ensure human rights obligations are fully complied with in existing aid initiatives such as the Merida Initiative. If they are not, be willing to hold back funds until the necessary changes are made;
- xix. Condition all future foreign aid to Mexico upon the government of Mexico taking genuine and effective action to redress the serious human rights violations in the country and make future government investment in Mexico conditional upon the government of Mexico taking genuine and effective action to redress the serious human rights violations in the country.