



**MISIÓN
INTERNACIONAL DE
DOCUMENTACIÓN
SOBRE
ATAQUES EN
CONTRA
DE PERIODISTAS Y
MEDIOS DE
COMUNICACIÓN**

**Press Freedom in Mexico:
The shadow
of impunity
and violence**

FINAL REPORT

August 2008

Contributing organisations:

ARTICLE 19
Committee to Protect Journalists (CPJ)
Foundation for Press Freedom (FLIP)
Inter-American Press Association (SIP)
International Federation of Journalists (IFJ)
International Media Support (IMS)
International News Safety Institute (INSI)
International Press Institute (IPI)
Open Society Foundation (OSF) – Media Programme
Reporters Without Borders (RSF)
The Rory Peck Trust
UNESCO
World Association of Community Radio Broadcasters (AMARC)

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1 Executive summary

Mexico is one of the most dangerous countries for journalists in the Americas. In the past eight years, at least twenty-four journalists and media workers have been killed, eight more have disappeared and dozens have been threatened, intimidated or harassed for reasons related to their profession. The majority of cases of assaults against journalists remain in impunity, which has given rise to widespread self-censorship.

In an unprecedented initiative in response to this situation, thirteen international press freedom and freedom of expression organisations formed an international mission which travelled to Mexico to analyse the situation of journalists and media outlets in the country, in order to work together with Mexican organisations in the future to improve the conditions faced by journalists and the media at large.

During six days from April 20 to 25, 2008, the group visited five Mexican cities, where members of the International Press Freedom and Freedom of Expression Mission held dozens of interviews and working meetings with reporters, editors, media owners, family members of the victims of assaults, and with national and international human rights and journalists' organisations, as well as with state and federal authorities.

Although the findings of the Mission were worrying, they laid the foundations for understanding the situation which prevails in Mexico, and made it clear that it would be necessary for the Mission to return to the country early in 2009 as part of the mandate which it has developed for future action.

The International Mission found that the main obstacles for the free exercise of journalism in Mexico are: organised crime, which has generated a climate of fear; corruption; impunity; direct attacks by the police and military forces; and the lack of political will on the part of federal and state governments to resolve cases of assaults on journalists and to guarantee their safety.

The Mission was very concerned to see that in spite of the incidence of violence against communicators, there is no solidarity among media workers and media outlets or with family members of killed or "disappeared" journalists. In addition, governmental stigmatisation of the work of journalists is widespread. As if this were not enough, mechanisms and manuals for prevention and protection for the safety of media outlets and journalists are limited at best.

The Mission was alarmed by the level of vulnerability and uncertainty in which community radio broadcasters and their contributors work, as these groups are often the victims of assaults by state authorities.

The International Mission confirmed that self-censorship in the Mexican media is increasing, as a direct consequence of the tactics of fear implemented by the mafias and as a response to the generalised mistrust in the actions of state and federal authorities because of their lack of response or because of their possible links to organised crime.

Other factors that concerned the Mission, as encouraging self-censorship and putting limits on a free and plural press, were the manipulation by the state and federal governments of the budget set aside for official advertising in a way which attempts to control the presentation of information; as well as the high concentration of media outlets in the hands of a few people or business groups linked to different sectors of the economy and to sectors with much political or economic power or connected to the church.

The International Mission was also concerned by the deterioration in trade union freedom and working conditions for Mexican journalists. This situation is even worse in the case of freelance reporters.

Faced with these conditions and given that the safety of the public in a situation of vulnerability is the responsibility of the government, the Mission considers it imperative to create and strengthen mechanisms to prevent attacks and to protect the press, including the training of officials whose responsibility it is to combat crime, so that they do not continue with the attacks on communicators.

The federal government has shown positive signs of political will by opening spaces for dialogue and by expressing its approval for the federalisation of crimes against journalists. This attitude is a positive step towards the resolution of what the Mission has identified as one of the most important challenges facing the Mexican government: impunity in cases of killings, "disappearances", and assaults on journalists, which represents one of the most extreme forms of censorship and which intensifies when there is no punishment of those responsible.

The Mission considers it to be imperative to develop a normative framework to strengthen the Special Prosecutor's Office for the Attention of Crimes against Journalists (Fiscalía Especial para la Atención de Delitos en contra de Periodistas - FEADP) and to give it autonomy to investigate and to bring those responsible before the courts. In the same way, the Mission concluded that it is necessary to federalise crimes against freedom of expression¹ in the interests of rectifying the lack of coordination between the federal and local jurisdictions.

The Mission also considers it to be both urgent and necessary for the Mexican government to promote clear regulations for managing resources set aside for official advertising.

The Mission feels it to be imperative to work in solidarity with journalists and media outlets, to create a programme for the protection of communicators, and to raise public awareness about the gravity of the situation of attacks on journalists and the resulting self-censorship.

¹ After a subsequent mission of the Committee to Protect Journalists (Comité para la Protección de Periodistas), on June 9, President Felipe Calderón promised to federalise crimes against freedom of expression. For his part, the Attorney General for the Republic, Eduardo Medina Mora, announced a legislative proposal to amend Article 73 of the political constitution of the United States of Mexico to make any crime which might cause "social alarm", including threats to freedom of expression, a federal offence.

2 Presentation

The International Mission

In an unprecedented initiative, a total of thirteen international organisations met in Mexico to take part in what they called the International Press Freedom and Freedom of Expression Mission in Mexico:

- ARTICLE 19
- Committee to Protect Journalists (CPJ)
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- Inter-American Press Association (IAPA)
- International Federation of Journalists (IFJ)
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The members of the Mission spent six days in Mexico City and in the states of Oaxaca, Guerrero, Michoacán and Sonora. They met with reporters, editors, victims and family members of murdered and “disappeared” journalists, media owners, federal and local authorities, the Office of the United Nations High Commissioner for Human Rights, representatives of the European Union, and with cooperation bodies and journalists’ and human rights organisations.

The main objective was to use international pressure to (1) support the local and national media, (2) provide evidence of the dangers currently faced by media outlets and journalists, (3) raise public awareness about the serious risks faced by communicators and (4) put into place long-term mechanisms to encourage and consolidate press freedom and freedom of expression in Mexico.

The work of the Mission covered three areas:

1. Impunity
2. Protection of the exercise of journalism
3. Self-censorship

Specific interventions for immediate action have been recommended for each of these areas. These interventions are intended to address the most pressing needs in order to prevent the media from being pressured to take on an adversarial role in the situation of growing tension and worsening violence in Mexico. On the contrary, the Mission hopes that the media will be able to bridge the gap between the different political positions and interests involved and the Mexican people.

3 Introduction

3.1 Structure of the Report

This report addresses different issues linked to freedom of expression and press freedom in Mexico. This document calls attention to the current situation of insecurity in the country as it was identified during the visit of the Mission, and does not seek to cover an exhaustive list of all relevant topics.

The report is divided into the three following focus areas:

1. Impunity
2. Protection
3. Self-censorship

For security reasons, some names have been intentionally omitted throughout the report, in order to protect the identity of people with whom the Mission met.

3.2 Background

3.2.1 General situation

In the past five years, the war among the drug cartels has intensified in Mexico. Although at first the violence was concentrated in the northern states, it has spread progressively to the rest of the country. According to the UN, Mexico is now one of the five countries with the highest incidence of organised crime in the world.

On December 1, 2006, Felipe Calderón of the conservative National Action Party (Partido Acción Nacional – PAN) took over the presidency after a lengthy electoral dispute. In his first speeches as head of state, Calderón promised to address violent crime, tax evasion, corruption and, above all, he declared a policy of zero tolerance with regard to drug trafficking.

Central to his offensive against drug trafficking have been the thousands of troops sent by President Calderón throughout the country. However, this militarisation has provoked an increase in violence. Since 2007, there have been at least four thousand killings related to organised crime in Mexico.

3.2.2 Media Situation

During the Vicente Fox government (2000 – 2006), a total of sixteen journalists were killed. The National Human Rights Commission, a public entity, described this period as “the six dark years of journalism”.

The situation does not seem to have improved under Felipe Calderón's new government. Since January of 2007, eight journalists and media workers have fallen. During the same period, four informers have disappeared, adding to the four reporters whose whereabouts has been unknown since 2000.

In the past eight years, numerous complaints about threats and assaults have been filed with the authorities and with non-governmental organisations.

The great majority of crimes against journalists have gone unpunished. The case of Alfredo Jiménez Mota, a specialist in investigative reports on drug trafficking for El Imparcial of Hermosillo, Sonora, is one of the most notorious with regard to impunity. Three years after his disappearance on April 2, 2005, there has been no official report on the case, nor have the physical or the intellectual perpetrators of the disappearance been found.

Attacks, fear and impunity have had negative effects in the press, as reporters assigned to covering topics related to organised crime and violence linked to drug trafficking censor themselves with increasing frequency. For this reason, these topics are often not investigated by journalists and the media.

High-ranking federal government officials have stated that the political will exists to tackle the issue of crimes committed against journalists. However, it is apparent that few effective measures have been taken which will address the problem.

In January of 2006, federal authorities acknowledged that violence against the press was a national problem when they created a special unit, the Special Prosecutor's Office for the Attention of Crimes against Journalists (Fiscalía Especial para la Atención a Delitos cometidos contra Periodistas – FEADP) under the auspices of the Office of the Attorney General of the Republic. This office, which lacks funding and sufficient staff to carry out its mandate, has been largely ineffective. In April of the same year, the Chamber of Deputies approved reforms to the criminal code which decriminalise press offences and which recognise the right of journalists not to disclose their sources.

3.3 Preliminary Definitions

3.3.1 Impunity

The Inter-American Court for Human Rights defines this concept as “the total lack of investigation, pursuit, capture, trial and conviction of those responsible for violations of the rights protected by the American Convention”.²

Depending on the specifics of each case, impunity entails the violation of various human rights; for example, the right to life, to personal integrity, to due process, to judicial protection and to political participation. This fact puts the victims and their family members in a serious situation of defencelessness.

With regard to impunity in cases of assaults, “disappearances” and killings of journalists, the four mechanisms for the promotion of the right to freedom of expression, both worldwide and regional, declared jointly that “States should, in particular, condemn such attacks when they do occur, investigate them promptly and effectively in order to duly sanction those responsible and provide compensation to the victims where appropriate. They should also inform the public on a regular basis about these proceedings”.³

3.3.2 Protection of the exercise of journalism

In accordance with the definitions provided by different national and international juridical instruments, the right to freedom of expression also includes and protects the right to transmit ideas and opinions and the right to receive them.

² 15 Cfr. *Case of the Gómez Paquiyauri Brothers*, *supra* note 7, par. 148; *Maritza Urrutia Case. Sentence of November 27, 2003. Series C. 103, par. 126; and Myrna Mack Chang Case, supra* note 4, pars. 156 and 210.

³ *Joint Declaration on the Four Mechanisms for the Promotion of Freedom of Expression, 2000.* <http://www.article19.org/pdfs/igo-documents/three-mandates-dec-2000.pdf>

Protecting the rights of ordinary citizens who hear or receive these messages justifies the special attention which international human rights legislation gives to the safety of journalists and social communicators.

To speak of the protection of journalists in a democratic context does not imply the granting of extraordinary rights for them. Journalists do not enjoy a special legal situation for the dissemination of information or ideas, but the role they play in ensuring the right of society to be informed justifies the importance of guaranteeing their safety in exercising freedom of the press.

The obligation to guarantee freedom of expression is exclusive to the State. For this reason, the duty of implementing public policies of prevention and protection for journalists constitutes a commitment for any government. However, in a context of insecurity it is within the rights of the journalist to decide which kind of topics he or she will address; this draws attention to the existence of numerous elements and agents, such as editors, media owners, and colleagues, who directly influence the conditions of security in which the journalist operates. Each and every one of these agents, especially the State, determines the context of safety in which freedom of the press is exercised.

3.3.3 Self-censorship

Discussions about censorship in the media repeatedly focus on the restrictions made by some governments on those who exercise freedom of the press.

A wider and more inclusive definition of censorship allows for evidence of the creation of obstacles to the free circulation of information and opinions in a way which is parallel to, though not necessarily independent of, the official sphere.

For the purposes of this report, self-censorship is defined as the decision to avoid certain topics or to eliminate or modify some information or particular approaches, as a consequence of a generalised context of insecurity, pressure or intimidation. This situation is the result of a combination of factors which may be present individually or jointly, such as the presence of organised crime, pressure from official sources or private entities and even the actions of the media or the journalist him or herself.

Fear as a catalyst for self-censorship consists of two elements:

- 1) The subjective element, understood as the rationale of fear as the reason for deciding to self-censor.
- 2) The objective element, or the available information which explains or negates the context of insecurity in which the decision to self-censor is made.

An awareness of these two elements – the subjective and the objective – is necessary in order to understand the impact of insecurity on the full exercise of freedom of expression through self-censorship.

4 Focus areas

4.1 Safety and protection

4.1.1 General context

The most serious and widespread threat facing journalists in Mexico is that of organised crime, which uses tactics and strategies which have created a climate of terror for many communicators, who in coping with this situation of insecurity and fear may also feel abandoned, principally by the authorities, who in many cases have been infiltrated by the mafias, but also even by their colleagues. This fact was brought out in witness statements received by the International Mission from reporters, media managers and civil organisations.

“(Oaxaca) is a state where there have been 60 kidnappings in three months. Our employees are afraid.”

Benjamín Fernández Pichardo, general director of the newspaper El Imparcial of Oaxaca

However, this is not the only issue detrimental to the free exercise of journalism, which must also contend with impunity, direct assaults by government representatives and the increasing stigmatisation of the press by the government, an attitude which becomes more evident in the case of community radio broadcasters.

Amérigo Incalcaterra⁴, the representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR), stated, “the reality of the country is the reality of the press; with respect to freedom of expression I can see no light at the end of the tunnel”.

Several of the civil servants who were interviewed blamed organised crime as the main cause of the insecurity prevailing in the country. Daniel Cabeza de Vaca, Under-Secretary for Legal Affairs and Human Rights for the Ministry of Government (Ministry of the Interior), stated that the killings of journalists and the assaults on freedom of expression in Mexico are “the manifestation of a larger problem, which is the battle against organised crime”.

⁴ On May 23, 2008, the duties of Amérigo Incalcaterra, the representative in Mexico of the Office of the United Nations High Commissioner for Human Rights were officially concluded, in the midst of questions from non-governmental organisations about the “lack of transparency” surrounding the reasons for his removal.

Eduardo Bours, the Governor of Sonora, stated that organised crime in neighbouring states was responsible for the increase in attacks on communicators, as these mafias as well as the militarization necessary to combat them increasingly drive more violence and crime towards Sonora.

The Attorney General for Michoacán, Miguel García Hurtado, asserted that the increasing incidence of assaults on and “disappearances” of journalists in the region of Tierra Caliente in the state of Michoacán have a direct correlation with the increase in drug trafficking and the resulting disputes among different groups for control of the distribution routes in this area.

Repeated phone calls and notes containing direct threats to journalists or their families are some of the intimidatory tactics that have become more frequent, claimed civil society organisations such as the National Centre for Social Communication (Centro Nacional de Comunicación Social – CENCOS) and the Centre for Journalism and Public Ethics (Centro de Periodismo y Ética Pública – CEPET), who also described some of the brutal tactics resorted to by these groups, such as leaving corpses or human heads along with threatening notes in front of the buildings of local media outlets.

The prevailing climate in Mexico is one of terror, affirmed many of the journalists interviewed by the Mission. Armed attacks and explosions in the buildings of local media outlets, as well as killings and the “disappearance” of colleagues, have made a strong impact on reporters. The majority of those interviewed said that they felt unprotected and abandoned, both by the authorities and by the media, and that as their only means of self-protection they use self-censorship.⁵

The International Mission found that the high degree of infiltration of government institutions by organised crime could be added to this panorama. “In many parts of Mexico the line between State and crime has been erased,” stated Carmen Aristegui, a freelance journalist who works with CNN en Español.

Journalists and defenders of freedom of expression repeatedly mention the example of ‘Los Zetas’, a group formed largely of deserters from the Mexican Armed Forces who now principally carry out protection and intelligence jobs for the drug trafficking cartel of the Gulf, which has its headquarters in Tamaulipas.

“Our main problem at the moment is the police. There are places where almost 80% of the police force is linked to organised crime. The aim of this government is to build new police forces,” explained Daniel Cabeza de Vaca, referring to the issue of Los Zetas.

A number of those interviewed explained that the infiltration of institutions by the mafias is the reason why journalists do not trust the local authorities. Few journalists report the attacks or assaults they are subjected to; others do not do so because of the complete impunity that exists in cases of crimes committed against communicators, they commented.

Several months ago in the state of Michoacán, a reporter was killed. After the criminal charge was filed, the case was reported by the media. Shortly afterwards the family requested that less coverage be given to the case, as they were very afraid. “When his death was reported to the authorities, two other members of the family were ‘lifted’,” a colleague related. In this way, fear becomes a gag.

Three independent journalists from Oaxaca gave in faced with the fear of possible reprisals, and because of that stopped reporting threats and assaults that they had suffered. They told the Mission that they would not accept offers of protection from members of the state police force, because these might well be the same individuals who had threatened them.

The strategies developed by the federal government for the military and police forces to combat organised crime, have led to direct attacks on communicators. Agents of these institutions have unjustly threatened, harassed and detained local journalists. One of the journalists who talked with the Mission commented that this may be due in part to the lack of training

⁵ The topic of self-censorship will be dealt with later in this report..

programmes for members of the military, who have not been trained for situations in which they are in constant contact with communities and with journalists.

The actions of the mafias and the method designed by the authorities to confront them have presented a new risk for those working in the information sector: the official stigmatisation of the press. On May 13, 2008, the newspaper *La Jornada* quoted President Felipe Calderón as demanding that the media "disclose actions taken against crime instead of 'sharing strategies for sowing terror with the criminals'". This is of grave concern to civil organisations and to journalists, one of whom told the International Mission that "in the opinion of the government anyone who speaks out against the Army supports drug trafficking".

The Mission also noted a serious stigmatisation of community radio broadcasters. Carmen Aristegui explained, "There is an enormous prejudice against community radio broadcasters because they are considered to be guerrilleros". The case of Radio Bemba, a community radio station in the state of Sonora which was visited by the International Mission, is a good example of this problem. Despite having the necessary administrative authorisation, the station has been subjected to numerous obstructions on the part of the police force and also to repeated assaults against several of its contributors.

This stigmatisation of the media and of those who work to support freedom of expression had direct repercussions on the work of the International Mission. On April 21, 2008, in a meeting held with Juan de Dios Castro, Sub-Attorney General for Human Rights of the Office of the Sub-Attorney General, this official called Aleida Calleja, a Mexican journalist and the International Vice-President of the World Association of Community Radio Broadcasters (*Asociación Mundial de Radios Comunitarias - AMARC*) an "enemy of the State". Calleja had asked Castro about the case of the indigenous Triqui women Teresa Bautista and Felicitas Martínez, journalists from the community radio station *La Voz que Rompe el Silencio* (The Voice that Breaks the Silence), of Oaxaca, who were killed last April 7. Moments before that, Castro had affirmed to the Mission that the role of journalists is "essential to the protection of a democracy" (see the letter to Presidente Calderón in Appendix I).

The Mission also had the opportunity to meet with a group of women journalists in order to hear about the problem of freedom of expression in Mexico from a gender perspective. In the first place, the group emphasised that although there is an increased female presence in the editorial staff of media outlets, women do not yet hold decision-making positions in newspaper companies.

In addition to this, the Mission became aware of the concern of female journalists about the scanty information available on the subject of attacks against women in the profession. Statements were made about the way in which women journalists are intimidated and harassed, often with the threat of being attacked sexually or with threats of harm to their children.

The precarious financial situation in which journalists work in Mexico has meant that female journalists must combine their media work with other activities such as teaching in order to survive. This means that the authorities do not consider them to be journalists, and this becomes the first hurdle for having cases of violations of freedom of expression investigated by the judicial system.

The group of women commented that the difficult context in which journalism is carried out in Mexico, in the midst of pressures and assaults from government workers, members of the police and of armed crime, is one of the reasons for which very few women cover topics related to public order.

a. Response by the government

Federal and state authorities acknowledged that the official mechanisms that offer protection to communicators are necessary, but each branch accuses the other of not implementing these in an effective manner. In the opinion of journalists and civil organisations, there are in fact no signs of willingness to tackle the problem at any level of government.

The International Mission met with a number of government officials in Mexico City and in the four states that it visited. All of these considered it essential to create and to strengthen official mechanisms for protection for the media and for journalists. Even the Under-Secretary for the Ministry of Government, Daniel Cabeza de Vaca, described this need as "imperative".

Cabeza de Vaca admitted that the Mexican government has been absolutely unable to fight impunity⁶, although he asked for trust in the political will of the federal government, as it is the "most concerned with freedom of expression". He put the blame on the state governments for being the ones responsible for an enormous lack of will.

On the other hand, Eduardo Bours, the Governor of Sonora, defended the actions of the local authorities and maintained that the matter of safety is a national decision that should be explored with the state authorities. The Governor from Sonora stated that the incidence of reporting of attacks against journalists has increased thanks to the confidence that journalists have in their government. In some cases, he added, the authorities in his office have provided services of protection.

Nevertheless, another view of the situation in Sonora was expressed to the Mission. A journalist explained, "We are in the middle of a war between the cartels. But the Governor threatens to cut off advertising if we continue to report on the war between the cartels, and the media have stopped reporting on situations of insecurity in order not to jeopardise the commercial relation". This official attitude becomes a type of strategy for controlling information about public order.

Some officials and representatives of state governments accepted that they do not have sufficient resources to provide the necessary protection to local media outlets.

In the state of Guerrero, the state Commission for the Defence of Human Rights has documented dozens of cases of attacks against journalists since its creation in 1990. Nevertheless, the Attorney General admitted that his office does not have the capacity to investigate all of those cases as it should, due to a lack of both economic and of human resources.

The Attorney General for Michoacán, J. Miguel García Hurtado, feels that civil organisations can contribute a great deal to official investigations and to the development of mechanisms which offer protection for journalists. For example, he referred to the need for protocols for investigating the disappearance of journalists similar to those used in cases of missing women and children. García also expressed willingness to provide training sessions for the state police force and for government offices in connection with their work with the media.

⁶ The topic of impunity has been excluded from this section as it is included in another part of the report. Nevertheless, it is important to stress that it is a fundamental issue with respect to the government response regarding crimes against freedom of expression and attacks on journalists.

The expectation of local authorities that future mechanisms for protection will be developed highlighted the scarcity of those that do exist at present. The Mission was able to document some examples of journalists and media outlets which have received official protection, but these are scarce and problematical.

One such is the case of La Opinión in Michoacán, which received some attention from the government after the killing of the reporter Gerardo Israel García Pimentel on December 8, 2007. Nevertheless, Jaime Márquez Rocha, assistant director for this newspaper, stated, "They did not carry out an investigation or offer protection; they only insisted that we vouch for García's status as an employee of the paper".

Another obstacle for the protection of communicators is the prevailing scepticism of the authorities regarding the work done by these individuals, asserted the majority of those who were interviewed. The Mission witnessed this attitude during its meeting with Sub-Attorney Juan de Dios Castro, who, when the case of the killings of the Oaxacan journalists Teresa Bautista Merino and Felicitas Martínez Sánchez was brought to his attention, asked repeatedly if it had been completely verified that they were employees of the radio station La Voz que Rompe el Silencio.

During several interviews with local and federal authorities the International Mission suggested the possibility of implementing a programme of protection for journalists, similar to the one that has been administered by the Colombian government since 2001⁷, an idea which the National Human Rights Commission (Comisión Nacional de Derechos Humanos - CNDH) asserts has already been raised on a number of occasions.

This proposal was considered to be a viable option by all of the government officials who were consulted, but there was no opportunity to discuss the logistics of how this mechanism might be applied in Mexico. There is also a certain level of dissidence with respect to the appropriateness and the legitimacy of a programme of protection for journalists and media outlets. "Why does a newspaper need special protection?" asked a journalist from Sonora.

For his part, Américo Incalcaterra was critical of the Colombian experience in this area, "There is no point in establishing committees for protection if there is no political will or a dialogue which does not put the public at risk. The government says, 'I am responding', but this is not the case".

The Mission met with the regional delegation from the International Committee of the Red Cross, which includes nine Central American and Caribbean countries, in order to learn about the different projects it develops in the area of international humanitarian law especially with regard to journalists. It was explained that because Mexico is not officially named as a country in a state of armed conflict, the Committee is not able to intervene in cases of "disappeared" journalists; however, training has been given to communicators working in dangerous areas. It was suggested that the National Red Cross has experts who work with victims of trauma and who could offer this type of programme to journalists.

⁷ The possibility of creating a government protection programme similar to the one implemented by the government of Colombia was originally suggested in Mexico by Article XIX and Cencos.

b. Measures for self-protection

In the border states in the north and south of Mexico, and in many central areas, the statements given by journalists about their experiences with situations of violence and fear are very similar; individuals, dates and contexts change, but in the end the nightmare is repeated.

"Nothing's going to happen here, was what we always said to ourselves," recalls a reporter from Sonora, "until they killed Alfredo Jiménez, and that day our innocence ended." The problem of how to deal with uncertainty and fear remains; another journalist from Sonora explains, "Now, we just shut our eyes so we can work without fear."

The Mission identified self-censorship as a means of self-protection, and named some of the elements which would increase the risks faced by media workers, such as mistrust and the lack of solidarity between colleagues and media outlets, the corruption of journalists, and the lack of preventative policies for safety both on the part of individuals and within media outlets themselves.

All of the journalists, editors and media owners who were interviewed by the International Mission concluded that self-protection in its different forms is the best available method for increasing personal safety.

However, communicators agreed that there are no concerted measures for self-protection. Many journalists felt that the few measures that do exist are directed only towards the offices of media outlets rather than towards journalists. They also explained that there are no internal policies for safety or protocols for movement within dangerous areas, and that in general, they have no information on basic recommendations for self-protection.

Two of the decisions on editorial matters which were mentioned most frequently in the interviews and which have been adopted in some media outlets were: (1) not to sign articles about issues relating to public order or to sign them as "editorial board"; and (2) not to accept invitations from sources. As far as the Mission could verify neither of these measures appears in the internal policies or manuals of media outlets.

Editors explained that there are topics that are not covered for fear of possible reprisals against the business or the journalist. Some media outlets located in areas where there is a high incidence of crime have also adopted other norms for conduct, which they mentioned in a general way throughout the interviews: (a) journalists assigned to cover topics related to organised crime do so using official statements; (b) news reports give fewer details about information relating to drug trafficking; and (c) there is a refusal to cover cases which seek to intimidate the public.

The Mission found there to be great disunity within the profession. Jaime Juan Carlos Zúñiga, a reporter in Sonora, acknowledged that he knows little about what is happening in neighbouring media outlets, as in the case of the local newspaper *Cambio*, which is alleged to have closed after suffering two grenade attacks, or the community radio broadcaster *Radio Bemba*, which has reported several attacks. Journalists in the state deny that blank pages are published or that minutes of silence are observed on the radio or television to protest or commemorate the killing of a colleague. Few of them could speak of cases of unity among different media outlets to combat the problem of insecurity faced by the press. However, several mentioned the example of protests which were organised when Jiménez Mota disappeared in April of 2005.

In spite of serious problems of public order and the high rates of killings and attacks against the press, in talking with the International Mission public officials and journalists demonstrated a certain scepticism with regard to the real risk faced by some journalists and media outlets. Some considered that reporters who cover topics relating to violence often do this in an irresponsible way, and others doubted their honesty.

A journalist who was interviewed in Sonora asserted that "scepticism is real" when it has to do with colleagues who cover police sources, as many have a close relationship with members of organised crime. This idea has gained force in the face of intimidation and threats against media outlets; as an editorial director commented, it is common for an editor or a director to receive an anonymous phone call or note which informs him, "I am paying people in your media outlet". In this way, trust and credibility is being undermined in the media outlet. "I don't know how to prevent one of my journalists from being paid or intimidated by drug traffickers," concluded another director who was consulted.

4.1.2 Evaluation

The safety of vulnerable groups is the responsibility of the government, and to develop protective measures for them requires political will.

Interviews with public officials brought to light a lack of commitment with regard to prevention and the protection of journalists and media outlets. In some cases, public demonstrations of willingness do not correspond to the results. In others, the International Mission noted that this willingness is nonexistent. On the contrary, attitudes of scepticism and negative comments about the work of the press were in evidence.

This attitude of scepticism is shown in two ways. On one hand, it seems that the task of investigating crimes against freedom of expression and of protection for journalists begins with a presumption of guilt. Enquiries focus on confirming that the journalist does not meet the legal requirements which qualify him or her as such, instead of taking positive action to prevent attacks or to investigate their causes. In this way, public offices justify the decision to refuse to hear cases or to deny requests.

The Mission clearly noted this position in the situation of independent journalists, who do not usually have access to this type of accreditation, and in the situation of journalists working with community radio broadcasters. In the case of the killing of the two newsreaders from the station *La Voz que Rompe el Silencio*, Sub-Attorney Castro was insistent in questioning the position of the victims as journalists simply because they did not have a legal contract with the media outlet they worked for.

In the case of Radio Bemba, the Mission encountered a permanent attitude of marginalisation and a refusal to acknowledge its journalistic work. It is important to remember that one of the ways in which media outlets are put at risk is by marginalising them and denying them legitimacy.

On the other hand, several public officials and even journalists questioned the legitimacy of a possible mechanism of protection for journalists at risk. Using a questionable argument of equality, they contended that the difficult situation of freedom of the press in Mexico is the same as that of other public freedoms. Following this argument, there would be no reason to give "privileges" to journalists.

In this sense, it seems completely reasonable for Amérigo Incalcaterra to state that a policy of protection is useless unless a clear political will exists. Although this criticism is valid, the development of a mechanism for protection cannot be postponed until that willingness is achieved.

The establishment of a programme of protection should be accompanied by campaigns or combined actions for that purpose. In addition, a programme of protection would not only allow measures to be established, but it would also serve to assign responsibilities to federal and state entities and to monitor their work.

On putting such a programme into place, the number of reports of assaults on journalists would increase, in this way allowing for information about the situation of press freedom to be generated and exchanged, for reliable indicators to be produced and for problematic regions to be identified.

In interviews with editors in northern and in southern regions the possibility of forming a national group of editors to make progress on issues of safety was mentioned as a measure that was considered to be both necessary and urgent. The editors also felt it to be imperative to improve measures of personal protection for their journalists and to seek ways to put an end to the increasing levels of corruption within the media and to acts of intimidation by local authorities, drug traffickers and organised crime.

Interviews with public officials also allowed the Mission to conclude that an open mistrust exists between federal and state authorities, as well as a fear of the latter on the part of journalists. This problem is shared by the majority of Latin American countries. The development of a policy of protection should take this phenomenon into consideration and look for mechanisms which centralise decisions and their implementation, but which at the same time work towards coordination with state authorities. This policy should also incorporate compliance with the precautionary measures passed by the Inter-American Commission on Human Rights. Civil organisations should be included both in the design of the mechanism and in its permanent operation.

With regard to self-protection, the Mission considers it essential to work with the full support of members of the profession. As long as scepticism and indifference exist among journalists, it will be impossible to develop joint policies to confront the risks. This strategy should include a rapprochement with directors and media owners, who should begin by formalising and systematising the editorial decisions that they have been putting into practice. The Mission feels that it is important to carry out exchanges of good practices with other media outlets in countries such as Colombia, Brazil, Peru and the Philippines.

Some conversations with journalists and members of NGOs left the impression that certain editorial decisions are not well received. This is the case, for example, in the decision not to sign press releases or to cover certain topics using only official statements. If it is true that these measures may approach a situation of self-censorship, many of them have been adopted in other countries and particularly in areas of high risk for the press.

With regard to the issue of journalistic practice, it is important to note the comments of journalists and representatives of civil society regarding the way in which the subject of drug trafficking is covered in some areas and which should be a topic for reflection in the future. Some journalists make use of privileged police information or write sensationalist articles including speculations or personal attacks; there are also informers who behave rashly, for example, putting themselves in the middle of a shootout in order to get a story. It should be made clear that such behaviour does not in any way justify violent responses against journalists. Even so, the first and most basic form of self-protection is to engage in truthful, balanced and responsible journalism.

4.1.3 Conclusions

The International Mission considers it to be evident that the mechanisms for protection and safety for journalists and media outlets are fragile and in some areas almost non-existent. It is highly important to create mechanisms for prevention and attention for journalists and media outlets.

It is necessary to create a programme of protection for journalists and media outlets, in which state and federal authorities and journalists and media outlets will work jointly with civil society organisations and international organisations which specialise in the protection of freedom of expression. In this context, a regional conference about protection for journalists should be organised, in which editors and reporters from Mexican and international media outlets can participate. It is important to seek advice from organisations and countries with experience in the area of security for the press, as in the case of Colombia.

State and federal authorities should develop policies for safety and protection which can be jointly implemented. The Mission considers it to be essential for local authorities to examine their practices for dealing with formal complaints of threats, intimidation, assaults, "disappearances", kidnappings and killings of journalists. The way in which these are currently handled and the lack of confidence in local authorities mean that many cases are never investigated.

Federal and state institutions who are in charge of or who work with others in the area of crime prevention and prosecution should commit themselves to the development of solid training programmes and workshops for their public employees, particularly members of the army and the police forces, so that they will learn to respect the work done by communicators.

The media should develop institutional programmes for safety and self-protection for journalists. This would include manuals or specific policies for covering topics of risk. The Mission feels that it is important for different Mexican media outlets to work together with organisations for the protection of journalists, and to explore the urgent need to create a national group of editors.

The International Mission considers it important for journalists to develop projects for association and the formation of journalists' guilds. It is also essential for journalists and media outlets to report all threats and assaults to the authorities and to local and international NGOs.

It is urgent for press freedom organisations to work together to develop methods for recording cases and indicators of the situation of press freedom in Mexico. These same groups should design and implement programmes of support for journalists and monitoring networks, and consult with the appropriate international organisations to seek their aid. The Mission considers the support of international organisations to be essential for this task.

4.2 Self-censorship

4.2.1 General Context

a. Self-censorship as a means of self-protection

When the violence generated by the drug traffic began to increase, self-censorship on this topic became a measure to which media outlets located in

the northern states of Mexico have gradually resorted. In a brief period of time and as the violence has worsened and incidents of threats, "disappearances" and killings of journalists continue to mount up, self-censorship has spread to other entities and has become a form of resistance, recognised and almost encouraged by federal officials.

"We practise self-censorship; it is a typical way to survive".

Jaime Márquez Rochin, assistant director of La Opinión, of Michoacán

The findings of the International Mission confirmed that self-censorship in the media is in most cases an immediate consequence of the serious situation of violence faced by journalists and communicators in Mexico. It is the first response of a journalist or the administration of a media enterprise when confronting the fear of being attacked for reporting information which is sensitive to some powerful groups like drug trafficking organisations and to the formally constituted powers.

On July 31, 2007, the Attorney General for the Republic, Eduardo Medina Mora, stated to the media that self-censorship constitutes a "good strategy" for protection for journalists assigned to cover sensitive topics. Members of the Mission found it alarming that a high-ranking official of the federal government should promote a practice which is so harmful to the exercise of freedom of the press as a palliative for the inefficiency of the government in fulfilling its obligations with regard to human rights.

Statements received by the Mission noted that for fear of reprisals the names of those captured or killed are not published in some cases. In the event that they are published, any links with organised crime are omitted although this information may be known.

Another expression of self-censorship is not to follow up cases linked directly or indirectly with organised crime. Nor are financial, political or social activities that arise from drug trafficking and which are linked to political figures or police officers addressed. In Michoacán, Baja California and Guerrero, for example, cases of transportation, real estate transactions and the buying and selling of luxury cars are not investigated because they may be mafia operations and "a life does not justify a news report," attest reporters and editors.

Members of the Mission learned of cases in which the managers of some media outlets decided to self-censor the content of their publications, given the lack of security. The examples speak for themselves: In Sonora, it appears that the newspaper Cambio of the Organización Editorial Mexicana decided to close its doors temporarily after its facilities were attacked with fragmentation grenades. Newspapers such as El Diario of Juárez and El Norte and Milenio of Nuevo León decided agreed not to delve too deeply into investigations of violent events, relying on the official version, and thus following the line taken some time ago by El Imparcial of Hermosillo, El Mañana of Nuevo Laredo, and Televisa Monterrey.

“The drug trafficking cartels continue to impose their law - the law of blood -, throughout almost the whole country, in spite of the optimistic official proclamations about the successes of the joint police-military operations undertaken by the present government.

Given this situation, Proceso will make it a policy starting with the current edition to protect its reporters and correspondents by presenting - as an exceptional circumstance-, some unsigned press releases and news reports related to the drug traffic.

Our publishing house accepts full institutional responsibility for the content of these articles and for their truthfulness”.

Semanario Proceso, number 1583 of March 4, 2008

The International Mission learned how in some cases the fact that communicators fear that their families would be direct targets for reprisals has led to the inhibition of their journalistic work, resulting in their self-censorship.

Other cases exist in which pressure that editors and managers put on reporters for them to obtain first-hand information puts them in situations of great vulnerability. “Sometimes [the editor] does not want journalists; he doesn't want reporters. He wants victims so that the newspaper can become famous,” commented a journalist who specialises in drug trafficking and armed groups.

b. “Legal sources” of self-censorship

Self-censorship has been accepted by officials of the federal and state governments as a consequence of the impunity with which criminals operate, a justice system that does not convict and the inability of the government to guarantee safety to the media sector. The National Human Rights Commission (CNDH) maintains that “impunity is institutionalised [and self-censorship] is its consequence”.

Journalists and managers of media outlets commented on the practice of federal government officials of dropping subtle hints that information should not be published about military and police activities in the fight against drug trafficking or about social conflicts when abuses are committed by these groups against media workers or against other members of the public.

There is a longstanding practice in Mexico by which the federal and local governments encourage and generate another type of self-censorship by controlling the advertising schedule. The International Mission interviewed managers of media outlets who explained how media businesses lose important sources of income when the authorities manipulate resources set aside for official advertising and arbitrarily withdraw their advertisements if they decide that a media outlet is critical of government affairs. Faced with the economic difficulties that this situation creates, many media outlets opt for self-censorship on topics at which government officials may take offence.

The International Mission learned of concrete cases in which public servants from the three levels of government showed preference in granting advertising schedules according to the favourable or critical stance taken by the media outlets. For example, Martín Olguín, the editor of *El Expreso*, of

Hermosillo, Sonora, explained how officials from the state Congress made advertising space contingent upon favourable information.

Juan Angulo, director of El Sur, in the city of Acapulco, Guerrero, asserted that the state governor withdrew official advertising from his newspaper after it reported irregularities in the allocation of resources by the state government. The case of the magazine Proceso is similar; as its director Rafael Rodríguez Castañeda stated, the federal government withdrew advertising and access to governmental sources because of the critical information which it publishes.

c. Concentration of the media and self-censorship

The high concentration of media outlets in the hands of a few people or business groups has a significant impact on self-censorship, as issues that might affect the corporate economic interests, even if they have no connection to criminality or corruption, are not highlighted or even included in daily news coverage.

The financial concentration of the media in the hands of businessmen and women linked to different sectors of the economy and to sectors with much political or economic power or connected to the church hierarchy, means that many topics cannot be addressed in some media outlets. Evidence from the journalists Jenaro Villamil, Carmen Aristegui, Sanjuana Martínez and Denise Dresser show how pedophilia in the Catholic Church, sexual and reproductive rights and freedom, business monopolies, trafficking in persons or public health issues are some of the sensitive topics in the informative agendas of a considerable number of media outlets.

Self-censorship is generated by the managers of media outlets as an editorial policy to avoid reprisals, but also by the journalists and the photographers themselves who do not feel they have administrative support for their work. "We are afraid of being left on our own and that someone could put our heads on a platter if they feel pressured," commented reporters from audiovisual media outlets in Sonora. The communicators interviewed by the Mission mentioned a lack of sensitivity on the part of their superiors with respect to the news reports they deliver.

"Self-censorship arises from the fear of insecurity," commented Sergio Valle, a reporter from Televisiva in Hermosillo. The fear provoked among communicators by organised crime has meant that any warning they may receive, even if it originates from other topics and social sectors, inhibits their work as journalists. For example, reporters from the subsidiary in Hermosillo of TV Azteca refused to interview a student union leader and in another case to discuss the issue of prostitution in night clubs, for fear of being physically attacked, as they had received previous warnings.

4.2.2 Evaluation

The International Mission identified two immediate effects of mafia violence against media workers:

- 1) Mass resignations of journalists and workers in all areas of media businesses which have been the target of threats or attacks on personnel by those identifying themselves as members of organised crime or who it is believed belong to these groups. An example of this is the case of the newspaper El Imparcial in the state of Oaxaca, when on October 9, 2007, a group of armed persons fired on a company vehicle, killing three workers.

- 2) Information about subjects linked to organised crime and police cases is not discussed in daily news coverage for fear of reprisals. For example, after José Antonio García Apac, the owner and director of the weekly paper *Ecos of Tecaltepec*, disappeared on November 20, 2006, his family, now in charge of the paper, decided to no longer cover topics related to security and organised crime.

“...because we are starting to self-censor and that is the most serious thing that can happen to a society. Not only to journalism, because this is for society. So, what are we going to have? Well, a badly informed society.”

Adela Navarro, director of Semanario Zeta and winner of the National Prize for Journalism in 2007. Proceso Magazine, November 2007

If indeed these are some of the most visible effects of self-censorship, the first and principal victims of the phenomenon are journalists and society as a whole, which does not have free access to sufficient information to make individual and collective decisions, an exercise which sustains the democratic life of a country. The International Mission noted how self-censorship becomes a factor which corrupts the free flow of ideas and opinions and even becomes an obstacle to the professional development of those who practice journalism.

Self-censorship motivated by economic interests or by groups holding political or religious power principally affects local and regional media outlets, eventually creating an unfavourable environment for the exercise of investigative journalism and one which works against the flourishing of diversity both in media outlets and in the content they provide.

4.2.3 Conclusions

The violence which has prevailed in the country in the past years resulting from the operations of organised crime has had an impact on the exercise of journalism, and has not only resulted in the killing or “disappearance” of media workers, but has also led to self-censorship in media outlets dealing with impunity and the mistrust of authorities at all levels; for this reason it is necessary for civil organisations and journalists to organise and to seek mechanisms for reversing this tendency.

Although the fighting among the cartels is particularly intense in the northern states, violence has spread throughout almost all of Mexico and self-censorship in the media has been of great concern during the past two years since Felipe Calderón became president. The three levels of government should accept their responsibility to fully guarantee freedom of expression and society's right to information, preventing the different power groups from exercising any type of pressure on communicators.

If indeed the context of public insecurity which prevails in the country is one of the principal factors in the promotion of self-censorship, there are other factors of a structural nature such as the lack of clear and transparent criteria for contracting official advertising and the recurring conflicts among commercial interests. The International Mission feels that it is clearly feasible

for these two last issues to receive immediate attention from the authorities, which would facilitate the creation of an environment which is less hostile and uncertain for the exercise of freedom of the press.

4.3 Impunity

4.3.1 General Context

The federal government is required to promote and guarantee the full exercise of freedom of expression, which is a fundamental right enshrined in the Mexican Constitution and in numerous international instruments which have been signed and ratified by Mexico. It is also the responsibility of the government to prevent, investigate and to punish all violations which may be committed against this right.

The "disappearance" and the killing of journalists constitute the most extreme form of censorship which worsens when there is no punishment for those responsible. In Mexico, the great majority of the physical or intellectual perpetrators of these crimes have not been sentenced; in fact, few are even brought to trial.

Alfredo Jiménez Mota disappeared on April 2, 2005 in Hermosillo, Sonora. No light has yet been shed on his case. Some 11 lines of investigation have been followed without family members having been allowed access to the files. In the past two years, the authorities have not reported any progress in the investigation into his whereabouts.

"... we are proud of him; we will keep waiting for him to tell him so."

Father of Alfredo Jiménez

In Mexico, 30% of complaints are filed with the Public Prosecutor's Office, but of these cases, 87% are not brought before a judge. Justice only reaches 1% of all cases. These numbers were provided by the then representative of the UNOHCHR, Américo Incalcaterra, and as the Under-Secretary for the Ministry of Government, Daniel Cabeza de Vaca, acknowledges, they demonstrate that "the government has not been able to prevent impunity".

The International Mission noted how the absence of justice in cases of attacks on freedom of expression has resulted in a dangerous spiral of violence, impunity and misleading information which affects the democratic system in Mexico by preventing the existence of the conditions necessary for guaranteeing the free exchange of ideas and information for all citizens.

The prevalence of impunity in crimes committed against journalists is not just a threat to the victims and their families and to other communicators, but it also represents a serious risk for society.

Mexico is the country with the highest number of "disappeared" journalists in the region; for this reason the International Mission was greatly concerned at hearing witness statements which describe the situation of defencelessness in which family members find themselves when dealing with local and federal

authorities, as well as the lack of psychological counselling and the minimal support from the media outlets for which the victims worked.

The fact that in a stable democracy like that of Mexico there are cases of "disappeared" journalists, is unequivocal proof of the gravity of a context which inhibits the full exercise of press freedom.

A total of eight journalists have disappeared, without the reasons or the circumstances which motivated these events having been established so far by the authorities:

- In Veracruz, the radio announcer Jesús Mejía Lechuga of Radio MS-Noticias disappeared on July 10, 2003.
- In Sonora, the journalist Alfredo Jiménez Mota, of the newspaper El Imparcial, was last seen on April 2, 2005.
- Rafael Ortiz Martínez, a reporter for the newspaper Zócalo and the presenter for a radio newscast in Monclova, Coahuila, was kidnapped on July 8, 2006; since then no one has learned what happened to him.
- The whereabouts of José Antonio García Apac, director of Ecos de la Cuenca of Tepaltepec in the state of Michoacán, have been unknown since November 20, 2006.
- Rodolfo Rincón Taracena, of the newspaper Tabasco Hoy, disappeared on January 21, 2007.
- In Monterrey, Nuevo León, Gamaliel López Candanosa and Gerardo Paredes Pérez, contributors for the television station TV Azteca, were last seen on May 10 of that same year.
- The reporter and photographer of La Opinión of Apatzingán in Michoacán, Mauricio Estrada Zamora, disappeared on February 12, 2008, as he was leaving the newspaper offices at about 11 p.m..

The Mexican government has shown a certain political will to fight impunity in cases of crimes committed against journalists with the creation in February 2006 of the Special Prosecutor's Office for the Attention of Crimes against Journalists, an office which has had to face criticism from civil society organisations, both national and international, and from media outlets and journalists, due to the lack of concrete results.

According to information to which the International Mission had access and to witness statements received, the inefficiency of the Special Prosecutor's Office is due to the restriction on human and financial resources, the very limited legal facilities available and the lack of political will which manifests itself in the lack of independence manifested in all of its operations.

The Special Prosecutor's Office has indicated that of the 136 cases under its jurisdiction since 2006, only 47 were handled directly in its offices. However, in detriment to the rights of the victims and their family members, the presence of these files in federal offices does not necessarily mean access to justice through the punishment of those responsible. According to the most recent information which has been published, 14 cases were rejected on grounds of the "incompetence" of mandated functions; nine were brought to preliminary investigation; in four cases the decision was made not to treat them as criminal cases; 18 files were sent to the archives, and in spite of not being currently under investigation, remain as confidential information under the Federal Law of Transparency and Access to Governmental Public

Information. So far, only three cases have been brought to trial before a judge.

Evidence given to the International Mission by victims and their family members corroborated the generalised perception that their cases will never be resolved by the authorities. The lack of confidence in the institutions whose job it is to investigate and prosecute crimes is a situation on which several governmental and non-governmental organisations have commented. Amnesty International has published a number of documents highlighting the increasing difficulties caused by deficiencies in the justice system which result in a lack of punishment for those responsible for crimes. By the same token, the global Impunity Index recently circulated by CPJ places Mexico in tenth place in the group of countries that were surveyed.

Antonio García Apac disappeared on November 20, 2006. In spite of support from local authorities the investigation has not progressed. His wife and son continue to publish the weekly paper of which García was the director, while his sister continues to look for ways to unblock the legal process.

“We are not going to stop; if we have already lost Antonio, we will lose our lives if necessary as long as we know where he is.”

Sister of Antonio García Apac.

Due largely to the lack of results in the resolution of crimes committed against journalists, a significant number of media workers, media owners and family members of journalists who have “disappeared” or been killed indicated their lack of confidence in the federal and local authorities. Evidence given by people interviewed by the International Mission indicates that in many cases there are suspicions of links between the aggressors and the authorities, who may themselves be involved, a situation which means that other attacks are often not reported.

The vicious circle created by mistrust in the different levels of government which means that crimes are often not reported, offers the perfect justification to the authorities: “If complaints are not filed we cannot act,” was the most often-heard excuse during meetings with local authorities from Oaxaca and Sonora. However, in criminal cases which have been reported, investigation is slow and no connections are made with the work of journalism in general. The International Mission considers it unacceptable for the authorities to use this situation as a pretext to justify the lack of results with regard to the investigation of cases and bringing to trial those allegedly responsible for attacks against journalists.

The continuing lack of support on the part of the managers of media outlets and the rest of the community of journalists aggravates this situation. Faced with this inexcusable failure to act, victims and their family members must often take on the challenge of struggling through administrative procedures and investigations by federal and state authorities without adequate practical and legal advice or the financial resources for independent investigations which might provide evidence for the investigations.

"We are alone; we have no one to turn to," commented a journalist from the state of Guerrero; this state of defencelessness was noted repeatedly during the interviews that were carried out by the International Mission.

4.3.2 Evaluation

The deficiencies in the attention given to and the resolution of complaints filed about crimes committed against journalists are ongoing throughout the country. Statements from family members, colleagues, and the victims themselves bear witness to this. Whether it be due to omission or to possible complicity, the federal and local authorities do not provide prompt and conclusive justice.

Lydia Cacho was accused of defamation when in her book "The Demons of Eden" she denounced the existence of a transnational pedophile network, implicating a well-known businessman and several political figures. While she was detained, Cacho was the victim of harsh treatment, the abuse of power and violations of due process. The case has passed through several local and federal courts of law, including the Supreme Court of Justice of the Nation, without the physical and intellectual perpetrators having been brought to justice.

"I am a journalist, I'm tired, I'm not a lawyer... I only want to work."

Lydia Cacho, journalist and defender of human rights

In a meeting with the parents of Alfredo Jiménez Mota, the International Mission learned that more than three years after his disappearance and in spite of complaints from civil society, the authorities have not made any progress in the investigation. As in other similar cases, this one has been investigated both by local and by federal authorities without the physical or intellectual perpetrators having been brought to justice. The wall of secrecy surrounding the handling of information, with no regard for the principles of transparency and accountability, shown by the Office of the Sub-Attorney for Specialised Investigations of Organised Crime (La Subprocuraduría de Investigación Especializada en Delincuencia Organizada – SIEDO) of the federal government, currently in charge of the investigation, has made it impossible to obtain specific information about the development of the investigation.

Members of the International Mission learned about the case of Misael Tamayo, whose body was found in a motel in the coastal region of the state of Guerrero, on November 9, 2006. The National Human Rights Commission (Comisión Nacional de Derechos Humanos – CNDH) issued recommendation # 69/2007, directed to the Internal Controller of the State Attorney General's Office (Contraloría Interna de la Procuraduría General de Justicia del Estado), which declares there to have been anomalies in the integration of the preliminary investigation, particularly in relation to the loss of personal items, witness statements, the bugging of telephone calls, the clinical report on the cause of death, and records of the use of credit cards belonging to the journalist after his death. However, until now the investigation continues to stagnate with no sign of punishment for those responsible.

This series of irregularities in the investigation can also be found in the case of Amado Ramírez, a radio announcer and correspondent in Guerrero for the television channel Televisa, who was killed on April 6, 2007. According to recommendation #01/2008 of the CNDH, there are serious irregularities in the integration of the preliminary investigation; it also draws attention to acts of intimidation and the abuse of authority by those responsible for carrying out the investigation. The Commission indicated that the evident difference between the oral description given and the person who was detained as well as the inability to contact the source who provided the information necessary in order to elaborate on it, provide evidence that the authorities "were not sure" who to look for. At the same time, the excessive use of force and acts of torture against those detained was criticized. The International Mission noted that this disheartening message has generated feelings of uncertainty and insecurity within the community of journalists in Guerrero.

The International Mission noted the feelings of uncertainty generated by the death of a journalist in unclear circumstances, as well as the inefficiency of the Mexican government in duly investigating the facts, which result in the creation of a climate hostile to the exercise of freedom of expression as it encourages self-censorship and the provision of misleading information.

The International Mission particularly noted the level of vulnerability and uncertainty shown by journalists who work as contributors for community media outlets, where the authorities, especially local authorities, continue to be primarily responsible for cases of assault. Evidence given by contributors to community radio broadcasters in Oaxaca and Sonora painted a dark picture of the situation faced by this type of media outlet. The cases of Radio Nnandia, Radio "La Voz que Rompe el Silencio" and Radio Calenda in Oaxaca and the testimony of contributors to Radio Bemba in Hermosillo, Sonora, demonstrate this particularly hostile environment.

The case of Radio Calenda is a clear example of the impunity which challenges community radio broadcasters when they are subjected to attacks. Radio Calenda is located in the town of San Antonio Castillo de Velasco, and because of its coverage of the dismissal of the municipal president, several of the contributors were badly beaten and threatened with firearms. One of the victims was arbitrarily detained by a group identified with the local authorities. Although a quantity of evidence, including a video of the assault, has been brought before the authorities, it has not been possible to bring to justice the physical or intellectual perpetrators of the offence. This demonstrates the inability of the Oaxaca state authorities to translate into concrete action the commitment expressed by Governor Ulises Ruiz and reiterated by the authorities with whom the International Mission held meetings.

The killing of the indigenous Triqui contributors Felicitas Martínez Sánchez y Teresa Bautista Merino from Radio "La Voz que Rompe el Silencio" on April 7 of this year, made clear to the International Mission the continual conflicts between the local and federal systems of justice, which undoubtedly exacerbate the climate of impunity surrounding the majority of cases of attacks against journalists.

In this case, the authorities of Oaxaca were at first in charge of the investigations; their efforts concentrated on placing the events within the context of violence prevailing in the region and on discrediting the work carried out by the contributors. The progress in the investigation announced by the State Attorney's Office, as well as the special report submitted by the State Human Rights Commission also demonstrated this bias.

This situation greatly worried the International Mission; for this reason it was an issue brought up repeatedly in meetings with federal and local authorities, in search of some justification for the inaction of the government. Finally, weeks later, the federal government responded to the criticisms made by the Mission, announcing that the case would be brought to the FEADP for investigation, given the type of weapons used in the attack. The announcement was made on the same day that the Citizens' Council of the National Journalism Prize (Consejo Ciudadano del Premio Nacional de Periodismo) gave a posthumous award to Martínez and to Bautista.

Records of cases provided to the International Mission by national organisations working in defence of freedom of expression demonstrate that a considerable number of assaults on and killings of journalists take place under state jurisdiction and are investigated by local authorities. The federal government has nothing to do with most of these cases; nevertheless, some of the local authorities interviewed saw the federal attraction of this type of case in a positive light, because of their own limitations. As the Attorney for Guerrero, Eduardo Murueta, commented on the situation, "[There are] delays as the Office of the Attorney General only has 400 agents from the Public Prosecutor's Office and has to deal with twenty thousand preliminary investigations a year with very few resources".

The continual friction between the local and federal jurisdictions has also had a detrimental impact on the rights of the victims. This is true in the case of Lydia Cacho, a journalist and defender of human rights who was detained by the judicial police of the state of Puebla, but in the city of Cancún, and who was taken by car for 1,500 kilometres to the capital city of Puebla. According to evidence obtained by the International Mission, during the journey and while she was under arrest Cacho was the victim of harsh treatment, psychological violence and threats. Since then her case has been heard by several national courts of law until it reached the Supreme Court of Justice on November 29, 2007.

The case of Lydia Cacho remains in impunity and it has now returned to a local law court in the state of Quintana Roo. "The PGR did this because I had announced that I would take the case to the international courts," commented Cacho during a meeting with the International Mission. Nevertheless, several members of the International Mission pointed out that it is not necessary to have exhausted all national possibilities for hearing a case for it to be brought before the Inter-American Court of Human Rights.

In the opinion of the International Mission the impunity in the case of Lydia Cacho is an example of the difficulties that journalists are faced with when they decide to file a formal complaint with the authorities, at the same time as it exposes the inability of the authorities to provide justice when the right to freedom of expression is violated.

The generalized situation of impunity in cases of assaults, killings and "disappearances" is first of all a problem based in the application of the law and not necessarily a legislative matter. The International Mission learned of a bill passed by the Chamber of Deputies in March of 2006 to reform the Criminal Code for the purpose of providing maximum protection to journalistic sources, as well as for the decriminalisation of the offences of slander and libel. Any impact on the exercise of freedom of the press has yet to be evaluated.

4.3.3 Conclusions

Impunity is one of the greatest obstacles to the exercise of press freedom in Mexico, as it generates a climate of uncertainty and mistrust. This situation places all workers in the media sector and especially the victims themselves and their family members in a situation of great vulnerability, as they must go through the judicial process without appropriate legal and technical counselling. At the same time, the lack of support in the medium and the long term from media owners and their co-workers generates mistrust in the results of the investigations.

The mistrust in the authorities, a product of the generalised lack of punishment for the physical or the intellectual perpetrators, means that in many cases a formal complaint is not filed, or if it is, the complainant often ends by withdrawing the charges.

Impunity has its origin in the way in which cases are investigated. If indeed there have been numerous statements from federal and state government officials expressing their commitment to freedom of expression and of the press, these declarations do not correspond to the evident lack of results from the Offices of the Attorney General and the Attorney General of the Republic, which do not carry out thorough investigations, leaving a large number of files in a juridical limbo. This means keeping the lines of investigation open for an indefinite period, resulting in cases not being brought before a judge for sentencing.

It is clear that the fight against the impunity which reigns in cases of the "disappearance" and killing of journalists is one of the principal challenges for the Mexican government in terms of human rights. The only way to win this battle is by the adoption of all political and legal measures which result in the punishment of those responsible for the crimes.

The creation and operation of different measures for addressing this situation, such as FEADP, the Programme on Attacks against Journalists and Civil Human Rights Defenders (Programa de Agravios a Periodistas y Defensores Civiles de Derechos Humanos) of the CNDH, as well as their equivalents at the local level in Mexico City and the states of Guerrero, Tabasco and Veracruz, are an encouraging first step on the part of the Mexican authorities. However, it is imperative to begin the process of making legal reforms that will support the operation of these programmes. In this sense, the proposal that assaults against journalists be understood as crimes against freedom of expression and that they be dealt with exclusively by federal authorities, requires as a necessary prerequisite the strengthening and broadening of the powers of the existing programmes. Otherwise, more work would be generated for institutions whose lack of results is already evident, especially in the case of the FEADP, which would be the authority responsible for carrying out the investigations.

In a parallel manner, it is imperative to generate mechanisms to reinforce solidarity among journalists and between journalists and media outlets as a response to the impunity that exists, showing support for the victims and for their families in the search for justice.

5 Observations and recommendations

The International Mission visited five cities, where it was able to carry out a total of 12 working meetings with federal and state authorities, two meetings with international organisms, thirteen meetings with groups of journalists and seven with managers and media owners. These meetings provided a general overview of the situation surrounding the exercise of press freedom in the country.

Substantial information which gave evidence of the gravity of the situation came from statements obtained during the twenty-six meetings with victims of attacks on freedom of expression, six of which were with women, as well as seven meetings with family members of the victims who were killed or "disappeared".

Based on the information and the statements obtained, and keeping in mind the collective medium- and long-term commitment of the organisations which participated in the International Mission to substantially improve the situation surrounding the exercise of press freedom in the country, we call on the Mexican government, on the community of journalists and media outlets, and on organised civil society, to work within their possibilities and their respective areas of expertise to adopt concrete measures which will:

PROMOTE an open, diverse and pluralistic environment for the exercise of press freedom, in accordance with constitutional regulations and international human rights law, so that editors, journalists and media workers are able to carry out their work with the necessary guarantees of safety and independence;

UNDERLINING the potential and the value which an independent, professional and objective media sector represents for the Mexican people in reducing tensions and political confrontations and in combating crime and public insecurity. A free press constitutes a central element for the maintenance of a peaceful society and the consolidation of any democratic system and regimen of freedoms, for which reason it is imperative:

TO ADOPT positive, clear and forceful measures to put an end to the threats, harassment, kidnappings, and physical assaults by different agents, both state and private, who seek to censor those who exercise, promote and defend the right to freedom of expression and press freedom;

TO UNDERTAKE thorough, effective and transparent investigations into cases of killings and "disappearances", as well as cases of death threats directed towards journalists exercising their profession and the family members of the victims in their search for justice;

AFFIRMING that wherever these attacks may originate, responsibility for preventing, investigating and punishing the physical and intellectual perpetrators of the crimes falls exclusively on the Mexican government and in particular on those authorities responsible for imparting justice. In this sense, the International Mission welcomes the commitment of President Felipe Calderón in promoting a reform which allows attacks on journalists and their killing or "disappearance" to be investigated at a federal level, as a first step

in the right direction. For this to happen, it is imperative to first strengthen the facilities and resources of the FEADP;

TO GUARANTEE the necessary protection and opportune and effective support for journalists and media outlets so that they may carry out their work effectively free from threats and assaults. In the same way, media owners and managers should implement measures to improve safety conditions for their contributors and employees;

TO STOP any actions by federal and local governments which restrict freedom of expression and of the press, especially when these attempt to interfere with the editorial independence of the media through the inappropriate and preferential use of funds set aside for contracting advertising space;

TO GUARANTEE unrestricted access by journalists and media outlets to all information in government hands, in accordance with the spirit of the constitutional principles on transparency and international instruments and standards on this topic. This also includes journalists having access to regions in which the security forces are active, so that the public may have access to the greatest amount of information in the public interest;

TO GUARANTEE the right of the different media outlets, whether they be commercial, public, or community, to have their work and their independence protected by law through the regulation of an independent body.

6 Appendices

6.1 Appendix I

Letter sent to President Felipe Calderón regarding the meeting which took place with Sub-Attorney Juan de Dios Castro.

**DR. FELIPE CALDERON HINOJOSA
CONSTITUTIONAL PRESIDENT
OF THE REPUBLIC OF MEXICO
OFFICIAL RESIDENCE LOS PINOS CASA MIGUEL ALEMAN
COL. SAN MIGUEL CHAPULTEPEC
C.P. 11850
FEDERAL DISTRICT OF MEXICO**

Copenhagen, May 30, 2008

RE: International Mission and meeting in the Office of the Sub-Attorney for Human Rights

Dear President Felipe Calderón Hinojosa,

As you are aware, from April 19th to 26th, 2008, an International Fact-Finding Mission on Attacks against Journalists and the Media, consisting of a group of international organisations dedicated to the promotion and the defence of the right to freedom of expression and of the press, took place.

During the Mission, representatives of these organisations held meetings with civil society organisations, journalists, victims and their family members, and with federal and state authorities.

Based on Article 8 of the Political Constitution, in our letter to you, dated April 30th of this year, reference was made to the way in which the meeting held in the Office of the Sub-Attorney for Human Rights, Attention to Victims and Service to the Community of the Office of the Sub-Attorney General was conducted, a situation which we are taking the liberty of describing in our own words as follows.

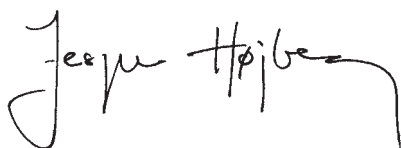
The meeting was held on Monday, April 21st, and was presided over by Sub-Attorney Juan de Dios Castro Lozano. Among other matters, information was requested about the preliminary investigation into the case of Brad Will, a journalist who was murdered in Oaxaca in 2006, and about several other cases, particularly the recent murder of two journalists working with community radio broadcasters in Oaxaca. With no justification, the official responded in an aggressive manner to a member of the Mission, the International Vice-President of the World Association of Community Radio Broadcasters, claiming that

she was an "enemy of the State". It should be pointed out that the official conducted the meeting in a confrontational manner, although the Mission repeatedly indicated its desire for collaboration and its willingness to engage in dialogue.

In the previously-mentioned letter, we expressed our concern at the accusation made by the Sub-Attorney, and for the lack of professionalism shown. Statements regarding the case of the journalists who were murdered have left a very negative impression as they indicate the lack of willingness on the part of the Office of the Sub-Attorney which is responsible for matters concerning the protection of journalists in the country.

We anticipate an official explanation and an apology from the federal government for this serious accusation.

Respectfully yours,



Mr. Jesper Højberg
Executive Director
International Media Support

International Press Institute (IPI)
World Association of Community Radio Broadcasters (AMARC)
Reporters without Borders (RSF)
ARTICLE 19
Foundation for Press Freedom (FLIP)
International Federation of Journalists (IFJ)
International News Safety Institute (INSI)
Inter-American Press Association (SIP)

Cc.: Eduardo Medina Mora, Attorney General for the Republic

Gerardo Priego Tapia, President of the Special Commission to Monitor Attacks against Journalists and the Media for the Chamber of Deputies

6.2 Appendix II

Media Regulation

The Laws for Radio and Television and for Telecommunication came into force in 1960 and in 1995 respectively. In April of 2006 both were reformed in what has been considered a backward step; however, in response to an action of unconstitutionality filed by several senators, the Supreme Court of Justice of the Nation (SCJN) recognized that some of these regulations harmed the exercise of freedom of expression.

Guarantees to freedom of expression are applicable to radio electronic broadcasts as well as to other means of communication⁸. Two principles underlie international standards regarding media regulation: independence, both political and commercial; and the plurality or diversity of content, of media outlets and media owners.

Even after the SCJN ruling on the reforms, current regulations and practice fall short in complying with international standards. The regulation of broadcasting and telecommunications is on the whole obsolete, it does not encourage equitable competition or the existence of a regulatory authority with sufficient autonomy and capacity, and it allows for preferential action on the part of the Executive Branch in assigning concessions. The concentration of media outlets persists, chiefly in the hands of business and commercial interests.

96% of commercial television stations are owned by two families; 86% of radio broadcasters are owned by 13 business groups and licences are concentrated in universities, cultural institutions and state governments; that is, in government hands⁹.

The law does not formally recognize community radio broadcasters and restricts non-commercial stations, which include public and community broadcasters. Access to use of the radioelectric spectrum and to the necessary financing earmarked for that purpose for puts them in a vulnerable situation for survival faced with the process of technological convergence, as well as submitting them to a discretionary process for obtaining a licence. In contrast, the discretionary additional use of the radioelectric spectrum for technological convergence by television and radio licence holders is allowed without their having to go through any type of regulatory procedure other than simply informing the authorities.

The process of technological convergence is a change on an international scale which, through the digitalization of radio and television frequencies, will allow for different informative technologies such as radio, television, the Internet and telephone to converge in the same signal. The process will also allow for an increase in the number of radio and television frequencies and, depending on the standard adopted by each country, may or may not free up frequencies for their redistribution. A discussion point for organisations interested in the right to communication worldwide and which participate in the World Summit on Information is to ensure that this process of technological convergence will encourage a democratization of the media rather than leading to a greater concentration of these.

Faced with the need to adapt the regulatory framework regarding media regulation, in September of 2007 the Senate established a Plural Group for the purpose of adjusting the legislation to the dispositions and principles which according to the SCJN should govern the laws of telecommunications

⁸ ARTICLE 19, *Submission to the Inter-American Commission on Human Rights: International Standards on the Regulation of Broadcasting*, Toby Mendel, 2007.

⁹ *Situación al Derecho a la Libertad de Pensamiento y Expresión en México, Informe Ejecutivo: Balance de un sexenio, 2000-2006*, 2007

and of radio and television. The Group made significant progress; however, its work ended in April of 2008 without a proposal for a new media law being submitted to date.

The likelihood of a new media law being passed is not encouraging given the current priorities of the parliamentary agenda: at present, discussion is focussed on the energy reform bill and elections for the positions of Deputy are approaching in 2009.

In conclusion, the International Mission considers that regulations hinder the independence of the bodies responsible for media regulation and, on the contrary, allow preferential actions in the assignation of frequencies.

The Mission also considers that the current legislation allows and encourages the concentration of media outlets as it does not encourage competition; it marginalizes the public media outlets and does not recognize community radio broadcasters. In this sense, it becomes more difficult to guarantee the diversity of media and of content, and therefore of its quality.

All of this results in the restriction of the individual right to freedom of expression and also of the collective right to receive information, which exacerbates the hostile environment for the exercise of press freedom in Mexico.

6.3 Appendix III

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