

Preliminary Observations by the UN Special Rapporteur on freedom of expression and the Special Rapporteur on freedom of expression of the IACHR following their joint visit to Mexico, 27 November – 4 December 2017

MEXICO (4 December 2017)

I. Introduction

1. At the invitation of the Government of Mexico, we, as Special Rapporteurs on Freedom of Expression of the Inter-American Commission on Human Rights and the United Nations, conducted a joint official visit to Mexico from 27 November to 4 December 2017. The purpose of the visit was to assess freedom of expression in the country, in particular, as a matter of the highest priority, the safety of journalists. The mission also aimed to follow up on the recommendations made by our predecessors, Frank La Rue and Catalina Botero, following their joint official visit to the country in 2010.
2. We would like to thank the Government of Mexico for inviting us to undertake this official mission as well as for its cooperation in arranging official meetings. We also would like to thank all the authorities, journalists, civil society representatives, and victims' relatives who met with us, providing detailed information and often powerful testimony about the situation for freedom of expression in the country. During our visit we met, at the federal level, with the President of the Supreme Court, the Undersecretary for Human Rights of Ministry of Foreign Affairs, the Undersecretary for Human Rights of the Ministry of Interior, the head of the Federal Institute on Telecommunications, the chairperson of the National Commission on Human Rights, the Head of the National Commission on Prevention of Discrimination, a Counsellor of the National Electoral Institute, the Deputy Prosecutor on Human Rights, the Specialized Prosecutor on Freedom of Expression, the Protection Mechanism for Human Rights Defenders and Journalists, the National Security Commission, the Army, the Navy, members of the Senate, members of the Chamber of Representatives, the National Institute on Access to Information and the Executive Commission on Attention to Victims.
3. Additionally, at the state level we met representatives of the governments of Guerrero, Mexico City, Sinaloa, Tamaulipas and Veracruz; the State Attorney General's Office of Guerrero, Mexico City, Sinaloa, Tamaulipas and Veracruz; the Human Rights Commissions of Guerrero, Mexico City, and Veracruz; and the Commission on Attention and Protection of Journalists of Veracruz.
4. Furthermore, we met with over 250 journalists and civil society representatives from 21 different states.
5. We also express our gratitude to the Mexico Office of the UN High Commissioner for Human Rights for their assistance and support for their visit.
6. The preliminary observations set forth today are based on information gathered before and received during the visit. We will each be presenting our final mission reports in 2018 to the Inter-American Commission on Human Rights and the Human Rights Council respectively.
7. We remind the State of its obligation to grant the relevant guarantees to all persons and organizations that participated in meetings and provided information, testimony or evidence of any kind during the course of the mission.

II. The crisis for freedom of expression in Mexico

8. Mexico faces a profound security crisis severely affecting the human rights of its people. At the heart of the crisis is a breakdown in the rule of law and governance at local levels across the country, simultaneously leading to and exacerbated by murders, disappearances and torture. The suffering is widespread, yet the violence has often singled out those most essential to telling the story of conflict and insecurity, corruption and criminality: journalists. It is violence with a particularly political purpose, a widespread attack on the roots of democratic life in Mexico, at local, state and national levels. During our week in Mexico, we heard repeated stories of killings and disappearances, physical and psychological attacks on the media, and other forms of interference designed not only to harm individual journalists but the public's right to know.
9. Any fair-minded assessment must acknowledge that addressing such violence is not simple. Organized crime has deeply infiltrated the public life of the country, especially at the level of states and municipalities, as we heard from dozens of government officials, journalists, and non-government organizations. In addition to the use of violence in all its forms, criminal actors and public authorities attempt to co-opt journalists for their purposes and impose information favorable to the cartels or against their enemies. Organized crime has generated hybrid ways to interfere with journalism, generating division and distrust among journalists, and between journalists and local officials.
10. As one journalist put it to us, "We never know in what territory we are treading. It is not only the coverage of the violence or the illicit activity of a cartel that brings us problems. Sometimes covering a police incident - like the rape of a woman or the burning of a fuel pipe - has generated retaliation for drug trafficking". Another called it "the dictatorship of violence". "*Es plata o plomo, listo*", said a journalist during the visit to one state: silver or lead; play . . . or pay with your life.
11. The Government, while acknowledging the problems, has nonetheless failed to devote necessary resources and demonstrate political will. We recognize progress in the protection of journalists at the federal level, but even the coordination of that protection in the states is insufficient. The mechanisms of protection have surprisingly limited resources given the context of a national crisis. The specialized mechanisms of accountability, at federal and state levels, have not delivered results, leading to increased frustration. Indeed, impunity for crimes is the general rule in cases of reported journalist killings and disappearances. This has generated a distrust of the media and journalists towards the institutions and a painful disconnection of the victims and their relatives from the institutions of justice. While the existence of these institutions is commendable, a national commitment to expanding their ambition and resources is essential to address the scourge of violence.
12. The endemic attacks on journalists, as well as human rights defenders, undoubtedly present the most immediate and challenging threat to freedom of expression in Mexico today — one that our predecessors addressed during their visit to Mexico seven years ago. But that does not exclude consideration of other factors, for there is a broader environment in which deep challenges to press freedom and individual expression persist. In part this environment involves a historic transition from past authoritarian practices in government to emerging political pluralism and demands for democratic standards. That transition has not done away with the problematic and intimidating practices of the past, such as the expectations of good coverage under official advertising, described by the aphorism, "I do not pay to be beaten";

the dismissal of critical journalists at the request of authorities; the development of rosters for paid journalism by state administrations; and the lack of pluralism in the property and the editorial line of the media system. The well-documented examples of digital surveillance of journalists and human rights defenders, among others, seem to be both a relic of the approaches of the past and an example of the challenges journalists face in the digital age.

13. Certainly Mexico and its media ecosystem have evolved and enjoy a greater diversity in journalism. Digital media, bloggers and social networks have played a pivotal role in expanding access to information. In spite of an extremely difficult and complex context, we perceived a vibrant journalistic community that wants to do investigative journalism and contribute to Mexican democracy. In this context of violence and self-censorship, their own credibility and connection with the people are at stake.
14. We close this introductory section with one note of added urgency. 2018, it was repeatedly emphasized to us, will bring to Mexico a nationwide set of elections, at federal and state levels. The elections, and the political tension they will bring, heighten the need for security of journalists, without which the country could suffer significant loss of information and public debate.

III. Safety of journalists

15. Attacks on journalists, in the context of generalized violence, require a targeted form of recognition, attention and response. Mexico has put in place legislation and institutions at federal and state levels dedicated to the protection of journalists. We welcome these advancements, among which are FEADLE [*Fiscalía Especial para la Atención de Delitos Cometidos contra la Libertad de Prensa*] to conduct criminal investigations and prosecutions; the Mechanism for the Protection of Human Rights Defenders and Journalists (the Protection Mechanism) to provide protection and preventive measures; and CEAV [*Comisión Ejecutiva de Atención a Víctimas*] for the attention to victims. Several states have also recently implemented similar institutions.
16. Physical attacks are the most prominent forms of aggression, but we also found examples of intimidation, stigmatization, discrimination and weak working conditions that exacerbate the vulnerability of journalists. Digital attacks against journalists and their sources, social media harassment, and unsupervised secret surveillance have emerged as new and troubling challenges.
17. Defamation was de-criminalized at the federal level in 2007, but journalists continue to face the threat of civil lawsuits, often by public officials. A narrow approach to defining “journalists” may exclude them from protection or from statistics concerning attacks against journalists. We welcome the comprehensive definition of journalist provided in General Recommendation 24 by the National Human Rights Commission, which includes anyone who collects, generates, processes, edits, comments, expresses, disseminates, publishes or provide information through any means of dissemination and communication, whether in an eventual or permanent manner, that includes the communicators, the media and their facilities, as well as their workers. We urge all authorities at federal and state level to comply with this recommendation and definition of journalists.
18. No single system obtains and collects data on attacks against journalists. The National Institute of Statistics and Geography (INEGI) does not collect data on this, and the criteria and methodology for obtaining such data differs between and among federal and state institutions. The data gathered by the National Human Rights Commission presents a picture

for the situation of journalists in Mexico that cannot be described as other than catastrophic. Since 2010, 73 journalists have been killed; 12 journalists have been subject of enforced disappearances, while there have been 44 attempted killings. Since 2006, the National Human Rights Commission has registered 52 attacks against media outlets. So far in 2017, at least 11 journalists have been killed. They are Cecilio Pineda, Ricardo Monlui, Miroslava Breach, Maximino Rodriguez, Filiberto Alvarez, Javier Arturo Valdez, Salvador Adame, Hector Jonathan Rodriguez, Candido Rios, Juan Carlos Hernandez and Edgar Daniel Esqueda. Many of the attacks are carried out against journalists reporting on corruption, trafficking, involvement of public authorities with organized crime, police violence and on matters related to elections.

19. Internal displacement of journalists has also become a major feature of the national situation. Though data does not indicate the numbers of displaced journalists nationwide, we found that many come to Mexico City, while some are displaced in other states (and yet do not register with any protection mechanism). Many leave their families behind and are unable to find employment in the new state. Those journalists who have protection measures report that they are often inadequate and lack comprehensive attention to their family situation. Federal protection measures were reported to lack attention to their health situation, educational needs for their children and employment, leaving them in a constant situation of insecurity. There is no comprehensive strategy for displaced journalists. Many journalists also avoid filing claims for protection out of fear that this will place them at further risk. Few receive assistance from local authorities, and temporary measures generally seem insufficient. All of these problems apply to the families of journalists as well.
20. Displaced journalists often find themselves lost in what appears to be a lack of coordination between different mechanisms for protection and assistance to victims. In this connection we welcome the report and recommendation issued by the National Human Rights Commission about internally displaced persons in Mexico, and urge these recommendations to be implemented.
21. In the context of severe violence and insecurity, many journalists face additional vulnerabilities in their work because of their gender or their belonging to indigenous communities. Journalists belonging to indigenous groups and community journalists often are the only channels of bringing information to their communities, and have the additional function of informing in their own language and bringing attention to cultural and social issues in their community which would otherwise not be covered by other media. They face often particularly difficult conditions due to working in remote areas, with few resources and rudimentary equipment. They also often find themselves in regions involving extraction industry, with additional restrictions imposed by non-state actors, sometimes in cooperation with local authorities.
22. Women journalists face specific threatening environments. According to reports by civil society there has been a 200% increase in attacks against women journalists. Online harassment against women expands the threats and yet several organizations reported a lack of public documentation of online violence against women journalists. Women journalists told us about harassment, often by public authorities and sometimes even physical attacks by police or public security officers during their reporting. Additional vulnerabilities come from their work as investigative journalists, and the fact that they are often paid less than their male colleagues. While there are many women reporters, they continue to be a minority in editorial positions. Many women reported to us about particularly threatening and infantilizing meetings with male authorities. Moreover, the lack of gender perspective in investigation,

prosecution or protection stage, lead to inadequate attention to the particularity of the situation of women journalists.

A. Protection

23. The urgency to create a national mechanism to protect journalists motivated the recommendations made by the Rapporteurs pursuant to the 2010 visit. But the attacks persist today, accompanied by a continuing sense of insecurity and impunity. The systematic nature of the violence demands not just specific individual measures but also ones of a structural nature.
24. After remarkable efforts by Mexican civil society, the Government adopted in 2012 the Law for Protection of Human Rights Defenders and Journalists. The Law created the Mechanism for the Protection of Human Rights Defenders and Journalists (the Mechanism), the most important public policy for protection of journalists in Mexico. Since its creation, the Mechanism has provided protection for 349 journalists.
25. In 2017 to date, 130 journalists have sought protection by the Protection Mechanism, of which 98% have been accepted. The Mechanism has taken important steps regarding its methodology for risk analysis. However, greater transparency is advisable on these matters to allow not only better understanding by the beneficiaries but also to encourage other actors to contribute to its improvement. In addition, the methodology for risk analysis needs have a differentiated approach that considers the need to support especially vulnerable beneficiaries based on grounds such as ethnic origin, gender, indigenous or socioeconomic background, among others.
26. Coordination between federal and state institutions, and among federal institutions, is inadequate. Local mechanisms do not offer an adequate solution to the problems of protection, given the fact that insecurity for nearly all journalists is generated at local levels. While we respect the motivation to develop such institutions, a priority must be strengthening of the role of the Federal Mechanism, not only to ensure effective coordination but to provide them with the ability to operate locally in a sustainable way.
27. In short, the Mechanism lacks sufficient resources to effectively perform its mandate. It needs resources to add significantly the number of personnel, particularly to give day-to-day attention to states where journalists experience serious threats; to protect its staff and ensure their retention; to develop greater and more timely analysis of threats; and to develop specialized approaches to ensure gender and indigenous specific protection. An ambitious Government effort to increase the Mechanism's capabilities will not only serve the goal of better protection but would also send a message of political will to make journalist safety a priority national objective.
28. The Mechanism should be provided with resources to deliver comprehensive psychological support to displaced journalists and their families. It should also provide support to enable journalists to continue working in their new environments and pursue strategies to enable the return of the journalists under necessary security conditions.
29. Very few journalists under threat expressed a sense that their media employers offered sufficient, if any, support. We hope that media support will change. In this connection, we warmly welcome the initiative, announced this week, to work on a Solidarity Protocol presented by 39 media outlets, which starts by recognizing the need for media itself to

contribute to protection and advocacy for accountability. This unprecedented agreement also acknowledges how the industry must provide adequate capacity building schemes, social security, fair salaries and life insurance policies for journalists whose coverage implies an obvious risk. We urge media companies to improve working conditions on an urgent basis and to provide support — ideally in the form of work, whether permanent or freelance — to journalists displaced in their cities.

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

B. Prosecution and impunity

31. Under international human rights law, States have the obligation to conduct prompt, effective and thorough investigations of acts of violence against journalists and take appropriate steps to ensure accountability for these crimes. As we have often emphasized, when these crimes are not investigated and those responsible are not brought to justice, a culture of impunity is created, which in turn can embolden perpetrators. Impunity deprives victims and families of justice, but it also fuels further violence.
32. We found that Mexico has made little if any progress in eradicating impunity. The Government has established a specialized institution for accountability, but it seems hollow in the absence of progress. We believe this amounts to a failure of the Mexican Government to comply with its obligations to ensure accountability.
33. The impunity for killings and other attacks against journalists has been documented by government institutions and civil society organizations, suggesting that at least 99.6% of these crimes remain unsolved. It is unconscionable that the Mexican Government has failed to determine the circumstances in which at least twenty journalists have disappeared, locate their whereabouts and prosecute those responsible. During our visit we heard several stories that reveal the significant levels of fear and self-censorship caused in journalists and their communities by impunity and the profound lack of trust in public authorities to achieve justice and protect the rule of law.
34. While we are mindful that at the federal level, relevant legal and institutional reforms have been made to strengthen FEADLE's authority to investigate and prosecute these crimes, our predecessors' recommendations have only been implemented in part. We regret FEADLE has still not made any impact in combating impunity and rebuilding public confidence in providing access to justice to victims.
35. Journalists, victims, CSOs and the National Human Rights Commission led us to conclude that FEADLE lacks effective investigative plans, does not exhaust all lines of inquiry, and does not analyze the context in which the crimes took place, particularly the way in which political and criminal power operate at the local level and other local realities. We learned about failure to protect the security of witnesses and effectively collect and preserve police and forensic evidence. We received with great concern information about ineffective

investigations of threats and harassment of journalists online and offline, which are stalled by burdensome legal requirements, such as psychological tests of the victims, and lack of real coordination between the protection mechanisms. The lack of sufficient human and material resources were also pointed out as limits in FEADLE's results. We also learned about obstacles for the participation of victims in the investigation. FEADLE has not includes a gender perspective on its work to better deal with crimes against women journalists, which often go underreported as a result of discrimination.

36. At the local level, journalists expressed profound distrust with local authorities in charge of investigations, many of which are believed to have colluded with organized criminal groups. In Veracruz, Tamaulipas, Sinaloa and Guerrero the authorities were not able to inform us of any conviction regarding killings of journalists that took place in their jurisdiction. The failure to investigate and bring to justice those responsible has deterred journalists from reporting new threats and attacks. In our meetings, several local journalists expressed their fear and frustration with local judicial authorities and emphasized that filing claims before them is “useless” and will only increase their risks.
37. Our discussions with FEADLE were useful, and we appreciate the openness to speak with us about strategies and cases. While we welcome the measures adopted in recent months by FEADLE to reorganize its internal structure, improve communication with victims and increase coordination with local authorities, we are concerned about the institution's failure to use its legal power to assert jurisdiction over cases of killings, kidnapping or disappearance of journalists in states with highest levels of violence and impunity. Concerns were raised that FEADLE has asserted jurisdiction in so few cases. Given the severity and scale of the current crisis and the lack of independence of many local authorities, we believe it is imperative for federal authorities to reinvigorate the use of FEADLE's legal authority to investigate and prosecute crimes against journalists and adopt far-reaching measures to ending impunity. This will greatly increase public confidence in the institution and contribute to building an enabling environment for the exercise of freedom of expression.
38. In all our meetings with journalists and civil society actors, we learned about their concerns with the lack of independence of public prosecutors at the federal and local level and the pressing need for legislation that establishes an autonomous, transparent and effective public prosecutor national offices that guarantee a genuine investigation for these crimes. We were informed by the Mexican Government of its commitment to advance long-due legislation in these regards.
39. Delays of court proceedings once an accusation has been filed by the public prosecutor is also a grave concern. The judiciary should play a central role in combating impunity and we stress the importance of an independent and impartial judiciary, with appropriate material and human resources and adequate training to provide, within a reasonable time, access to justice and reparation to victims.
40. We are particularly concerned about the lack of oversight mechanisms of the progress of the investigations and the effectiveness of accountability measures put in place. These mechanisms can draw the attention to failures and remedial action when necessary. Oversight can be greatly increased by improvements of criminal statistics on violence against journalists and the criminal prosecutions of these crimes.
41. We urge the Mexican government to replace this paradigm of impunity with one of effective investigation, prosecution and monitoring consistent with its international obligations.

C. Prevention

42. We continue to emphasize the importance of a comprehensive policy to combat violence against journalists, which includes the adoption of prevention measures to address its root causes and promote an enabling environment for freedom of expression. The Mexican Government recognized that most of its efforts have been focused on establishing and consolidating the federal protection mechanism and that they have not sufficiently and effectively addressed issues of prevention. Similarly, most of the Mechanism's beneficiaries we met expressed their concern with a reactive approach of the government.
43. We welcome the Mechanism's adoption of early warning systems for Veracruz and Chihuahua. Nonetheless, the existence of these plans has not deterred subsequent journalist killings. Journalist Miroslava Breach was murdered in Chihuahua after the implementation of the plan. We encourage the Mexican Government to strengthen these efforts, consistent with its international obligations, taking into account the specific nature of the risks and its particular contexts, such as in security crisis in conflict zones, during election periods, at public demonstrations. Prevention also implies ensuring journalists' ability to contribute effectively to public debate, without being subject to criminal prosecution or civil lawsuits.
44. We also received concerning information regarding government officials use of the law and legal process to intimidate journalists and media, as well as the dissemination of propaganda accusing journalists of committing crimes, and thereby jeopardizing their safety. This seems to be a particular problem at the local or municipal level. We believe that it is critical that public officials at the highest levels of government move the discourse toward one of consistent promotion of the rights of journalists as one element of seeking protection.

IV. Surveillance

45. A series of well-documented reports this year have demonstrated that the Government of Mexico and a number of state governments purchased or deployed software designed to surveil individuals through their mobile phones. Those reports have shown, compellingly, that targets of the spyware — produced by the Israel-based NSO Group and called “Pegasus” — included, among others, politicians, journalists, human rights defenders, lawyers, public health and anti-corruption experts, and even the international body established to investigate the mass disappearances of students in Iguala in 2014.
46. We met with victims of such surveillance (or attempted surveillance) in order to understand the way in which the use of the technology threatened their work and their feelings of safety. Indeed, surveillance technology has profound implications for exercise of the freedom of expression, undermining the ability of individuals to share or receive information and establish contacts with activists and others. It creates incentives for self-censorship and directly undermines the ability of journalists and human rights defenders to conduct investigations and build and maintain relationships with sources of information. Only under the very strictest rules in the context of law enforcement, publicly available and publicly adopted, operating on principles of necessity and proportionality and providing for close judicial supervision, should surveillance ever be an option for governments.
47. In June, President Peña Nieto acknowledged that the Government had purchased software providing it with the capacity to conduct digital surveillance. Though he denied that the

Government directed the use of Pegasus, the Government thereafter established an internal investigation, led by FEADLE. In our discussions with FEADLE, we learned that FEADLE has initiated that investigation, aiming to identify governmental purchasers, review individual targets of surveillance. FEADLE has met with at least one of the civil society organizations that exposed the use of Pegasus. We asked one state government about allegations of its purchase and use of Pegasus, which a senior state official denied categorically.

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

V. Legal threats and restrictions to freedom of expression

49. A country's legal framework must be conducive to ensuring that freedom of expression is not only guaranteed, but also that arbitrary or disproportionate restrictions are not created through the adoption of laws. Several pieces of legislation currently being discussed in Congress, and the lack of regulations of certain aspects relating to freedom of expression, have the potential to substantively curtail freedom of expression in Mexico.
50. The bill on Internal Security has provisions that clash with human rights standards, in particular relating to access to information, adequate oversight for intelligence gathering and the use of force during demonstrations. Granting the Armed Forces power to gather domestic intelligence raises serious concerns about the limitations on civilian and judicial oversight as required by international standards. Moreover, the legislation appears to permit the automatic classification of information gathered by the Armed Forces on national security grounds. This marks a step away from the progress achieved in the past fifteen years in terms of the Mexican legal framework on transparency and access to information. It would also run counter to the authorities exercised by the National Institute for Transparency, Access to Information and Personal Data Protection (INAI) to ascertain what information should be protected for national security purposes. It may also prevent disclosure of information relating to serious human rights violations, countering standards on victims' right to truth and access to information. The bill also contains ambiguous wording on the role of the Armed Forces in the context of social protests and the use of force against "acts of resistance". These provisions open the door for the Armed Forces to carry out policing functions, with a different set of rules regulating the use of force, in contexts of social protest.
51. The proposed legislation raises serious concerns with respect to rule of law and democratic principles. We call upon the Senate not to approve the legislation and instead initiate an open and comprehensive dialogue regarding the security model the country needs, reaffirming the

role of civilian security agencies in addressing public security challenges. No laws should be adopted which counter the powers given to access to information authorities or standards relating to access to information for serious human rights violations.

52. We are also concerned with amendments currently being discussed in Congress on the Law of Telecommunications and Broadcasting (article 304) and the Federal Criminal Code (article 172 TER), which, if adopted, could restrict freedom of expression in ways that are incompatible with international human rights law. If approved, these amendments not only would prevent those who operate without a telecommunication concession to seek one for a period of several years, but would also entail a prison sentence for unauthorized use. Such sanctions appear disproportionate to the activity and unnecessary given the availability of other administrative tools at the Government's disposal. We are especially concerned that, should the legislation be adopted, it lacks safeguards to ensure that community radio operators, who often do not request concessions for a broad range of reasons, are not targeted or affected by these provisions.
53. Several journalists throughout the country have faced frivolous lawsuits demanding that they pay exorbitant amounts for alleged damage caused in relation to what they have published. The lack of regulations on the use of frivolous lawsuits contributes to a chilling effect amongst journalists exposed to this type of threat. We call upon both the legislative and the judicial branches to ensure that this practice will be regulated, either through laws sanctioning strategic lawsuits against public participation (SLAPP) or the adoption of criteria for judges to be able to exclude these frivolous claims after careful consideration.
54. Mexico has a strong tradition of social protest. With the upcoming electoral process, special attention should be given to ensuring that persons can come together and protest without risk to their personal integrity and life, without disproportionate bureaucratic requirements and that police forces are adequately trained in controlling large gatherings. The adoption, both by the Federal Police and by Mexico City authorities, of protocols on the use of force, including in contexts of protests, are welcome developments. However, certain aspects of these, as well as a series of bills and laws that have been presented at federal and state-level (including in Jalisco, Mexico City, Quintana Roo and San Luis Potosí) raise serious concerns about compliance with international standards. In particular, these regulations have provisions that allow the use of lethal weapons in the close perimeters of protests, impose a series of administrative hurdles that de facto restrict the rights in question, increase penalties for those who commit certain felonies within protests, inter alia. These aspects should be reviewed to ensure conformity with international human rights standards.
55. In a landmark ruling, the Supreme Court recently ordered the Congress to develop regulations for the practice of government advertising. According to reports, the federal government has spent over 34 billion pesos over the past four years for such advertising. The rules for such advertising are obscure, leading many to conclude — with substantial evidence — that government actors use advertising the funds to shape and distort media coverage and blur the lines between verifiable news stories and propaganda or political advocacy. Such spending also serves as a subsidy to keep legacy media afloat to the detriment of alternative sources of information. We welcome the Supreme Court's ruling and urge the Congress not only to adopt clear and public rules governing advertising that ensure regular and specific reporting, but also to develop a plan to progressively limit such expenditures altogether, in consultation with civil society and relevant experts. We stand ready to provide technical assistance to Congress regarding international standards on official advertising in the forthcoming months before the adoption of this law.

56. Finally, concerns were raised about the proposed General Law on National Archives, which would lower the standards of the General Law on Access to Information. The proposed legislation will, if adopted, restrict access to information contained in historical archives on grounds of data protection in ways that would be inconsistent with the requirement of necessity and proportionality. Concerns were also raised about the lack of autonomy of the oversight body. We urge Congress to review the proposed legislation, and we stand ready to provide technical assistance with a view to ensure compliance with international human rights standards.

VI. Access to information

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

58. In our discussions with civil society organizations, we found significant concerns about how access to information operates in the context of allegations of serious human rights violations. Researchers appear to have difficulty obtaining full information, with significant amounts of data redacted and a general failure to provide reasons for non-disclosure. Compounding this problem is a lack of accessible government-provided data concerning such crimes as disappearances or information in the languages of indigenous communities.

59. In the wake of the earthquakes in September of this year, many civil society organizations were afforded a real-time test of access to information mechanisms during natural disasters. Many organizations expressed dissatisfaction about the speed, reliability, and existence of information available before and after the earthquake. We understand that the country lacks a national register of people missing during natural disasters, nor is there a database that collects information about damage and transparency needed for access to information during rebuilding to ensure accountability. We strongly urge the Government to work with civil society to identify gaps in the information available to all individuals in the context of natural disasters.

VII. Diversity and pluralism in media

60. Democratic societies rest in part upon the access individuals have to diverse sources of news, opinion, ideas and debate. Our predecessors in 2010 noted that Mexico's media environment lacked some of the necessary elements of diversity and pluralism. They noted problems in the broadcast media's legal framework, concentration of media ownership particularly in broadcast media, and the lack of an independent regulatory body. They also noted deficiencies in the support of community radio. In the course of our visit, we noted continuing problems of diversity and pluralism. In particular we would note the following areas of concern:

61. First, while, according to the OECD, Mexico has achieved progress in development of the broadcast and telecommunications markets, there remains problems of concentration in the media that undermine the competition necessary for pluralism to thrive. Mexico remains among the countries with the highest level of media concentration, in broadcast, print and

online. Laws adopted since our predecessors' visit have sought to address competition concerns, and the Telecommunications Institute (IFT) has begun to take steps to strengthen diverse access to broadcast spectrum and broadband. Over the coming months we will continue to review the steps being taken in this regard so that we may share specific recommendations pertaining to the broadcast and telecommunications markets. In the radio market, an estimated 70 percent of privately operated radio stations are still owned by roughly 10 media conglomerates, and many are still said to be hostile against community stations that require space on the radio spectrum.

62. Second, while Mexico has been making efforts to expand access, there are significant gaps in community radio coverage. This is unfortunate, as community radio offers indigenous communities access to information that they would not otherwise obtain. Community radio enables the development of local means of sharing and disseminating information and, indeed, the development of local forms of professionalization. According to information we received, only four of sixty-eight indigenous languages in Mexico are reflected in the concessions available to them to exploit radio spectrum. Information from the Oaxaca Indigenous Community, for instance, suggested significant barriers to community radio development. We also heard from journalists in Guerrero of the difficulty of navigating the process for obtaining concessions for spectrum and permission to broadcasting, which also includes costs that can be significant among poor communities. We understand that only three concessions have been granted to indigenous radio since the adoption of legislation four years ago to expand such availability.
63. Third, access to the internet varies in its strength and reliability across the country, and yet broad access from all corners of Mexican society is critical to the development of diversity online. The IFT has made efforts to expand internet access, but major barriers remain. For instance, in rural and indigenous communities, the lack of reliable broadband infrastructure often shunts people into mobile access, which lacks the strength available through fixed access. Even in mobile environments, in the poorest communities the technology may not involve smart phones with full internet access.

VIII. Recommendations

Protection of journalists

64. Adopt all measures necessary to ensure effective protection for journalists at the national level:
 - a. Adopt legal reforms necessary to ensure effective cooperation and coordination between the federal and state level to protect journalists and human rights defenders. In the meantime, units should be established in the states to coordinate and implement the protection measures for journalists and human rights defenders established at the federal level.
 - b. Provide the federal protection mechanism with the necessary human and material resources to carry its mandate. In particular, increase the number of risk analysts working within the federal protection mechanism, some of whom should be present in the states where the situation shows most seriousness and urgency. Analysts should be provided with adequate working conditions and protection.

- c. Maintain a regular communication between the protection mechanism and the journalists that have protection measures to monitor their situation and critically assess, the result of the effectiveness of the provided measures. Particular attention should be given as well to the risks and threats experienced by displaced journalists.
- d. States visited during this mission (Guerrero, Tamaulipas, Sinaloa and Veracruz) and others that have a similar situation, should adopt a series of measures to prevent the repetition of aggressions against journalists, restore trust with the journalists and the media of such states, and consult civil society. Journalists should establish networks to strengthen cooperation with the federal protection mechanism.
- e. Media should have a key role in the security of their journalists, and should offer training on security and self-protection to their employees, both permanent ones and freelancers, providing adequate security equipment, adequate working conditions and life insurance.

Accountability for crimes against journalists

65. The State should adopt a series of substantive and sustainable measures to address the structural situation of impunity in which crimes against journalists remain, some of which are:
- a. Increase FEADLE's financing and ensure that its budget lines are allocated in accordance with its main obligation to investigate violations of freedom of expression. In particular, this should involve a significant increase in the number of investigators and police personnel under its jurisdiction.
 - b. Strategically prioritize the investigation of a series of cases of journalists whose contribution was fundamental to their communities.
 - c. Establish a programme with the participation of external experts aimed at advising and training FEADLE's investigators, designing plans for investigation of priority cases linked to the professional practice of journalists. With a view to ensure accountability, follow up measures should be adopted in cooperation with national and international actors, including the participation of the UN and IAHRC Special Rapporteurs and OHCHR.
 - d. Establish, within FEADLE, a witness protection program.
 - e. Incorporate a gender focal point/unit or specialists on violence against women journalists and establish a training programme within the FEADLE focusing in particular on attacks suffered by women journalists.
 - f. Ensure that FEADLE remains a specialized prosecutor's office in the organization chart in the autonomous framework of the new General Attorney's office.
 - g. Strengthen CEAV's capacities to guarantee comprehensive legal and psycho-social assistance to victims and next of kin of victims having suffered crimes pertaining to violations against freedom of expression.

Surveillance

66. Ensure the independence of the investigation into the purchase and use of malware (including "Pegasus") to monitor journalists, activists, and human rights defenders.

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

Freedom of expression and security

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

Access to information

69. Continue to strengthen the framework for access to information, including through:
- a. Guaranteeing access to public information by communities at risk, especially indigenous peoples.
 - b. Facilitating access by victims and their representatives to the judicial files of gross human rights violations, in line with international human rights law.
 - c. Ensure the pre-eminence of public interest in the classification of information involving human rights violations, corruption cases and public interest information, assuring that personal data identifying persons involved should not be deleted in public versions.
 - d. Ensure that the classification of historical archives is based on the principle on maximum publicity and right to truth, bearing in mind the no harm principle.

Public advertising

70. Adopt a general law to regulate official advertising in order to reduce discretion according to international human rights standards. Official advertisement resources should be assigned according to pre-established, clear, objective and transparent criteria.
71. Enforce the legal obligation to proactively publish relevant information on hiring criteria, reasons to assign budgets, expenses and advertisement contracts of public entities.

Diversity and pluralism in media

72. Establish policies to promote diversity and pluralism of media and refrain from criminalizing the use of radio frequencies as this would be an unnecessary and disproportionate restriction to freedom of expression. This should be considered by the Senate when discussing amendments currently being discussed in Congress on the Law of Telecommunications and Broadcasting (article 304) and the Federal Criminal Code (article 172 TER)

73. Adopt measures to expand access of indigenous peoples and rural areas to community broadcasting, and continue to strengthen access to broadband in areas that lack reliable access.