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**OFFICE OF THE SPECIAL RAPPORTEUR FOR
FREEDOM OF EXPRESSION**

2010 SPECIAL REPORT ON FREEDOM OF EXPRESSION IN MEXICO

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I.	INTRODUCTION	3
II.	VIOLENCE, IMPUNITY AND SELF-CENSORSHIP	6
A.	Violations of the right to life and personal integrity based on the victims' exercise of freedom of expression	6
1.	General Overview: violence on the rise	6
2.	Violence against journalists in 2010	8
a.	Murders	8
b.	Disappearances and Kidnappings	14
c.	Attacks and Harassment	18
d.	Attacks on media outlets	34
e.	Detentions	37
f.	Other incidents	38
3.	Illustrative cases of violence and impunity 1988-2009	38
a.	Murder	38
b.	Disappearance	52
c.	Detention and Aggression	54
4.	"What do you want from us?" Violence, intimidation and self-censorship	56
B.	The Mexican State's Response	58
1.	Prevention and protection	59
2.	Criminal prosecution	61
a.	General considerations: impunity and its consequences	61
b.	Observations on the legal prosecution of crimes against journalists	62
III.	FREEDOM, PLURALISM AND DIVERSITY IN THE DEMOCRATIC DEBATE	69
A.	Regulation of the broadcast frequency spectrum and implementation of provisions governing broadcasting	70
1.	Legal framework	70
2.	Concentration of communications media property ownership and control	72
3.	The status of community radio broadcasting	74
B.	Government advertising	78
IV.	LEGAL ACTIONS RELATING TO THE EXERCISE OF FREEDOM OF EXPRESSION	81
A.	Use of criminal law	81
B.	Civil actions	85
C.	Other related information	88
V.	ACCESS TO INFORMATION	89
A.	Legal framework and effective guarantee of law	89
B.	Challenges for the consolidation of the right of access to information	91
VI.	CONCLUSIONS AND RECOMMENDATIONS	94
A.	Violence, impunity and self-censorship	95
B.	Freedom, diversity and pluralism in democratic debate	96
C.	Legal actions relating to the exercise of freedom of expression	97
D.	Access to information	97
E.	Final comments	99

2010 SPECIAL REPORT ON FREEDOM OF EXPRESSION IN MEXICO

I. INTRODUCTION

1. Between August 9 and 24, 2010, in fulfillment of its mandate to promote and monitor the right to freedom of expression in the countries of the Americas, a delegation from the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (hereinafter "Office of the Special Rapporteur") undertook an on-site visit to the United Mexican States at the invitation of the country's government. The delegation was led by the Special Rapporteur for Freedom of Expression, Catalina Botero Marino, and included lawyers Michael Camilleri and Alejandra Negrete Morayta from the Office of the Special Rapporteur. The visit was carried out in conjunction with the United Nations Rapporteurship on Freedom of Opinion and Expression, led by Rapporteur Frank La Rue. The objective of the visit was to observe the situation of freedom of expression in the country.

2. In the course of the official visit, the Office of the Special Rapporteur spent time in the Federal District and in the states of Chihuahua, Guerrero and Sinaloa. The delegation met with officials from over forty federal and state public institutions belonging to the executive, judicial and legislative branches, as well as with representatives from autonomous bodies. Further, it held meetings with over one hundred journalists, representatives of civil society organizations, family members of murdered and disappeared journalists and members of the international community based in Mexico.

3. The Office of the Special Rapporteur wishes to emphasize the invitation extended by the Mexican State and its openness in facilitating all the necessary conditions for the visit to be carried out. Likewise, it recognizes the efforts of the officials from the Foreign Ministry who supported the visit and thanks all the authorities, civil society organizations and journalists it met during the course of its visit.

4. Upon completing its visit on August 24, 2010, the Special Rapporteurs of the Inter-American Commission on Human Rights (hereinafter "IACHR" or "Commission") and the United Nations presented a preliminary report to the Mexican State and subsequently to the public.¹ The Mexican State took the opportunity to issue a press release regarding the visit in which it stated:

In the working session held today at the SRE (Foreign Ministry), attended by several institutions that participated in the visit, the Office of the Special Rapporteurs presented a preliminary report setting out some of their conclusions and recommendations.

The Office of the Special Rapporteurs thanked the Mexican Government for its broad cooperation in engaging in dialogue and providing information about each of the issues in which they expressed an interest.

The visit of the Special Rapporteurs has been of particular use for gaining a deeper understanding of some of the emerging challenges to freedom of expression in the context currently confronting the country.

[...] In thanking them for their visit, the Federal Government expressed to both Special Rapporteurs that it will examine their reports, and particularly their recommendations, in detail and will establish the most appropriate follow-up and implementation mechanisms.

¹ Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights and United Nations Rapporteurship on Freedom of Opinion and Expression, "Official Joint Visit to Mexico, Preliminary Observations", August 24, 2010, Available at: <http://www.cidh.oas.org/relatoria/ShowDocument.asp?DocumentID=216>

The Government of the Republic expresses its satisfaction with the visit of the Special Rapporteurs and reiterates its commitment to confronting the challenges to freedom of expression in order to fully guarantee this right, which is an essential component of our democratic system.²

5. The present report reiterates and explores in greater depth the issues mentioned in the preliminary observations presented at the end of the on-site visit. The Office of the Special Rapporteur has gathered a great deal of information before, during, and after its visit to Mexico. In drawing up this report the Office of the Special Rapporteur has made use of a wide spectrum of sources. In particular, it has utilized information received from the federal and state governments, the legislature and judiciary, autonomous bodies such as the National Human Rights Commission (*Comisión Nacional de Derechos Humanos*, hereinafter CNDH) and its counterparts at the state level, as well as from non-governmental organizations (hereinafter NGOs), journalists and media heads. Likewise, the Office of the Special Rapporteur has taken note of information that has appeared in the press, as well as studies, investigations and reports prepared by national and international human rights and freedom of expression organizations. Finally, in the framework of its on-site visit, the Office of the Special Rapporteur requested detailed information from the Mexican State regarding the criminal investigations carried out into a considerable number of murders, disappearances and attacks suffered by journalists in Mexico.³ The information provided by the State in response to this request,⁴ originating in a number of different bodies of the federal executive and some state bodies, has been incorporated into this report.

6. On December 28, 2010 the Office of the Special Rapporteur sent the preliminary version of the present report to the Mexican State in order to allow it the opportunity to formulate the observations it considers pertinent, in conformity with article 59 of the IACHR's Rules of Procedure. On February 3, 2011,⁵ and February 11, 2011,⁶ the Mexican State submitted observations on this preliminary version. In these observations, it stated:

The Federal Government thanks the Office of the Special Rapporteur for Freedom of Expression for the report it prepared in fulfillment of its mandate. The Federal Government welcomes its thoughtful observations and recommendations.

Without a doubt, the joint visit carried out by the OAS and UN mechanisms in August 2010 stems from a policy of dialogue, cooperation, and complete openness that the Government of Mexico maintains toward international human rights mechanisms.

The visit by both Rapporteurs has been especially useful for developing a deeper understanding of some of the emerging challenges for freedom of expression at this moment in our country's history, and in implementing mechanisms and strategies that guarantee the full exercise of this fundamental right in our country.

Just as the Federal Government committed to the Special Rapporteurs that it would do, it has carefully examined the preliminary version of the report sent by the Inter-American Commission on Human Rights. It appreciates that the document reflects the

² Mexican Foreign Ministry, communication #259, August 24, 2010, Available at: http://www.sre.gob.mx/csocal/contenido/comunicados/2010/ago/cp_259.html

³ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁴ See Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

⁵ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

⁶ Communication OEA-00262 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received on February 11, 2011.

vast amount of information received during and after the visit from the authorities of the three branches of government, both federal and in the states of Chihuahua, Guerrero, Sinaloa, and the Federal District.

It is noted that, in general terms, the report maintains a balance between positive steps or progress and the challenges the country is facing. However, and with a view to strengthening the content of the document, the following observations are passed along from the various authorities involved in the visit.⁷

After considering the observations made by the State and incorporating the changes it considered pertinent, the IACHR approved the incorporation of the final text of this report into its Annual Report.

7. Based on the information received and analyzed in the framework of its on-site visit to Mexico, the Office of the Special Rapporteur observes that articles 6 and 7 of the Political Constitution of the United Mexican States explicitly protects the rights to freedom of expression and access to information. Likewise, Mexico has made notable legal advances such as the Federal Law on Transparency and Access to Public Governmental Information and equivalent laws at the local level; the decriminalization of offenses against honor at the federal level and in several states; the protection of confidentiality of sources in the Federal Code of Criminal Procedure; and article 134 of the Mexican Constitution with regard to government advertising. Likewise, the Office of the Special Rapporteur applauds the proposed modifications to article 1 of the Constitution approved by the Senate that grant constitutional standing to international human rights treaties; the reform awaits approval by the Chamber of Deputies.⁸ Finally, the Office of the Special Rapporteur welcomes the measures adopted by the Mexican State in response to the situation of violence against media workers in the country, including the creation of a special prosecutor to investigate these crimes and, recently, the establishment of a committee for the protection of journalists.

8. Nonetheless, the full enjoyment of freedom of expression in Mexico faces grave obstacles of various kinds, among them the murders of journalists and other extremely serious acts of violence against those who disseminate information, ideas and opinions, and the widespread impunity that holds sway in such cases. It is also of concern to the Office of the Special Rapporteur that legislation still exists that allows the application of criminal sanctions to the exercise of freedom of expression both at the federal level and in a significant number of states. Likewise, the Office of the Special Rapporteur considers that the vigor, diversity and pluralism of the democratic debate is seriously limited by, among other reasons, the high concentration of ownership and control of the communications media to which radio and television frequencies have been assigned; the absence of a clear, precise and equitable legal framework for the assignation of such frequencies; the absence of mechanisms allowing access to alternative communications media; and the lack of regulation of government advertising. Finally, the Office of the Special Rapporteur observes with concern an emerging tendency to restrict the right to access public information. It is precisely the need to recognize this crisis and to join in efforts to find solutions, together with the State and society, that prompted the Office of the Special Rapporteur to carry out the on-site visit to Mexico and to prepare this report.

9. The situation confronting freedom of expression in Mexico is set out below with respect to the following issues: violence, impunity and self-censorship; freedom, pluralism and diversity in the democratic debate; legal actions related to the exercise of freedom of expression; and access to information. Conclusions and recommendations are also formulated, which in

⁷ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

⁸ See Foreign Ministry (SRE) Newsletter No. 173, April 9, 2010, available at: <http://portal.sre.gob.mx/montreal/pdf/Bolderhum.pdf>

general coincide with those issued at the conclusion of the on-site visit. The report also presents concrete cases to illustrate the situations observed by the Office of the Special Rapporteur. The cases discussed were chosen essentially on the basis of their illustrative nature and in view of the availability of relevant information from a number of sources. The Office of the Special Rapporteur once again thanks all the entities, organizations and individuals who shared information, particularly journalists who have been victims of violence and their families. It is our hope that the observations, conclusions and recommendations set out in this report contribute to the strengthening of freedom of expression for all Mexicans.

II. VIOLENCE, IMPUNITY AND SELF-CENSORSHIP

A. Violations of the right to life and personal integrity based on the victims' exercise of freedom of expression

1. General Overview: violence on the rise

10. During the course of the on-site visit, the Office of the Special Rapporteur paid particular attention to violence carried out against journalists and media outlets in the country. The ninth principle of the Declaration of Principles on Freedom of Expression of the IACHR establishes that: "The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the States to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation." The Office of the Special Rapporteur recalls in this regard that, in accordance with international human rights standards, the Mexican State is not only obliged to guarantee that its agents do not commit acts of violence against journalists, but also to take reasonable steps to prevent acts of aggression by third parties. The State is also obliged to investigate, prosecute and, where applicable, punish the perpetrators of such violence, even when those responsible are not state agents. As such, the fact that the Office of the Special Rapporteur makes reference to an act of violence does not necessarily imply that the act is directly attributable to the State. However, such acts do make clear the State's obligation to prevent, protect and, where applicable, punish these kinds of acts.

11. The various sources consulted by the Office of the Special Rapporteur confirm that—without ignoring the fact that the problem of violence affects all segments of Mexican society—violence against journalists in Mexico is alarming and on the rise, due to factors such as the growth of organized crime in certain regions of the country. The Office of the Special Rapporteur was struck by the fact that the National Human Rights Commission (hereinafter "CNDH") is the only state institution that maintains a public, documented register of crimes against journalists. As the table below shows, the CNDH reports that 64 journalists were murdered in Mexico between 2000 and July 2010, and 11 have been disappeared between 2006 and July 2010.⁹ Of these cases, 29 murders and 5 disappearances occurred since 2008 alone.¹⁰

CNDH: Violence against journalists in Mexico 2000-2010¹¹

Year	Homicides	Disappearances
2000	4	
2001	4	
2002	3	
2003	1	
2004	5	

⁹ CNDH, Press release CGCP/206/10, July 27, 2010.

¹⁰ CNDH, Press release CGCP/206/10, July 27, 2010.

¹¹ CNDH, Press release CGCP/206/10, July 27, 2010.

2005	4	1
2006	10	2
2007	4	3
2008	10	1
2009	12	1
2010 (to 27/7/2010)	7	3
TOTAL	64	11

12. To these figures may be added the kidnappings of journalists and attacks with explosives against media outlets that have occurred in recent years. In addition, the Office of the Special Rapporteur observed through its encounters with journalists during the on-site visit, that threats and harassment are a regular feature of the practice of journalism, particularly local journalism that covers issues of corruption, organized crime, drug trafficking, and public security, among other issues. According to the information received, many attacks on local journalists are not formally reported due to a lack of confidence in the respective authorities. The statistics reported as well as the additional information received confirms that since 2000 Mexico has been the most dangerous country in the Americas in which to practice journalism.

13. The Office of the Special Rapporteur notes that the compilation of detailed, disaggregated criminal statistics is an essential prerequisite for designing, implementing, and evaluating effective public policies for prevention, protection, and criminal prosecution of human rights violations.¹² In this regard, public security and law enforcement authorities should urgently assume the task of compiling quantitative and qualitative information on violence against journalists and the investigation of such crimes, which is essential to the design and implementation of effective public policies of prevention, protection and criminal prosecution. While the figures compiled by the CNDH are a useful tool for understanding the grave and deteriorating situation faced by journalists, the Office of the Special Rapporteur observes with concern the absence of an institution charged with collecting and maintaining up-to-date documented records of violence against journalists in Mexico, and on the legal and administrative proceedings carried out in these cases. In its observations on the preliminary version of this report, the Mexican State reported that "the Special Prosecutor's Office [for Crimes against Freedom of Expression] has set about building an electronic database of murders and disappearances of persons reported by various governmental and nongovernmental organizations."¹³ It also reported that the Chamber of Deputies' Special Commission for Monitoring Attacks on Journalists and Media Outlets plans during 2011 to promote the creation of "a national database, called the National Register of Attacks, in order to have reliable statistics, broken down by crime committed and by state."¹⁴

14. Notwithstanding the limitations generated by the lack of comprehensive statistics on violence against journalists, the Office of the Special Rapporteur was able to verify that the majority of murders, disappearances and kidnappings of journalists are concentrated in states that suffer from a strong presence of organized crime, including, among others, the states of Chihuahua, Guerrero and Sinaloa, visited by the Office of the Special Rapporteur. Though the absence of completed investigations in the great majority of cases makes it impossible to

¹² See, for example, IACHR. Press Release 59/08, "IACHR Issues Preliminary Observations on Visit to Jamaica," December 5, 2008, "Conclusions," available at: http://www.cidh.oas.org/Comunicados/English/2008/59_08eng.htm

¹³ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

¹⁴ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

determine the exact motives and parties responsible for these crimes, the information received by the Office of the Special Rapporteur confirms that in these regions organized crime represents the greatest threat to the life and physical integrity of journalists, especially those who report on local issues of corruption, drug trafficking, organized crime, public security and related matters.

15. In addition, according to the information received, in some regions, violence and intimidation against journalists appears to be carried out by armed groups with presumed links to political factions. Such is the case, for example, of the journalists who were attacked in April 2010 when they were traveling to San Juan Copala, in the state of Oaxaca, as part of a humanitarian convoy, with the aim of carrying reporting on the 2008 murder of community radio journalists Teresa Bautista Merino and Felicitas Martínez Sánchez. During the attack, presumably carried out by an illegal armed group operating in Oaxaca, two activists were killed, while two journalists, one of them with a bullet wound, remained trapped in the area for two days before they could be rescued.

16. The Office of the Special Rapporteur also received numerous allegations of harassment and attacks carried out by members of both the armed forces and the police, against journalists who, in legitimate practice of their profession, try to cover public security issues.

17. Given the gravity of the situation faced by freedom of expression and those who dedicate themselves to journalism in the country, it is a matter of urgency for the Mexican State to adopt a comprehensive policy of prevention, protection and prosecution with the objective of ensuring a free, robust and uninhibited democratic debate.

2. Violence against journalists in 2010

18. In fulfillment of the Office of the Special Rapporteur's mandate to produce an annual report, this section summarizes the principal acts of violence committed against media workers of which the Office of the Special Rapporteur was informed in 2010. These acts took place in a context, as indicated above, of acute violence against Mexican journalists. In particular, it is important to note that the 13 murders of journalists documented below follow the 57 murders that took place, according to the CNDH, between 2000 and 2009.¹⁵

a. Murders

19. On January 11, 2010 the journalist **Valentín Valdés Espinosa**, of the newspaper *Zócalo Saltillo*, was assassinated in the city of Saltillo, state of Coahuila, Mexico.¹⁶

20. According to the information received, on Thursday January 7, 2010, at around 11 pm, a journalist for the local news section of the newspaper *Zócalo Saltillo*, Valentín Valdés Espinosa, was driving together with two fellow reporters along the Boulevard Venustiano Carranza in the city of Saltillo, state of Coahuila. Unknown assailants traveling in two pickups intercepted them and forced them to get out of their car. Valdés Espinosa and another reporter were then kidnapped. The latter was freed several hours later after being beaten. Early the next morning, the lifeless body of Valdés Espinosa was found on the Boulevard Fundadores, in front of the Motel Marbella, with a message.¹⁷

21. Valdés was tortured and shot a number of times, and was found with a placard reading: "This is what will happen to those who don't understand the message is for everyone."

¹⁵ CNDH, Press release CGCP/206/10, July 27, 2010.

¹⁶ Office of the Special Rapporteur for Freedom of Expression – IACHR. January 11, 2010. Press release No. R03/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=779&IID=1>

¹⁷ Office of the Special Rapporteur for Freedom of Expression – IACHR. January 11, 2010. Press release No. R03/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=779&IID=1>

According to the State Public Prosecutor's office, it is assumed that the crime was carried out by persons involved in organized crime.¹⁸ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.¹⁹ In a reply received on November 12, 2010, the State indicated that a criminal investigation was begun by the Office of Prosecutor General's of the Republic (*Procuraduría General de la República*, hereinafter "PGR") on January 8, 2010. This investigation was sent to the PGR's Special Prosecutor's Office for Crimes against Freedom of Expression (hereinafter, "FEADLE") on May 14, 2010 and is still being processed.²⁰

22. In January, 2010, information was received about the murder of the journalist **José Luis Romero** from the radio news program *Línea Directa, Radio Sistema del Noroeste* from the state of Sinaloa. According to information from the CNDH, Romero's disappearance was reported on December 30, 2009, in Los Mochis, Sinaloa.²¹ According to the information received by the Office of the Special Rapporteur, the lifeless body of Romero, who covered police matters, was found on January 16, 2010, at the side of a highway that leads to the city of Los Mochis, in the state of Sinaloa. The autopsy indicated that Romero had been dead for over 15 days when his remains were found. Suspicion falls on the criminal organizations that control drug trafficking along Mexico's northern border.²² Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.²³ In a reply received on November 12, 2010, the State provided information about the investigations undertaken after the death of the journalist, including information requests to various public and private bodies.²⁴ According to the State, the investigation is still being processed by the Public Prosecutor's Office of the state of Sinaloa.²⁵

23. On January 29, 2010, the body of the journalist **Jorge Ochoa Martínez** was found in the municipality of Ayutla de los Libres, in the state of Guerrero. According to the information received the body of the editor of the weeklies *El Sol de la Costa* and *El Oportuno* was found in a private automobile with a gunshot wound to the head.²⁶

24. On March 11, 2010, the Public Prosecutor's Office of the state of Guerrero presented to the public the supposed masterminds of the homicide of Jorge Ochoa Martínez. The Mixtec indigenous men Honorio Herrera Villanueva and David Bravo Jerónimo supposedly planned the homicide of the journalist because he was driving the wrong way down a street and refused to reverse to allow the young men's vehicle to pass. According to the authorities, they

¹⁸ Committee for the Protection of Journalists (CPJ). January 8, 2010. *Mexico: Periodista secuestrado fue hallado muerto*. Available at: <http://cpj.org/es/2010/01/mexico-periodista-secuestrado-fue-hallado-muerto.php>.

¹⁹ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

²⁰ PGR, Memo No. SJA/CAIA/DGCI/2816/2010 of July 20, 2010 and Memo 0000144/FEADLE/2010, Annexes to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²¹ CNDH. Press release CGCP/011/10, January 11, 2010.

²² Office of the Special Rapporteur for Freedom of Expression – IACHR. January 23, 2010. Press release No. R07/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=780&IID=1>; CNDH. Press release of January 11, 2010. CGCP/011/10. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/011.pdf>

²³ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

²⁴ PGR, Memo 0627/2010 of February 5, 2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²⁵ PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²⁶ Office of the Special Rapporteur for Freedom of Expression – IACHR. February 1, 2010. Press release No. R16/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=783&IID=1>; Committee to Protect Journalists (CPJ). February 1, 2010. *Propietario de periódicos mexicano abatido a disparos en Guerrero*. Available at: <http://cpj.org/es/2010/02/propietario-de-periodicos-Mexican-abatido-a-dispa.php>

were “annoyed” and hired a taxi driver to kill the journalist. In the words of the Public Prosecutor’s Office of the state of Guerrero, “it was a chance, fortuitous event.”²⁷

25. On March 16, 2010, Alberto Bravo Jerónimo was arrested, accused by the Public Prosecutor’s Office of the state of Guerrero of being the direct perpetrator of the murder of the journalist Jorge Ochoa. According to the Ministerial authority, the motive for the homicide was a traffic incident. The detainee confirmed the Public Prosecutor’s Office’s allegations in front of the media.²⁸ However, the family of Jorge Ochoa suspect a professional motive, and major NGOs such as Reporters Without Borders (hereinafter, “RSF”) have indicated that the motive given by the Mexican justice system is not credible.²⁹ In a meeting held during the official visit, the Office of the Special Rapporteur asked the authorities in Guerrero to review the criminal hypothesis and not to discard the hypothesis that the homicide may be linked to the journalist’s professional activity until it is exhausted. Similarly, within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case of Jorge Ochoa Martínez.³⁰ In a reply received on November 12, 2010, the State indicated that a criminal investigation was opened by the PGR on January 30, 2010, but that lack of jurisdiction was declared and the case was transferred to the Public Prosecutor’s Office of Guerrero.³¹ It also indicated that the case was being processed in the Court of Combined Jurisdiction of First Instance in the city of Ayutla de los Libres, Guerrero.³² In its observations on the preliminary version of this report, the Mexican State reported that “on December 10, 2010, the judge assigned to the case declared the matter to be ready for judgment, and he is at the point of issuing the final decision.”³³

26. On March 2, 2010, the reporter **Jorge Rábago Váldez** died in a hospital in the state of Tamaulipas. According to the information available, the journalist Jorge Rábago Váldez was one of eight reporters kidnapped in the months of February and March in the city of Reynosa, state of Tamaulipas. The reporter for the radio group *Radio Rey*, *Reporteros en Red* and for the newspaper *La Prensa* was kidnapped on February 19 as he left a party, and on February 20 was brought to the hospital in a state of coma. In this regard, while some local authorities indicated that his death was the natural result of a diabetic coma, several sources on the ground have indicated to major NGOs, such as the Committee to Protect Journalists (hereinafter “CPJ”) and the Inter-American Press Association (hereinafter “IAPA”) that the media worker was found with signs of torture and in a state of coma, a few days before his death.

²⁷ Reporters without Borders. March 15, 2010. *Arrestan a dos sospechosos por el asesinato de un periodista, el móvil señalado es poco creíble*. Available at: <http://es.rsff.org/mexico-un-cuarto-periodista-asesinado-a-15-03-2010.36265>. La Jornada newspaper. March 12, 2010. *Acusan a dos indígenas de provocar asesinato de periodista en Guerrero*. Available at: <http://www.jornada.unam.mx/2010/03/12/index.php?section=estados&article=031n2est>

²⁸ Committee to Protect Journalists (CPJ). *Journalists killed: Jorge Ochoa Martínez*. Available at: <http://cpj.org/killed/2010/jorge-ochoa-martinez.php>. Centro Nacional de Communication Social (CENCOS). March 18, 2010. *Seguimiento hemerográfico No. 867*. Available at: <http://www.cencos.org/es/node/23039>. La Jornada. March 18, 2010. *Presentan a presunto homicida de periodista*. Available at: <http://www.jornada.unam.mx/2010/03/18/index.php?section=states&article=035n7est>

²⁹ Reporters without Borders. March 15, 2010. *Un cuarto periodista asesinado a tiros, no hay reacción efectiva de las autoridades frente a la hecatombe*. Available at: <http://es.rsff.org/mexico-un-cuarto-periodista-asesinado-a-15-03-2010.36265>. La Jornada. March 12, 2010. *Acusan a dos indígenas de provocar asesinato de periodista en Guerrero*. Available at: <http://www.jornada.unam.mx/2010/03/12/index.php?section=states&article=031n2est>

³⁰ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

³¹ PGR, Memo No. SJA/CAIA/DGCI/2816/2010 del 20 de July, 2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

³² PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

³³ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, “Government of Mexico’s Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights,” received on February 3, 2011.

27. Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case of Jorge Rábago Véldez.³⁴ In a reply received on November 12, 2010, the State indicated that the journalist entered the General Hospital of Reynosa as an unknown person on February 22, and was transferred to the Christus Muguerza Hospital on February 26. He died in this latter hospital on March 2; the autopsy undertaken revealed “multiple blunt trauma injuries with hematoma” and established the cause of death as “hypovolaemic shock due to intracranial and thoracic injury.”³⁵ The State also informed that on March 11, 2010, the PGR opened a criminal investigation for the crime of kidnapping, while the Public Prosecutor’s Office of Tamaulipas opened a criminal investigation for the crime of illegal privation of liberty and other rights, as well as another criminal investigation for the crime of homicide.³⁶ Finally, the State also provided information about the progress made in the investigation carried out by the Public Prosecutor’s Office of the state of Tamaulipas up until June 25, 2010.³⁷ The forensic medical analysis concluded that the death of the journalist was the consequence of “diffuse cerebral edema secondary to hemorrhaging cerebral contusions, intraparenchymatous hematoma of the left frontal region, subarachnoid hemorrhaging in the interhemispheric fissure and the upper left occipital region, acute subdural hematoma in the right occipital region, as a consequence of craneoencephalic trauma.”³⁸

28. On March 12, 2010, the lifeless body of journalist **Evaristo Pacheco Solís** was found in the city of Chilpancingo, capital of the state of Guerrero. According to the information received the reporter for the local weekly *Visión Informativa* received five gunshots from a low-caliber firearm, one of them in the head. His body was abandoned on a rural road.³⁹ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.⁴⁰ In a reply received on November 12, 2010, the State indicated that the investigation is being processed by the Public Prosecutor’s Office of the state of Guerrero, and provided information about the procedures undertaken by this entity up until May 31, 2010, which include the removal of the body, the collection of witness statements, forensic analysis and ministerial attestation of cell phone calls and SMS messages.⁴¹

29. On April 10, 2010, **Enrique Villicaña Palomares**, a columnist for the newspaper *La Voz de Michoacán* and a university professor, was found dead in Morelia, state of Michoacán.

³⁴ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

³⁵ State Public Prosecutor’s Office of Tamaulipas, answer to memo UPDDH/911/3793/2010 of June 25, 2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

³⁶ PGR, Memo No. SJAI/CAIA/DGCI/2817/2010 of July 20, 2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

³⁷ State Public Prosecutor’s Office of Tamaulipas, answer to memo UPDDH/911/3793/2010 of June 25, 2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

³⁸ State Public Prosecutor’s Office of Tamaulipas, answer to memo UPDDH/911/3793/2010 of June 25, 2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

³⁹ Committee to Protect Journalists (CPJ). March 15, 2010. *Mexican Reporter shot to death in Guerrero*. Available at: <http://cpj.org/2010/03/mexican-reporter-shot-to-death-in-guerrero.php>. UNESCO. March 24, 2010. *UNESCO Director-General condemns murder of another journalist in Mexico*. Available at: http://www.unesco.org/new/en/media-services/single-view/news/unesco_director_general_condemns_murder_of_another_journalist_in_mexico/back/18256/. International Freedom of Speech Exchange (IFEX). March 16, 2010. *Journalist shot to death in Guerrero*. Available at: http://www.ifex.org/mexico/2010/03/16/pacheco_solis_killed/. El Universal. March 15, 2010. *Reportan Cuarto Periodista Asesinado en 2010*. Available at: <http://www.eluniversal.com.mx/notas/666158.html>

⁴⁰ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁴¹ PGR, Memo 0000144/FEADLE/2010 and State Public Prosecutor’s Office of Guerrero, Memo No. PGJE/FRZC/668/2010 of May 31, 2010, Annexes to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

According to the information received, weeks before his disappearance Villicaña Palomares, who reported on attacks by armed groups against local indigenous groups, had reported the threats he had received to the Public Prosecutor's Office of the state of Michoacán.⁴² Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.⁴³ In a reply received on November 12, 2010, the State indicated that the investigation is being processed by the Public Prosecutor's Office of the state of Michoacán.⁴⁴

30. On June 28, 2010, **Juan Francisco Rodríguez Ríos**, correspondent for the newspaper *El Sol de Acapulco*, and **Elvira Hernández Galeana**, editor of the weekly *Nueva Línea*, were shot to death in Coyuca de Benítez, state of Guerrero, when two armed individuals entered the Internet café owned by the murdered reporters. Rodríguez Ríos was also a local leader of the National Press Workers' Syndicate. A few hours before his murder, Rodríguez Ríos had covered the 15th anniversary of the Aguas Blancas Massacre of 1995 in which 17 farm workers died in events that implicated the Guerrero state police force. The Public Prosecutor's Office of the state of Guerrero opened a criminal investigation into the case of the journalist Juan Francisco Rodríguez Ríos.⁴⁵ During the on-site visit the judicial authorities of the state of Guerrero confirmed that the investigation is pursuing a course unrelated to the reporters' profession.⁴⁶ Once again, the Office of the Special Rapporteur insisted on the importance of there being special protocols for investigations that oblige the authorities not to discard, until exhausted, the hypothesis that the homicide is connected with the professional activities of the journalist. Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.⁴⁷ In a reply received on November 12, 2010, the State indicated that the investigation is currently being processed by a state criminal judge in Guerrero.⁴⁸

31. On July 6, 2010, the journalist **Hugo Alfredo Olivera Cartas** was found dead near the city of Apatzingán, in the state of Michoacán. According to the information received, the police found the journalist's body inside his vehicle at 3 a.m., with gunshot wounds to his head. Olivera had gone out to cover a story, but never returned home. The journalist was editor of the newspaper *El Día de Michoacán* and director of the regional news agency *ADN*; he was also a correspondent and contributor to various regional and national news outlets. Olivera wrote about policing and political issues. According to information from Mexican and international press

⁴² Reporters without Borders. April 11, 2010. *Cuestionada de nuevo la pasividad de las autoridades tras el asesinato de un periodista en Michoacán*. Available at: <http://es.rsf.org/mexico-cuestionada-de-nuevo-la-pasividad-11-04-2010-36977.html>. Inter-American Press Association (IAPA). April 15, 2010. *SIP pide indagar recientes asesinatos en Colombia, Honduras y México*. Available at: <http://www.sipiapa.org/v4/index.php?page=cont Comunicaciones&seccion=detalles&id=4361&idioma=sp>. International Freedom of Expression Exchange (IFEX). April 14, 2010. *More journalists abducted and murdered*. Available at: http://www.ifex.org/mexico/2010/04/14/abducted_killed/

⁴³ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁴⁴ PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

⁴⁵ Office of the Special Rapporteur for Freedom of Expression – IACHR. July 2, 2010. Press release No. R66/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=803&IID=1>; See also CNDH. Press release CGCP/178/10, June 29, 2010. Available at: http://www.cndh.org.mx/comsoc/compre/2010/COM_2010_0178.pdf. Committee to Protect Journalists (CPJ). *Journalists Killed: Juan Francisco Rodríguez Ríos*. Available at: <http://cpj.org/killed/2010/juan-francisco-rodriguez-rios.php>. Article 19. June 30, 2010. *Mexico: Matan a otro periodista en el estado de Guerrero*. Available at: <http://www.articulo19.org/articulo/node/89>

⁴⁶ Information provided to the Office of the Special Rapporteur by authorities of the Guerrero State executive branch, August 22, 2010.

⁴⁷ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁴⁸ PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

organizations, in the early morning of July 6, 2010, unidentified persons entered the offices of *El Día de Michoacán* and stole computers and memory devices.⁴⁹

32. Olivera had presented an allegation to the CNDH on February 18, 2010, alleging physical assault by officers of the Federal Preventive Police when he was on his way to cover an armed confrontation between alleged members of criminal organizations and the police in the community of Chiquihuitillo, state of Michoacán.⁵⁰ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.⁵¹ In a reply received on November 12, 2010, the State indicated that the investigation is currently being processed by the FEADLE.⁵²

33. On July 10, 2010, journalist **Marco Aurelio Martínez Tijerina**, from the radio station XEDD *Radio La Tremenda*, in Morelia, state of Michoacán, was found dead with a gunshot to the head. According to the information received by the Office of the Special Rapporteur, Martínez Tijerina was kidnapped in this city on the night of Friday July 9, 2010.⁵³ Martínez covered political stories and also worked as a correspondent for national news outlets. In the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.⁵⁴ In a reply received on November 12, 2010, the State indicated that the investigation is currently being processed by the FEADLE.⁵⁵

34. On July 10, 2010, the audiovisual producer and cameraman, **Guillermo Alcaraz Trejo**, was assassinated by masked individuals as he left the offices of the newspaper *Omnía*, in Chihuahua city, state of Chihuahua, where he was visiting former colleagues. Alcaraz was responsible for the production of educational programs at the Chihuahua State Human Rights Commission.⁵⁶ In the framework of its visit, the Office of the Special Rapporteur requested

⁴⁹ Office of the Special Rapporteur for Freedom of Expression – IACHR. July 8, 2010. Press release No. R67/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=804&IID=1>; CNDH. Press release CGCP/185/10, July 6, 2010. Available at: http://www.cndh.org.mx/comsoc/compre/2010/COM_2010_0185.pdf; RSF. July 7, 2010. *Otro periodista es asesinado en el estado de Michoacán*. Available at: <http://es.rsf.org/mexico-otro-periodista-es-asesinado-en-el-07-07-2010.37891.html>; Committee to Protect Journalists (CPJ). July 6, 2010. *Mexican Reporter shot to death in Michoacán state*. Available at: <http://cpj.org/2010/07/mexican-reporter-shot-to-death-in-michoacan-state.php>.

⁵⁰ Reporters without Borders. July 7, 2010. *Otro periodista es asesinado en el estado de Michoacán*. Available at: <http://es.rsf.org/mexico-otro-periodista-es-asesinado-en-el-07-07-2010.37891.html>; CPJ. July 6, 2010. *Mexican Reporter shot to death in Michoacán state*. Available at: <http://cpj.org/2010/07/mexican-reporter-shot-to-death-in-michoacan-state.php>; Committee to Protect Journalists (CPJ). June 7, 2010. *Federal forces in Mexico increasingly harass journalists*. Available at: <http://cpj.org/2010/06/federal-forces-in-mexico-increasingly-harass-journ.php>.

⁵¹ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁵² PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

⁵³ Office of the Special Rapporteur for Freedom of Expression – IACHR. July 5, 2010. Press release No. R70/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=805&IID=1>; See also CNDH. Press release CGCP/192/10, July 12, 2010. Available at: http://www.cndh.org.mx/comsoc/compre/2010/COM_2010_0192.PDF; UNESCO. July 22, 2010. *Director-General condemns murder of two Mexican journalists*. Available at: http://portal.unesco.org/ci/en/ev.php-URL_ID=30675&URL_DO=DO_TOPIC&URL_SECTION=201.html; Committee to Protect Journalists (CPJ). *Journalists Killed: Marco Aurelio Martínez Tijerina*. Available at: <http://cpj.org/killed/2010/marco-aurelio-martinez-tijerina.php>; International Freedom of Expression Exchange (IFEX). July 12, 2010. *Radio journalist found dead in Nuevo León; cameraman killed in Chihuahua*. Available at: http://www.ifex.org/mexico/2010/07/12/two_journalists_killed/; La Jornada. July 12, 2010. *Asesinan a periodista en Monterrey*. Available at: <http://www.jornada.unam.mx/2010/07/12/index.php?section=politica&article=012n2pol>.

⁵⁴ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁵⁵ PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

⁵⁶ Office of the Special Rapporteur for Freedom of Expression – IACHR. July 5, 2010. Press release No. R70/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=805&IID=1>; UNESCO. July 22, 2010. *Director-General condemns murder of two Mexican journalists*. Available at: http://portal.unesco.org/ci/en/ev.php-URL_ID=30675&URL_DO=DO_TOPIC&URL_SECTION=201.html; International Freedom of Expression Exchange (IFEX). July 12, 2010. *Radio journalist found dead in Nuevo León; cameraman killed in Chihuahua*. Available at: http://www.ifex.org/mexico/2010/07/12/two_journalists_killed/.

detailed information from the Mexican State about the case.⁵⁷ In a reply received on November 12, 2010, the State indicated that the investigation is currently being processed by the FEADLE.⁵⁸

35. On September 16, 2010, two photographers at *El Diario* newspaper were attacked in Ciudad Juárez, Chihuahua. The attack led to the death of **Luis Carlos Santiago** and injured his colleague **Carlos Sánchez Colunga**. According to the information received, unknown individuals opened fire on the two press photographers for *El Diario* when they were in a public parking lot in Ciudad Juárez. Luis Carlos Santiago died at the scene while his wounded colleague was transferred to a hospital.⁵⁹ On the occasion of the murder of Luis Carlos Santiago the Office of the Special Rapporteur reminded the Mexican State of its obligation to prevent and to investigate such acts, punish those responsible and guarantee the victims receive suitable reparations.⁶⁰

36. On November 5, 2010, the journalist **Carlos Guajardo Romero** died in the city of Matamoros, Tamaulipas, during a major military operation against drugs traffickers. According to the information received, Carlos Guajardo worked as a reporter on public security issues for the newspaper *Expreso Matamoros*. Around midday on Friday, November 5, the reporter was covering an armed confrontation between the army and criminal organizations in the center of the city, in the course of which a leader of the Gulf Cartel, Antonio Ezequiel Cárdenas Guillén, was killed. After gathering information at the site of the confrontation, the media worker was found dead with bullet wounds.⁶¹ On the occasion of the death of Carlos Guajardo Romero the Office of the Special Rapporteur requested the Mexican State carry out a diligent, rigorous, independent and transparent investigation that clarifies the circumstances in which the journalist died.⁶²

b. Disappearances and Kidnappings

37. In March 2010 it was learned that eight journalists had been kidnapped in different events over the previous two weeks in the city of Reynosa, state of Tamaulipas. By the time the kidnappings were learned of, five journalists were still missing, two had been freed after being beaten and forced to return to Mexico City, and the reporter Jorge Rábago Váldez had been killed (see *supra*).⁶³

⁵⁷ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁵⁸ PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

⁵⁹ Office of the Special Rapporteur for Freedom of Expression- IACHR. September 17, 2010. Press release No. R95/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=819&IID=1>. Reporters without Borders. 17 de September, 2010. *Violencia contra periodistas no tiene fin*. Available at: <http://es.rsf.org/mexique-la-violencia-contra-los-17-09-2010.38401.html>

⁶⁰ Office of the Special Rapporteur for Freedom of Expression – IACHR. September 17, 2010. Press release No. R95/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=819&IID=1>

⁶¹ Office of the Special Rapporteur for Freedom of Expression – IACHR. November 9, 2010. Press release No. R111/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=825&IID=1>. Committee to Protect Journalists (CPJ). November 8, 2010. *Reportero mexicano muere en fuego cruzado en Matamoros*. Available at: <http://cpj.org/es/2010/11/reportero-mexicano-muere-en-fuego-cruzado-en-matam.php>. La Jornada. November 7, 2010. *Repudia El Expreso el asesinato de su reportero y demanda investigación eficaz*. Available at: <http://www.jornada.unam.mx/2010/11/07/index.php?section=politica&article=006n1pol>. El Universal. November 5, 2010. *Muere reportero en enfrentamiento en Matamoros*. Available at: <http://www.eluniversal.com.mx/notas/721490.html>. El Universal. November 6, 2010. *CNDH abre expediente por muerte de periodista*. Available at: <http://www.eluniversal.com.mx/notas/721671.html>

⁶² Office of the Special Rapporteur for Freedom of Expression – IACHR. November 9, 2010. Press release No. R111/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=825&IID=1>

⁶³ Office of the Special Rapporteur for Freedom of Expression – IACHR. March 11, 2010. Press release No. R28/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=786&IID=1>

38. Of the kidnapped journalists, on March 9, 2010, the Tamaulipas State Public Prosecutor's Office had confirmed the disappearance of **Miguel Ángel Domínguez Zamora**, reporter for the Reynosa newspaper *El Mañana*. According to the investigating authorities, the family of Domínguez had reported his disappearance. Meanwhile, two journalists from the *Multimedios Milenio* channel who had been sent to cover the violent events occurring in the city of Reynosa had been kidnapped on March 3, 2010, and freed the following day on the condition they left the city. The other journalists remain missing.⁶⁴ Two of them are the reporters **Pedro Arguello Reyna** and **David Silva**, both from the newspapers *El Mañana* and *La Tarde*.⁶⁵ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State on the cases of Domínguez, Arguello and Silva.⁶⁶ In a reply received on November 12, 2010, the State indicated that these cases were "awaiting documentation by the FEADLE."⁶⁷

39. On April 12, 2010, the disappearance was reported of journalist **Ramón Ángeles Zalpa**, correspondent in the city of Paracho for the newspaper *Cambio de Michoacán*, state of Michoacán. According to the information received, Ramón Ángeles Zalpa was seen for the last time on April 6, 2010, when he was traveling in his car to the Universidad Pedagógica Nacional, in the city of Paracho, where he was a lecturer. According to the sources consulted, before his disappearance, the journalist was in charge of covering issues relating to organized crime. He had recently written about an armed assault suffered by an indigenous family near the municipalities of San Juan Nuevo and Angahuan, allegedly at the hands of a criminal gang. According to the information received, Ángeles Zalpa had received strange phone calls at his house shortly before his disappearance.⁶⁸ In the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.⁶⁹ In a reply received on November 12, 2010, the State indicated that the investigation is currently being processed by the Public Prosecutor's Office of Michoacán.⁷⁰

40. On April 20, 2010, **Evaristo Ortega Zárate**, director of the weekly *Espacio*, from Colipa, Veracruz, disappeared in the city of Jalapa, state of Veracruz. According to the information received by the Office of the Special Rapporteur, Irene Ortega Zárate, the sister of the weekly's director, received messages on her cell phone in which her brother alerted that he had been detained by police in Jalapa, Veracruz. The messages read: "Tell everybody", "they've arrested us", "they're taking us in a patrol car towards Veracruz." At the time of his disappearance Evaristo Ortega Zárate was a prospective candidate for mayor of Colipa for the National Action

⁶⁴ Committee to Protect Journalists (CPJ). March 11, 2010. *Violencia del Narcotráfico pone en peligro prensa en Reynosa*. Available at: <http://cpj.org/es/2010/03/violencia-del-narcotrafico-pone-en-peligro-a-la-pr.php>. Reporters without Borders. March 10, 2010. *Ola de violencia en el estado de Tamaulipas: un periodista desaparecido entre otros casos*. Available at: <http://es.rsrf.org/mexico-ola-de-violencia-en-el-estado-de-10-03-2010.36683>. International Freedom of Expression Exchange (IFEX). March 17, 2010. *Eight journalists abducted, two killed*. Available at: http://www.ifex.org/mexico/2010/03/17/abductions_eight/. Zócalo magazine. May 3, 2010. *Los periodistas desaparecidos en Reynosa*. Available at: http://www.revistazocalo.com.mx/index.php?option=com_content&view=article&id=553&Itemid=2

⁶⁵ Committee to Protect Journalists (CPJ). *Silence or Death in Mexico's Press* (New York: CPJ, 2010), appendix 2. Available at: http://cpj.org/reports/cpj_mexico_english.pdf

⁶⁶ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁶⁷ PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

⁶⁸ Office of the Special Rapporteur for Freedom of Expression – IACHR. April 12, 2010. Press release No. R41/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=793&IID=1>. See CNDH. Press release CGCP/095/10, April 9, 2010. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/095.pdf>

⁶⁹ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁷⁰ PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

Party (PAN).⁷¹ On April 22, 2010, the Veracruz State Secretary for Public Security ruled out the possibility that agents working for the entity had participated in the disappearance of the journalist. According to information from NGOs such as IFEX the president of the Veracruz State Human Rights Commission made a declaration on April 22, 2010, about the disappearance of Ortega Zárate, as follows:

I don't even know his name, and I don't think you do either. I didn't know that he was a journalist or had any involvement with journalism, but I would have thought that for an act of repression of this kind to occur he would have to be a very important figure, and I don't think that's the case. He's not someone we know about here in this state. He's the (aspirant) to a post in a village in a tiny little municipality, that's how I'd view the matter.⁷²

In the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.⁷³ In a reply received on November 12, 2010, the State indicated that the investigation was currently being processed by the Public Prosecutor's Office of the state of Veracruz.⁷⁴

41. On June 29, 2010, the journalist **Ulises González García**, director of the weekly *La opinión*, from the city of Jerez, Zacatecas, was kidnapped. According to the information received, the kidnappers demanded a large ransom.⁷⁵ On August 9 the reporter was freed and immediately taken to hospital, showing signs of torture.⁷⁶

42. On July 26, 2010, Televisa cameraman **Alejandro Hernández** and reporter **Héctor Gordo**, together with cameraman **Jaime Canales** from *Multimedios Laguna*, and reporter **Óscar Solís** of the newspaper *El Vespertino* were kidnapped in the lagoon region that includes part of the state of Durango and the neighboring state of Coahuila. According to the information received Alejandro Hernández, Jaime Canales and Héctor Gordo were kidnapped on the afternoon of July 26, 2010, while they were making a news report about a prison in Gómez Palacio, state of Durango. The reporter from *El Vespertino*, Oscar Solís, was kidnapped separately, also on July 26, 2010 and was held captive together with the other reporters.⁷⁷ Two media workers were set free by their captors: the reporter Oscar Solís of *El Vespertino* was freed on July 27, 2010, and Héctor Gordo was liberated on July 29, 2010. Subsequently, the two

⁷¹ Reporters without Borders. April 23, 2010. *Un periodista avisa a través de un mensaje de su secuestro por parte de la policía de Veracruz*. Available at: <http://es.rsf.org/mexico-un-periodista-avisa-a-traves-de-un-23-04-2010.37137.html>; Arcano Político. May 3, 2010. *Afianzan mordaza de sangre*. Available at: http://www.arcanopolitico.com/index.php?option=com_content&view=article&id=3154:afianzan-mordaza-de-sangre&catid=89:analisis-arcano-politico&Itemid=85

⁷² International Freedom of Expression Exchange (IFEX). April 23, 2010. *Another journalist missing: police may be implicated in his disappearance*. Available at: http://www.ifex.org/mexico/2010/04/23/ortega_missing/. La Jornada. April 23, 2010. *La SSP-Veracruz niega relación con secuestro de periodista y precandidato*. Available at: <http://www.jornada.unam.mx/2010/04/23/index.php?section=states&article=037n2est>

⁷³ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁷⁴ PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

⁷⁵ Reporters without Borders. August 3, 2010. *Una desaparición y un exilio después de cuatro liberaciones al final de un trágico mes de julio*. Available at: <http://es.rsf.org/mexico-una-desaparicion-y-un-exilio-03-08-2010.38088.html>. La Jornada. July 29, 2010. *Levantán en Zacatecas al director del diario regional La Opinión*. Available at: <http://www.jornada.unam.mx/2010/07/29/index.php?section=politica&article=016n2pol>

⁷⁶ Reporters without Borders. August 11, 2010. *Reaparece vivo Ulises González*. Available at: <http://www.rsf-es.org/news/mexico-reaparece-vivo-ulises-gonzalez/>. Agencia EFE de America. August 11, 2010. *Reporteros Sin Fronteras celebra la liberación del director del Semanario Mexicano "La Opinión"*. Available at: http://www.efeamerica.com/286_mexico/802610_rsf-celebra-la-liberacion-del-director-del-semanario-Mexican-la-opinion-.html

⁷⁷ Office of the Special Rapporteur for Freedom of Expression – IACHR. August 4, 2010. Press release No. R78/10. Available at: <http://cidh.org/relatoria/showarticle.asp?artID=806&IID=2>; Committee to Protect Journalists (CPJ). August 2, 2010. *Liberan en México a periodistas secuestrados*. Available at: <http://cpj.org/es/2010/08/liberan-en-mexico-a-reporteros-secuestrados.php>

journalists still held captive, Javier Canales and Alejandro Hernández, were found on July 31, 2010, by the Federal Police.⁷⁸ At the time of the events the Office of the Special Rapporteur requested information from the Mexican State and called upon it to do everything in its power to save the lives of these four individuals, and later urged the State to identify and try those responsible for these crimes.⁷⁹

43. According to the information received, the reporters were covering the protests by prisoners and their families at the Social Readaptation Center No. 2 in Gómez Palacio, Durango, who were demanding the reinstatement of its director.⁸⁰ Around six in the evening, the media workers appear to have telephoned their editors to alert them that they were being held by a criminal group that objected to the news coverage that had been given to the dispute up to that point.⁸¹ The cameraman from *Multimedios* indicated in his call that the condition set by their captors for freeing them was for three so-called *narco-blog* videos to be broadcast during the midday news of the local channel belonging to *Grupo Milenio*.⁸² To save the lives of the kidnapped media workers, the media were at first obliged to accept impositions on their editorial content and to censor themselves in order to avoid any possibility of worsening the situation of the victims.⁸³ However, faced with a refusal to free all the captured journalists, the media refused to disseminate the material imposed on them.

44. According to information from the Public Security Ministry, on August 5, 2010, in Gómez Palacio, Durango, Federal Police agents detained **Jesús Antonio Villa Nevarez**, 25, **Gilberto Cervantes Pinto**, 33, and **Óscar Manuel Gutiérrez Gómez**, 23, on suspicion of involvement in the kidnapping of the reporters on July 26, 2010. Those detained had in their possession a suitcase with a video camera and microphone, as well as a number of documents belonging to the kidnapped reporters. According to the investigations the detainees belonged to the drug trafficking organization known as the “Pacific Cartel” or the “Sinaloa Cartel.” The detainees made a declaration to the authorities that the motive for the kidnapping was to send out a message denouncing alleged corruption among the local authorities in favor of opposing criminal groups.⁸⁴

45. Meanwhile, the Office of the Special Rapporteur received information indicating that one of the kidnapped journalists, *Televisa* cameraman Alejandro Hernández, has had to seek refuge in the United States after he was freed. According to information reported in the press and

⁷⁸ BBC Mundo. Mexico: July 31, 2010. *México: Rescatan a periodistas secuestrados en Durango*. Available at: http://www.bbc.co.uk/mundo/america_latina/2010/07/100731_2244_rescatan_periodistas_secuestrados_mexico_televisa_fp.shtml. Milenio. July 30, 2010. *Exige Segob liberación de periodistas secuestrados*. Available at: <http://www.milenio.com/node/498691>

⁷⁹ Office of the Special Rapporteur for Freedom of Expression – IACHR. August 4, 2010. Press release No. R78/10. Available at: <http://www.cidh.org/relatoria/showarticle.asp?artID=806&IID=2>

⁸⁰ International Freedom of Expression Exchange (IFEX). August 3, 2010. *Four journalists released after being held for six days by criminals*. Available at: http://www.ifex.org/mexico/2010/08/03/journalists_released/. Milenio. July 28, 2010. *Levantán a 4 reporteros y camarógrafos en Durango*. Available at: <http://www.milenio.com/node/496609>

⁸¹ Milenio. July 28, 2010. *Levantán a 4 reporteros y camarógrafos en Durango*. Available at: <http://www.milenio.com/node/496609>. New York Times. July 29, 2010. *Mexican Journalists' Captors demand Broadcast of Videos*. Available at: http://www.nytimes.com/2010/07/29/world/americas/29mexico.html?_r=2&ref=global-home

⁸² Milenio. July 28, 2010. *Levantán a 4 reporteros y camarógrafos en Durango*. Available at: <http://www.milenio.com/node/496609>

⁸³ Office of the Special Rapporteur for Freedom of Expression – IACHR. August 4, 2010. Press release No. R78/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=806&IID=1>. International Freedom of Expression Exchange (IFEX). August 3, 2010. *Four journalists released after being held for six days by criminals*. Available at: http://www.ifex.org/mexico/2010/08/03/journalists_released/. Milenio. July 28, 2010. *Levantán a 4 reporteros y camarógrafos en Durango*. Available at: <http://www.milenio.com/node/496609>

⁸⁴ Mexican President's Office. Communication 449, August 5, 2010. Available at: <http://presidencia.gob.mx/?DNA=85&page=1&Prensa=15137&Contenido=59152>. La Jornada. August 6, 2010. *Presenta la PF a tres presuntos plagiarios de cuatro periodistas*. Available at: <http://www.jornada.unam.mx/2010/08/06/index.php?section=politica&article=005n1pol>

a letter written by the reporter himself, he sought refuge “because the government displayed us like hunting trophies at a press conference and we received threatening calls at our house for having contradicted [Public Security Secretary, Genaro] García Luna about the fact that it wasn’t the Federal Police who freed us, and that he lied when he said they would protect us.”⁸⁵

c. Attacks and Harassment

46. According to the information received, on January 21, 2010, **Juan Aparicio Sebastián** received a death threat from the Deputy Inspector of the State Border Patrol (hereinafter, “PEF”) in Tapachula, Chiapas. According to the information received by the Office of the Special Rapporteur, while reporting on a search being carried out by the PEF, the reporter met with the Deputy Inspector of the PEF, who insulted and threatened him. The magazine *El Observador*, edited by Aparicio Sebastián, had published allegations of extortions, thefts, kidnapping, and illegal detentions committed by a number of PEF agents. According to the information received, the then-Office of the Special Prosecutor for Crimes against Journalists assumed the investigation.⁸⁶

47. According to the information received, on January 21, 2010, **Armando Suárez Martínez**, editor of the magazine *Puerto Viejo*, was subject to illegal detention and threats by Yuan Yee Cunningham, Municipal President of Loreto, state of Baja California Sur, and various members of his administration. According to the information received, Suárez Martínez was in the Press Department of Loreto’s Municipal Offices when the municipal president and other officials arrived and began to insult and beat him. He was then forced to get into a vehicle of the Department of Public Security and Transit and taken somewhere else where the beatings and death threats continued. According to the information received, the officials forced Suárez Martínez to offer apologies and promise not to criticize the municipal authorities before later being freed, after four and a half hours.⁸⁷ The State informed the Office of the Special Rapporteur that on January 28, 2010, the PGR launched a criminal investigation for the crime of illegal detention and other possible crimes, and on March 26, 2010, a criminal investigation was filed for the crimes of making threats and physical assault.⁸⁸

48. According to the information received, on January 27, 2010, **journalists from the radio broadcasting group Organización Impulsora de Radio** (hereinafter OIR) were threatened via a message left beside an OIR vehicle which was set on fire in Los Mochis, Sinaloa. On arriving at the burnt-out vehicle, the police saw a message written on a piece of cloth that said: “The same thing will happen to all reporters. We’ll burn you. Signed: La Mochomera.”⁸⁹ Directors of the OIR filed a report with Sinaloa’s Public Prosecutor’s Office.

⁸⁵ Proceso. December 15, 2010. *Periodistas en el olvido*. Available at: <http://www.proceso.com.mx/rv/modHome/detalleExclusiva/86410>. La Jornada. September 17, 2010. “Montaje” de la SSP, el “rescate” de un camarógrafo de Durango, acusan. Available at: <http://www.jornada.unam.mx/2010/09/17/index.php?section=politica&article=018n2pol>. El Paso Times. September 15, 2010. ‘I’m scared for my life’: Televisa cameraman seeks asylum in US. Available at: http://www.elpasotimes.com/news/ci_16077238. Periodistas de a Pie. December 15, 2010. *Colecta navideña para apoyar a nuestros colegas en el exilio*. Available at: <http://periodistasdeapie.wordpress.com/2010/12/15/colecta-navidena-para-apoyar-a-nuestros-colegas-en-exilio/>

⁸⁶ International Freedom of Expression Exchange (IFEX). January 29, 2010. *Police commander threatens magazine editor in Chiapas*. Available at: http://www.ifex.org/mexico/2010/01/29/aparicio_sebastian_death_threat/

⁸⁷ Centro de Journalism and Ética Pública (CEPET)/IFEX. February 2, 2010. *Magazine editor abducted, beaten and threatened by mayor and municipal employees*. Available at: http://ifex.org/mexico/2010/02/02/suarez_martinez_death_threat/. La Jornada. January 27, 2010. *Edil de Loreto agrade y amenaza a periodista*. Available at: <http://www.jornada.unam.mx/2010/01/28/index.php?section=states&article=031n2est>

⁸⁸ PGR, Doc. No. SJA/CAIA/DGCI/2816/2010 of July 20, 2010, Annex to Communication OEA-02567 from Mexico’s Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

⁸⁹ International Freedom of Expression Exchange (IFEX). February 1, 2010. *Broadcasting corporation’s vehicle set on fire, journalists threatened*. Available at: http://www.ifex.org/mexico/2010/02/01/oir_fire/. La Jornada. January 28, 2010. *Edil de Loreto agrade y amenaza a periodista*. Available at:

49. On February 4, 2010, an attack was carried out on the home of journalist **Rafael Martínez de Escobar**, director of the newspaper *Tabasco al Día*, in Villahermosa, Tabasco. According to the information received by the Office of the Special Rapporteur, unknown assailants threw three Molotov cocktails which landed where the reporter had set up a billboard accusing officials of the state oil company PEMEX of corruption. Only one of the bombs exploded.⁹⁰ The State informed the Office of the Special Rapporteur that on February 10, 2010, the PGR opened a criminal investigation for the crime of damaging private property.⁹¹

50. On February 10, 2010, the Office of the Special Rapporteur obtained information from the CNDH, according to which journalists **Carlos Dueñas** and **Guillermo González**, correspondent and cameraman, respectively, at Televisa Tijuana were allegedly assaulted by police in Veracruz.⁹²

51. According to the information received, on February 16, 2010, the photographers for the newspaper *AZ* **Víctor Hugo Yáñez Ramos** and **Estaban Rodríguez Rodríguez** were beaten and had their camera equipment taken from them by various police officers of the state of Veracruz Public Security Secretariat while they reported on a concert. According to the information received, the damage to the cameras was compensated by the state government, after intervention by the State Commission for the Defense of Journalists. However, the journalists have received no response following their report filed with the Public Prosecutor's Office.⁹³ Within the framework of its visit, the Office of the Special Rapporteur requested the State provide complete information about the case.⁹⁴

52. According to the information received, on February 17, 2010, the reporters **Daniel Domínguez** and **Oscar Amaya** of *Radio 860*; **Carlos Moreno** of the online media site *La Polaka*; **Miguel Lozano** of *Radio Net 1490*; and **David Fuentes** of local channel *Canal 5*, also a correspondent for the Notimex agency, were assaulted by Federal Police and members of the Presidential Guard. According to information from the CNDH office in Ciudad Juárez, the media workers were beaten and had their camera equipment seized, allegedly by federal officials, while covering protests by youths in Ciudad Juárez, in the state of Chihuahua, in response to a visit by President Calderón and a business delegation, who were meeting with local authorities to define

<http://www.jornada.unam.mx/2010/01/28/index.php?section=states&article=031n2est>. Milenio. January 28, 2010. *Sinaloa: queman vehículo a dueña de radiodifusora*. Available at: <http://impreso.milenio.com/node/8710602>

⁹⁰ International Freedom of Expression Exchange (IFEX). February 8, 2010. *Bombs thrown at journalist's home in Tabasco*. Available at: http://www.ifex.org/mexico/2010/02/08/martinez_de_escobar_attack/. Proceso. February 4, 2010. *Atacan con bombas molotov la casa del director de Tabasco al Día*. Available at: <http://www.proceso.com.mx/rv/modHome/pdfExclusiva/76203>. La Jornada. February 5, 2010. *Atacan casa del director de Tabasco al Día*. Available at: <http://www.jornada.unam.mx/2010/02/05/index.php?section=states&article=031n4est>

⁹¹ PGR, Doc. No. SJA/CAIA/DGCI/2816/2010 of July 20, 2010, Annex to Communication OEA-02567 from Mexico's Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

⁹² CNDH. Press release CGCP/037/10, February 10, 2010. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/037.pdf>

⁹³ Centro de Periodismo y Ética Pública (CEPET)/IFEX. April 12, 2010. *Elementos de Seguridad Pública de Veracruz golpean y roban a fotógrafos*. Available at: http://www.ifex.org/mexico/2010/04/15/veracruz_periodistas/es/. CEPET. April 12, 2010. *Elementos de Seguridad Pública de Veracruz agreden y despojan a fotógrafos*. Available at: <http://libexmexico.wordpress.com/2010/04/page/2/>

⁹⁴ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

the security strategy to be implemented in the city.⁹⁵ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.⁹⁶

53. The CNDH reported that on February 18, 2010, **eight journalists** were victims of defamatory texts posted on the Internet, and three others received threats.⁹⁷ The CNDH began an investigation into the reporters' claims.⁹⁸

54. According to the information received, on February 18, 2010, federal police officers assaulted reporter **Hugo Alfredo Olivera Cartas** from the newspaper *La Voz de Michoacán* when he was on his way to cover an armed confrontation in Chiquihuitillo, in the state of Michoacán. Olivera reported the incident to the CNDH.⁹⁹ The reporter Hugo Alfredo Olivera Cartas was later murdered on July 6, 2010 (see *supra*). Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State on the physical assault on Olivera Cartas on February 18.¹⁰⁰ In a reply received on November 12, 2010, the State reported that the Public Security Ministry, through its Human Rights Department and the Federal Police's Internal Affairs Department, requested a report on the events from the operational departments and carried out a number of inquiries.¹⁰¹ The Ministry also indicated that the Federal Police's operational departments denied the journalist's accusations and that both the CNDH and the investigation departments of the Ministry and the Federal Police were continuing their investigations.¹⁰²

55. According to the information received, on February 19, 2010, **Irma Nelly Vázquez Colorado**, newspaper reporter for *La Opinión de Poza Rica*, was assaulted and threatened by staff allegedly from the local penitentiary in Misantla, Veracruz. According to the information available, the reporter, accompanied by other colleagues, was reporting on a supposed distribution of supplies among the inmates of Misantla by the alleged guards of the local prison, the wife of the former Prison Service Director of the state of Veracruz government and candidate for the municipal presidency in Misantla. According to the information received, when the official's wife realized that the reporter was taking photographs, she seized the camera

⁹⁵ CNDH. Press release of February 18, 2010. CGCP/044/10. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/044.pdf>. International Freedom of Expression Exchange (IFEX). February 26, 2010. *Journalists assaulted by members of Presidential Guard*. Available at: http://www.ifex.org/mexico/2010/02/26/juarez_journalists_assaulted/. *La Jornada*. February 18, 2010. *Con violencia impiden a activistas participar en el foro de Ciudad Juárez*. Available at: <http://www.jornada.unam.mx/2010/02/18/index.php?section=politica&article=005n1pol>

⁹⁶ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

⁹⁷ Inter-American Press Association. 19-22 March, 2010. *Country Report: Mexico*. Available at: http://www.sipiapa.org/v4/index.php?page=det_informe&asamblea=26&infoid=785&idioma=us. *El Universal*. February 19, 2010. *CNDH indaga detenciones a periodistas*. Available at: <http://www.eluniversal.com.mx/nacion/175763.html>

⁹⁸ CNDH, Press release CGCP/044/10, February 18, 2010. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/044.pdf>

⁹⁹ Committee to Protect Journalists (CPJ). June 7, 2010. *Crece hostigamiento de fuerzas federales a la prensa en Mexico*. Available at: <http://cpj.org/es/2010/06/crece-hostigamiento-de-fuerzas-federales-a-la-pren.php>

¹⁰⁰ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹⁰¹ Mexican State, "Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010" Annex to Communication OEA-02567 from Mexico's Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹⁰² Mexican State, "Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010", Annex to Communication OEA-02567 from Mexico's Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

from her while the guards assaulted her. The other journalists present intervened to stop the attack.¹⁰³

56. According to the information received, on March 9, 2010, **reporters from various media outlets from the city of Saltillo** in the state of Coahuila were assaulted by the governor's security staff at the Escuela Normal Básica just moments before a press conference which they were prevented from attending to carry out their reporting work.¹⁰⁴

57. According to the information received, on March 9, 2010, reporter **José Rosas Cano** of *SBC Canal 53*, in Zacapoaxtla, Puebla was assaulted by members of an alleged civil organization. According to the information received by the Office of the Special Rapporteur, Rosas Cano was investigating the *modus operandi* of a supposed single-mother support program being run by an alleged civil organization in the Zacapoaxtla convention center. While he was taking some photographs, one of the accused approached him, refused to speak to the reporter and asked him to leave. Meanwhile, another person began pushing him to eject him from the premises, striking the journalist's equipment and face, which was recorded on camera. The assault was reported to the Public Prosecutor's Office.¹⁰⁵

58. According to the information received, on March 26, 2010, a **photographer for *El Heraldo de Chihuahua***, whose name was not given, was assaulted by an unknown person in the city of Chihuahua, state of Chihuahua. According to the information received by the Office of the Special Rapporteur, the journalist was reporting on a murder story. On arriving at the scene of the crime, a group of people were preventing journalists representing various media outlets from taking photographs. One member of the group approached the photographer from *El Heraldo* and assaulted him before disappearing into the crowd. At the scene various police officers were present who did nothing to prevent the attack. The journalist filed a police report with the state of Chihuahua's Public Prosecutor's Office.¹⁰⁶

59. According to the information received, on March 26, 2010, **Miguel Ángel Cervantes Gómez**, correspondent for the newspaper *Novedades Acapulco* in Ometepe, state of Guerrero, received death threats after accusing the municipal authorities of removing stone from the Quetzalpa river.¹⁰⁷

¹⁰³ International Freedom of Expression Exchange (IFEX). April 21, 2010. *Custodios de la Dirección de Reclusorios de Veracruz golpean y amenazan a reportera*. Available at: http://www.ifex.org/mexico/2010/04/21/vazquez_death_threat/es/; Proceso. February 19, 2010. *En 2009, 13 periodistas fueron asesinados y 189 agredidos: CEPET*. Available at: <http://www.proceso.com.mx/rv/modHome/detalleExclusiva/76740>

¹⁰⁴ CNDH. Press release CGCP/064/10, March 9, 2010. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/064.pdf>. CEPET. March 10, 2010. *Escortas de gobernador agreden y amagan con arma de fuego a reporteros*. Available at: <http://libexmexico.wordpress.com/2010/03/10/escortas-de-gobernador-agreden-y-amagan-con-arma-de-fuego-a-reporteros/>

¹⁰⁵ CEPET. March 12, 2010. *Supuestos promotores de programas sociales golpean a reporter de TV*. Available at: <http://libexmexico.wordpress.com/2010/03/10/escortas-de-gobernador-agreden-y-amagan-con-arma-de-fuego-a-reporteros/>; Síntesis. *Agreden a reporteros*. March 10, 2010. Available at: <http://www.periodicosintesis.com.mx/noticias/58285/Agreden-a-reporteros>. "Zacapoaxtla SBC 53 Agreden a Reportero de Canal 53", *Canal SBC 53*, March 9, 2010. Available at: http://www.youtube.com/watch?v=LA_Fr0u0KkQ

¹⁰⁶ CEPET. March 29, 2010. *Agreden a reportero gráfico ante la inacción de agentes policiacos*. Available at: <http://libexmexico.wordpress.com/2010/03/10/escortas-de-gobernador-agreden-y-amagan-con-arma-de-fuego-a-reporteros/>. Colegio de Periodistas del Estado de Chihuahua. March 26, 2010. *Civiles golpearon a fotoreportero de El Heraldo*. Available at: <http://www.colpechi.org/Civiles-golpearon-a-fotoreportero.html>

¹⁰⁷ IRZA news agency. March 28, 2010. *Cuñado del alcalde de Ometepe amenazó de muerte a periodista*. Available at: <http://www.agenciairza.com/2010/03/cunado-del-alcalde-de-ometepe-amenazo-de-muerte-a-periodista/>. El Diario de Guerrero. *Un periodista teme por su vida*. Available at: <http://www.diariodeguerrero.com.mx/CGI-BIN/diariodegro/notipales/shownotipal.php?idnote=20069>

60. At the end of March 2010, according to the information received by the Office of the Special Rapporteur, military personnel assaulted and threatened **a cameraman, whose name was withheld, from the Canal 44** television station in Ciudad Juárez. According to the information available, while the journalist was reporting on the arrest of alleged criminals, the military personnel tried to seize his camera and detain him without giving a reason, all of which was recorded on camera. *Canal 44* filed a report on the incident with the Ministry of National Defense (hereinafter "Sedena"), who said they would investigate the matter.¹⁰⁸ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.¹⁰⁹ In a reply received on November 12, 2010, the State reported that the information provided by Sedena indicated that there was an unresolved complaint filed with the CNDH and that Sedena's Internal Affairs Unit had begun investigation proceedings that had not yet reached a conclusion.¹¹⁰ In its observations on the preliminary version of this report, the Mexican State reported that "the Ministry of National Defense confirmed that on November 30, 2010, the National Human Rights Commission (CNDH) informed them that the matter had been closed... due to lack of grounds for continuing to investigate."¹¹¹

61. According to the information received on April 1, 2010, **a reporter and photographer from *El Heraldo de Chihuahua*** were prevented from carrying out their work by members of the Mexican Armed Forces who deleted the photographs they had taken. According to the information received, while the reporters were in San Francisco de Conchos, state of Chihuahua, reporting on events surrounding the Easter festivities and on the police operation, they appear to have observed and photographed members of the military abusing local citizens. On noticing this, the soldiers approached the journalists, seized their photographic equipment, and deleted all their images at gun point.¹¹² Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.¹¹³ In a reply received on November 12, 2010, the State reported that the Ministry of National Defense had no record of the case.¹¹⁴

¹⁰⁸ Committee to Protect Journalists (CPJ)/IFEX. June 7, 2010. *Federal forces increasingly harass journalists*. Available at: http://www.ifex.org/mexico/2010/06/08/calderon_federal_forces/. CEPET. March 25, 2010. *Elementos del Ejército cometen abusos contra camarógrafo*. Available at: <http://libexmexico.wordpress.com/2010/03/10/escoltas-de-gobernador-agreden-y-amagan-con-arma-de-fuego-a-reporteros/>; *El Estatal*. March 25, 2010. *Agreden militares a reportero del canal 44*. Available at: http://www.elestatel.com/index.php?option=com_content&view=article&id=5865:agreden-militares-a-reportero-del-canal-44&catid=3:la-. Canal 44 Noticias, *Elementos del Ejército cometen abusos contra camarógrafo de esta misma empresa*, 2010. Available at: http://www.youtube.com/watch?v=cH1_vfs7Wo

¹⁰⁹ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹¹⁰ Mexican State, "Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010", Annex to Communication OEA-02567 from Mexico's Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹¹¹ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

¹¹² International Freedom of Expression Exchange (IFEX). April 20, 2010. *Militares obstaculizan a reporteros y los obligan a borrar material fotográfico*. Available at: http://www.ifex.org/mexico/2010/04/23/periodistas_chihuahua/es/. Committee to Protect Journalists (CPJ). June 7, 2010. *Crece hostigamiento de fuerzas federales a la prensa en Mexico*. Available at: <http://cpj.org/es/2010/06/crece-hostigamiento-de-fuerzas-federales-a-la-pren.php>. *El Mexicano*. April 3, 2010. *Militares amenazan a reportero de la OEM*. Available at: <http://www.oem.com.mx/elmexicano/notas/n1582188.htm>

¹¹³ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹¹⁴ Mexican State, "Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010", Annex to Communication OEA-02567 from Mexico's Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

62. According to the information received, on April 2 2010, two members of the military tried to seize a camera from a **photographer from the newspaper *El Mexicano*** while he was taking photos of a vessel which was being towed in Villa Ahumada, in the state of Chihuahua.¹¹⁵ Non-governmental organizations such as the CPJ reported that the reporter kept his identity secret for his own safety and reported the incident to the state of Chihuahua's Human Rights Commission.¹¹⁶ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.¹¹⁷ In a reply received on November 12, 2010, the State reported that the Ministry of National Defense had no record of the case.¹¹⁸

63. According to the information received, on April 14, 2010, **Jade Ramírez Cuevas**, reporter and broadcast reporter for *Radio Universidad de Guadalajara*, received threats via email as follows: "YOU LOOKED REAL GOOD SATURDAY ... AND YOU SOUND HOT ON THE RADIO ... CARRY ON INVESTIGATING LITTLE REPORTER BITCH ... I TOLD YOUR IDIOT BROTHER EL GRINGO AND NOW YOU'VE GONE AND FUCKED YOURSELF." This threat was in addition to others made to the journalist while she was reporting on the social and community protest against the construction of *El Zapotillo* hydroelectric dam in the state of Jalisco. During previous days and for three consecutive nights, Jade Ramírez received phone calls at home at three in the morning without anyone speaking on the other end of the line. The threat was reported to Jalisco's Public Prosecutor's Office.¹¹⁹

64. According to the information received, on April 14, 2010, **Sugeyry Gándara**, a reporter for the newspaper *Tiempo*, was assaulted by a municipal police officer in Chihuahua, in the state of Chihuahua. According the information available, the journalist was reporting on arrests being made by the police at the end of a concert. On noticing that the reporter was taking photographs of the arrest, a policeman insulted her and threw her camera into her face. Chihuahua's municipal president apologized for the assault and indicated that the officer responsible would be punished.¹²⁰

65. According to the information received, on April 14, 2010, **Valentín Hierro**, a photographer for the online newspaper *Entre Líneas*, was beaten and threatened by a state police officer in the city of Chihuahua, Chihuahua state. According to the information received by the Office of the Special Rapporteur, Hierro was trying to take a photograph of a wounded police

¹¹⁵ Committee to Protect Journalists (CPJ). June 7, 2010. *Crece hostigamiento de fuerzas federales a la prensa en Mexico*. Available at: <http://cpj.org/es/2010/06/crece-hostigamiento-de-fuerzas-federales-a-la-pren.php>

¹¹⁶ Committee to Protect Journalists (CPJ). June 7, 2010. *Crece hostigamiento de fuerzas federales a la prensa en Mexico*. Available at: <http://cpj.org/es/2010/06/crece-hostigamiento-de-fuerzas-federales-a-la-pren.php>

¹¹⁷ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹¹⁸ Mexican State, "Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010", Annex to Communication OEA-02567 from Mexico's Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹¹⁹ CENCOS. April 22, 2010. *Segunda amenaza a periodista de Jalisco en menos de un mes*. Available at: <http://www.cencos.org/es/node/23328>. Campaña Permanente de Protección a Periodistas. September 7, 2010. *Síguelo investigando reporterita y ya te cogió la chingada*. Available at: <http://www.libertad-expresion.org.mx/noticias/%e2%80%9csiguelo-investigando-reporterita-y-ya-te-cogio-la-chingada%e2%80%9d/#more-5715>. International Freedom of Expression Exchange (IFEX). April 19, 2010. *Reporter receives death threats*. Available at: http://ifex.org/mexico/2010/04/15/death_threats/

¹²⁰ CEPET. April 15, 2010. *Agreden policías estatales y municipales a periodistas en Chihuahua*. Available at: <http://libexmexico.wordpress.com/2010/04/>. Colegio de Periodistas del Estado de Chihuahua. April 15, 2010. *Agreden policías estatales y municipales a reporteros*. Available at: <http://www.colpechi.org/Agreden-policias-esatatales-y.html>. El Devenir de Chihuahua. April 15, 2010. *Se disculpa Álvaro Madero por agresión a reportera de Tiempo*. Available at: http://diario.devenir.com.mx/index.php?option=com_content&view=article&id=1529:vigilaran-200-federales-la-capital-de-chihuahua-alvaro-madero&catid=36:chihuahua&Itemid=56

officer being taken out of an ambulance in the Hospital Central de Chihuahua. However, one of the police officers at the scene hit him to prevent him taking photographs.¹²¹

66. According to the information received, on April 19, 2010, **Angelina Albarrán Morales** and **at least 25 other journalists** received death threats in the state of Morelos. According to the information received, the death threats against the journalists were made via various anonymous emails containing threats and intimidations. The fear felt by the journalist Angelina Albarrán Morales from the threats has led to her suffering from emotional, professional, and financial problems.¹²²

67. According to the information received, on April 27, 2010, an attack was made on a humanitarian convoy in which the journalists **Érika Ramírez** and **David Cilia** from the magazine *Contralínea* were traveling as it headed toward the community of San Juan Copala, in the state of Oaxaca. According to the information received, the journalists, who had gone to San Juan Copala to report on the murder of female broadcasters from the community radio station *La Voz que Rompe el Silencio*, Felicitas Martínez and Teresa Bautista, committed on April 7, 2008, were trapped for two days in the area where the events took place. On the night of April 29, 2010, an operation was carried out in which the reporters were rescued and taken to the city of Santiago Juchitahuaca, Oaxaca. David Cilia received two bullet wounds in the left leg and another in the hip area. The PGR exercised its authority to assert jurisdiction to investigate the case.¹²³

68. According to the information received, on April 27, 2010, in Monterrey, state of Nuevo León, **Ximena Peredo**, a columnist for the newspaper *El Norte* and the biologist **Antonio Hernández Ramírez**, both members of the Colectivo Ciudadano in Defensa de la Pastora [a collective to defend an area of natural parkland from development], received an email containing threats. According to the information received, the email contained the following text: "now it's time you quit fucking around [...] we've got tabs on your little butterfly- and bird-loving homo biologist, he's the first one who should quit, we're watching him and if he didn't stop his bullshit with the first course, let's just say he can't complain he wasn't told [...] the little biologist and the journalist [should] stop screwing around and they're going to fuck up the stadium the stupid fucks [...] you know, your little biologist friend knows that we're not fucking around, now you know and if you don't stop then we're moving in [...] that means right now [...] get it?" The collective is known for its actions in favor of environmental protection and Peredo has written on these topics in her column.¹²⁴

69. According to the information received, on May 6, 2010, **Luz del Carmen Sosa**, a reporter for *El Diario* of Ciudad Juárez, and photographer **Mario Bañuelos**, were harassed by

¹²¹ International Freedom of Expression Exchange (IFEX). April 20, 2010. *Municipal and state police assault journalists in Chihuahua*. Available at: http://www.ifex.org/mexico/2010/04/20/hierro_assaulted/; Colegio de Periodistas del Estado de Chihuahua. April 15, 2010. *Agreden policías estatales y municipales a reporteros*. Available at: <http://www.colpechi.org/Agreden-policias-esatales-y.html>

¹²² State of Morelos Independent Human Rights Commission. October 28, 2010. *Libertad de Expresión bajo ataque pone en riesgo derechos democráticos*. Available at: <http://cidhmorelos.wordpress.com/2010/10/28/libertad-de-expresion-bajo-ataque-pone-en-riesgo-derechos-democraticos-2/>

¹²³ Office of the Special Rapporteur for Freedom of Expression – CIDH. April 30, 2010. Press Release No. R48/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=799&IID=1>; *Contralínea*. May 9, 2010. *El rescate*. Available at: <http://contralinea.info/archivo-revista/index.php/2010/05/09/el-rescate/>; Committee to Protect Journalists (CPJ). April 30, 2010 *Periodistas desaparecidos son rescatados en México; uno está herido*. Available at: <http://cpj.org/es/2010/04/periodistas-desaparecidos-son-rescatados-en-mexico.php>; Comisión Nacional para el Desarrollo de los Pueblos Indígenas. April 30, 2010. *Apuran investigación de emboscada*. Available at: http://www.cdi.gob.mx/index.php?option=com_content&view=article&id=951:30-de-Abril-de-2010&catid=17&Itemid=200008

¹²⁴ CENCOS. April 30, 2010. *Amenazas contra miembros del Colectivo Ciudadano en Defensa de la Pastora*. Available at: <http://www.cencos.org/es/node/23422>; Vanguardia. April 30, 2010. *Agreden en mensaje cibernético a defensores de La Pastora*. Available at: http://www.vanguardia.com.mx/agreden_en_mensaje_cibernetico_a_defensores_de_la_pastora-493973.html

soldiers while reporting on the disappearance of three state employees in the municipality of El Porvenir, in the state of Chihuahua. According to the information received, the soldiers prevented the journalists from carrying out their work, pointing guns at Bañuelos, trying to seize her camera and threatening to arrest both journalists. The reporters filed a report on the incident with the CNDH.¹²⁵ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.¹²⁶ In a reply received on November 12, 2010, the State reported that the information provided by the Ministry of National Defense indicated that a complaint was being processed with the CNDH.¹²⁷

70. On 10 May, 2010, unidentified persons entered the apartment of **Laura Castellanos**, a freelance journalist working for *Gatopardo* magazine, while the journalist was traveling abroad promoting her book *Mexico Armado*. The unidentified persons who entered the apartment rummaged through her personal items, taking away journalistic information. The journalist reported the theft to the then-Office of the Special Prosecutor for Crimes against Journalists, as well as the accessing of her email and telephone and the constant surveillance by people of “military appearance.” She also filed a complaint with the National Human Rights Commission. According to information from non-governmental organizations such as Article 19, the theft forms part of a series of acts designed to intimidate, including telephone threats, hacked email accounts and harassment.¹²⁸

71. According to the information received, on May 19, 2010, **Marcelo López** and **Félix Nolasco** of *El Heraldo de Tabasco*, **Carlos Castro** of *Diario Olmeca*, **Jaime Ávalos** of *Novedades*, **Eric Banda** of *Tabasco Hoy* and **David Michel Estrada** of *El Independiente* of the *Sureste* were beaten and intimidated with gun shots by riot police belonging to the Villahermosa State Police, in the state of Tabasco, while they were reporting on a taxi driver protest against the increases in fares imposed by the Ministry for Communications and Transport (hereinafter, “SCT”). According to the information received, while the police and SCT inspectors tried dispersing the protestors and their vehicles, the reporters approached the inspectors to ask them about the incident, to which the police responded using violence. Marcelo López was hospitalized after suffering a traumatic brain injury. The state of Tabasco’s Human Rights Commission filed an investigation to document and request information from the authorities involved.¹²⁹ Within the framework of its visit, the Office of the Special Rapporteur requested the State provide complete information about the case.¹³⁰

72. According to the information received, on May 24, 2010, the correspondent for the newspaper *La Opinión Milenio* in the state of Durango, **Karla Tinoco Santillán**, received telephone threats allegedly as a result of a report on the impact of drug trafficking on the municipality of Vicente Guerrero, in the state of Durango. One week after receiving the threats,

¹²⁵ Committee to Protect Journalists (CPJ). June 7, 2010. *Crece hostigamiento de fuerzas federales a la prensa en Mexico*. Available at: <http://cpj.org/es/2010/06/crece-hostigamiento-de-fuerzas-federales-a-la-pren.php>

¹²⁶ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹²⁷ Mexican State, “Respuesta a la Solicitud de Información que Hicieran los Relatores Especiales para la Libertad de Expresión de la OEA y la ONU, en Seguimiento a su Visita Oficial a México del 9 al 24 de agosto de 2010”, Annex to Communication OEA-02567 from Mexico’s Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹²⁸ CNDH. Press release CGCP/147/10, June 2, 2010. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/147.pdf>. Campaña Permanente de Protección a Periodistas. 26 May, 2010. *El creciente acoso hacia reportera de investigación es causa de preocupación*. Available at: <http://www.libertad-expresion.org.mx/boletines/alerta-le-el-creciente-acoso-hacia-reportera-de-investigacion-es-causa-de-preocupacion/#more-4806>. La Jornada. June 2, 2010. *Levanta denuncia la periodista Laura Castellanos ante la PGR y la CNDH*. Available at: <http://www.jornada.unam.mx/2010/06/02/index.php?section=politica&article=018n2pol>

¹²⁹ International Freedom of Expression Exchange (IFEX). May 26, 2010. *Riot police assault journalists during protest*. Available at: http://www.ifex.org/mexico/2010/05/26/villahermosa_journalists/ Tabasco Hoy. May 26, 2010. *Va CDEH contra funcionarios por ataque a prensa*. Available at: http://www.tabascohoy.com.mx/noticia.php?id_notia=193303

¹³⁰ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

she was fired from her job. Upon becoming aware of the threats, the newspaper's director of information had requested that she come to the media outlet's offices in Torreón, in the state of Coahuila. On her return to Durango, on May 31, 2010, the journalist was notified of her dismissal. According to the information available, the dismissal had been requested because the reporter posed a risk to the safety of the other newspaper employees.¹³¹

73. According to the information received, on May 25, 2010, the photographer for *El Sol de Tijuana*, **José Luis Camarillo Téllez**, was intimidated by police in Tijuana, in the state of Baja California. While reporting on the police operation following a violent altercation in Tijuana, a police officer tried to run him over with his patrol car. Shortly afterwards, other police officers insulted him, threatened to arrest him, prevented him from carrying out his work, and tried to seize his camera equipment from him. The harassment was reported to the State Public Prosecutor's Office and a complaint was filed with the Special Prosecutor's Office for Human Rights and Citizen Protection of the state of Baja California.¹³²

74. In June 2010, journalists **Isaín Mandujano** and **Ángeles Mariscal**, correspondents for the magazine *Proceso* and the newspaper *La Jornada* in the state of Chiapas, reported being victims of a smear campaign by the state authorities. According to reports by the Federal District Human Rights Commission, the journalists have given a voice to various political actors and members of society in the state of Chiapas, which has led to conflicts and discriminatory acts by the state government and other influential local groups. They also suffered from defamatory accusations made through various media outlets, including those belonging to the Chiapas state government.¹³³

75. According to the information received, in the early morning of June 1, 2010, in different incidents, **three distributors of the newspaper Noroeste** in Culiacán, in the state of Sinaloa, had motorcycles seized by unknown armed assailants. One of the deliverymen suffered bullet wounds. According to the information received by the Office of the Special Rapporteur, the first robbery took place at approximately 5:30 a.m. on June 1, 2010, when a group of armed men in an SUV intercepted a female distributor and stole her motorcycle. The second attack took place at approximately 5:50 when a group of unknown armed men in an SUV followed another newspaper distributor until they blocked his path. They forced him to stop and get into the vehicle in which they were travelling. Later they made him get out in another location where death threats were made by one of the assailants, who shot him in the abdomen and in the hand. The last robbery took place shortly afterwards when a group of unknown armed men on board a similar vehicle as those used in the other robberies stole the motorcycle used by another distributor for *Noroeste*.¹³⁴

¹³¹ International Freedom of Expression Exchange (IFEX). June 23, 2010. *Reporter fired after receiving threats over article on drug-related violence*. Available at: http://www.ifex.org/mexico/2010/06/24/tinoco_santillan_dismissed/. Campaña Permanente de Protección a Periodistas. September 7, 2010. *Siguele investigando reporterita y ya te cogió la chingada*. Available at: <http://www.libertad-expresion.org.mx/noticias/%E2%80%99Csiguele-investigando-reporterita-y-ya-te-cogio-la-chingada%E2%80%99D/>

¹³² International Freedom of Expression Exchange (IFEX). June 1, 2010. *Police officers harass, try to run over journalist*. Available at: http://www.ifex.org/mexico/2010/06/01/camarillo_assaulted/. *El Sol de Tijuana*. May 26, 2010. *Atiende PDH el caso Camarillo*. Available at: <http://www.oem.com.mx/elsoldetijuana/notas/n1648342.htm>

¹³³ Federal District Human Rights Commission. Press Release 202/2010, July 23, 2010. Available at: <http://www.cdhdh.org.mx/index.php/boletines/564-boletin-2022010>. International Freedom of Expression Exchange (IFEX). July 29, 2010. *Denuncian periodistas campaña de calumnias*. Available at: http://www.ifex.org/mexico/2010/07/29/chiapas_periodistas/es/. Noticias MVS. July 23, 2010. *CDHDF manifiesta solidaridad con periodistas*. Available at: <http://www.noticiasmvs.com/CDHDF-manifiesta-solidaridad-con-periodistas.html>

¹³⁴ International Freedom of Expression Exchange (IFEX). June 4, 2010. *Newspaper's delivery staff harassed, one vendor shot*. Available at: http://www.ifex.org/mexico/2010/06/04/repartidores_atacados/. *Noroeste* newspaper. June 2, 2010. *Atacan a repartidores de Noroeste*. Available at: http://noroeste.com.mx/publicaciones.php?id=588242&id_seccion. *El Economista*. June 4, 2010. *Sicarios atacan a repartidores de periódico en Sinaloa*. Available at: <http://eleconomista.com.mx/seguridad-publica/2010/06/04/sicarios-atacan-repartidores-periodico-sinaloa>

76. According to the information received, on June 1, 2010, **Roberto Tepepexteco**, a reporter for the newspaper *El Debate de los Calentanos*, was assaulted and threatened by the *síndico procurador* (municipal leader) of Arcelia, in the state of Guerrero. According to the information received by the Office of the Special Rapporteur, the reporter was in the offices of the municipal presidency of Arcelia, when the *síndico*, noting his presence, grabbed him by the neck and shirt and tried to hit him. The cause of the assault, according to the information available, was the publication of an article which denounced the public official's absence from his work in the local administration.¹³⁵

77. According to information from the CNDH, on June 2, 2010, in an operation to disperse protestors who were blocking Río Churubusco Avenue in Coyoacán, Mexico City, members of the riot police assaulted a **group of journalists** who were reporting on the incident and prevented them from carrying out their work.¹³⁶ Within the framework of its visit, the Office of the Special Rapporteur requested of the State complete information about the case.¹³⁷ In its observations on the preliminary version of this report, the Mexican State reported that, according to information from the Public Security Ministry of the Federal District, "the demonstrators were only dispersed and... journalists who were there covering the event were not beaten."¹³⁸

78. According to the Federal District's Human Rights Commission and the CNDH, on June 10, 2010, the *MVS Noticias* correspondent **Ixtli Martínez** received a bullet wound while reporting on a clash between two rival groups fighting for control over the Law and Social Science Faculty of Oaxaca's Benito Juárez Autonomous University (UABJO). The CNDH filed an investigation into the case and requested the state of Oaxaca to take precautionary measures to protect Martínez and her husband Virgilio Sánchez, also a journalist, to protect them from harassment or intimidation.¹³⁹

79. According to the information received, on June 23, 2010, the distribution manager of the magazine *Contralínea Puebla*, **Israel Maldonado Flores**, was assaulted, robbed and threatened in Izúcar de Matamoros, in the state of Puebla, allegedly by members of a political party. According to the information received by the Office of the Special Rapporteur, Maldonado Flores was delivering the magazine when around 15 armed men got out of five vehicles, said they were PAN supporters, and then beat him, seized the magazines he was delivering, cash, and a laptop, and threatened him to force him to leave. The assailants said that the front-page report affected their candidate. This report accused this candidate—who was then

¹³⁵ CEPET. June 2, 2010. *Funcionario público insulta y amenaza a reportero*. Available at: <http://libexmexico.wordpress.com/2010/06/02/funcionario-publico-insulta-y-amenaza-a-reportero/>. La Jornada Guerrero. June 19, 2010. *Denuncia reportero a síndico de Arcelia*. Available at: <http://www.lajornadaguerrero.com.mx/2010/06/20/index.php?section=sociedad&article=006n3soc>

¹³⁶ CNDH. Press release CGCP/147/10, June 2, 2010. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/147.pdf>; El Universal. June 2, 2010. *CNDH rechaza agresión a periodistas*. Available at: <http://www.eluniversal.com.mx/notas/685077.html>

¹³⁷ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹³⁸ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

¹³⁹ Federal District Human Rights Commission. Press Release 153/2010, June 12, 2010. Available at: <http://portaldic10.cdhdh.org.mx/index.php?id=bol15310>; CNDH. Press release CGCP/158/10, June 10, 2010. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/158.pdf>; CNDH. Press release CGCP/159/10, June 11, 2010. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/159.pdf>. See also Office of the High Commissioner on Human Rights in Mexico (OHCHR). June 14, 2010. *La ONU-DH condena agresión contra la periodista Ixtli Martínez en Oaxaca*. Available at: <http://www.hchr.org.mx/Documentos/Communications/2010/06/CDP140610.pdf>

running for the Puebla governorship—of alleged anomalies while Secretary of the State's Finance Ministry.¹⁴⁰

80. According to information from the Federal District Human Rights Commission, on July 1, 2010, 30 hooded Federal Police (hereinafter "PF") officers broke into the offices of the **Journalists and Media Workers Association of Ciudad Juárez** [*Sociedad de Periodistas y Comunicadores de Ciudad Juárez*], supposedly looking for a group of kidnappers. The reporters were held at gun point and threatened by the agents, who did not properly identify themselves, and were warned they would be shot if they put up any resistance. The uniformed officers withdrew 20 minutes later; later three trucks arrived with more Federal Police agents who tried to detain the *El Mexicano* photographer and Reuters correspondent, **Alejandro Bringas**, in retribution for having taken photographs of the earlier assault.¹⁴¹ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.¹⁴² In a reply received on November 12, 2010, the State indicated that both the CNDH as well as the Public Security Ministry, through its Human Rights Department and the Federal Police's Internal Affairs Department, had begun the corresponding investigations, which were still awaiting conclusion.¹⁴³ The Public Security Ministry stated that "the various operational units of the Federal Police in Ciudad Juárez, in the state of Chihuahua, have stated they were not involved in this incident."¹⁴⁴

81. On July 16, 2010, **Edgar Irán López Hernández**, a reporter for the newspaper *Órale* of Coatzacoalcos, state of Veracruz, was arrested, assaulted, and had a death threat made against him by municipal police officers from Oluta, Veracruz. According to the information received, the reporters learned that in the municipal police station, the municipal president was reprimanding a group of inebriated police officers. The municipal president, noticing his presence, became angry and seized the photographic equipment from one of the reporters. Edgar Irán López left the scene but was chased by the municipal police who intercepted him on the Oluta-Acayucan road, forced him to get out of the vehicle in which he was traveling and into the patrol car, where he was assaulted in various ways and had death threats made against him. He was then told to get out on a dirt road, where the police took his camera and other belongings from him, and left him there. The journalist reported the assault to the Public Prosecutor's Office of

¹⁴⁰ International Freedom of Expression Exchange (IFEX). June 24, 2010. *Armed men attack and rob distribution manager of "Contralínea Puebla" magazine*. Available at: http://www.ifex.org/mexico/2010/06/25/maldonado_flores_assaulted/. Contralínea Puebla. June 23, 2010. *Agreden a personal de Contralínea Puebla en Izúcar*. Available at: <http://contralineapuebla.blogspot.com/2010/06/agreden-personal-de-contralinea-puebla.html>

¹⁴¹ Campaña permanente de protección a periodistas en México. July 2, 2010. *Fuerzas de seguridad allanan Casas de Periodistas en Ciudad Juárez*. Available at: <http://www.libertad-expresion.org.mx/noticias/fuerzas-de-seguridad-allanan-casa-de-periodistas-en-ciudad-juarez/>. Federal District Human Rights Commission. Press Release 178/2010, July 2, 2010. Available at: <http://portaldic10.cdhd.org.mx/index.php?id=bol17810>. El Universal. July 2, 2010. *Irrumpen en Centro de Periodistas de Juárez*. Available at: <http://www.eluniversal.com.mx/notas/692385.html>

¹⁴² Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹⁴³ Mexican State, "Respuesta a la Solicitud de Información que Hicieran los Relatores Especiales para la Libertad de Expresión de la OEA y la ONU, en Seguimiento a su Visita Oficial a México del 9 al 24 de agosto de 2010", Annex to Communication OEA-02567 from Mexico's Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹⁴⁴ Mexican State, "Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010", Annex to Communication OEA-02567 from Mexico's Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

Acayucan, Veracruz.¹⁴⁵ Within the framework of its visit, the Office of the Special Rapporteur requested that the State provide complete information about the case.¹⁴⁶

82. The CNDH opened an investigation into the case of three journalists from media outlets in Nuevo Laredo, in the state of Tamaulipas, who were allegedly assaulted by military personnel when they were taking part in a police operation in this city. According to the information provided by the journalists, during the operation **Abisaíd Rubio** and **Ricardo Ramírez**, correspondent and cameraman for *Televisión Azteca*, respectively, and **Antonio Neftalí Gómez**, of *Radio Voz*, were beaten and threatened at gun point. The radio reporter had a gun pointed at his head and his equipment was damaged.¹⁴⁷ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.¹⁴⁸ In a reply received on November 12, 2010, the State reported that the information provided by the Ministry of National Defense indicated that the journalists “trespassed on the security exclusion zone in order to record a video of the scene despite being warned off by the military personnel, while the latter were searching a vehicle in which a grenade had been found which was in danger of exploding,” and that the complaint remained pending before the CNDH.¹⁴⁹

83. On July 16, 2010, according to the CNDH, the journalist **Irineo Mújica Arzate** was assaulted by officials of the National Institute of Migration (hereinafter, “INM”) in Soltepec, in the state of Puebla.¹⁵⁰ According to the information compiled by the CNDH, the events took place in the community of San Antonio Xicotenco during an operation involving the arrest of Central American migrants. Mújica Arzate was travelling in the train, and when he realized that the operation was taking place he began filming it. This upset the INM personnel who assaulted him and took away his video camera. Mújica was taken to a clinic located in the municipality of San Salvador El Seco. After leaving the medical clinic, the journalist decided to stage a peaceful protest in front of the INM offices in the City of Puebla, to request the return of his video camera.¹⁵¹ The journalist continued his hunger strike for 17 days but ended it upon the return of his belongings by the state of Puebla’s INM regional director.¹⁵² Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.¹⁵³ In a reply received on November 12, 2010, the State reported that both the CNDH and the Public Security Ministry, through its Human Rights Office and the Federal Police’s Internal Affairs Unit, had begun the corresponding investigations which were still awaiting conclusion.¹⁵⁴ The Public Security Ministry reported that according to its investigation, “there is no

¹⁴⁵ International Freedom of Expression Exchange (IFEX). July 23, 2010. *Police officers kidnap, attempt to kill journalist in Veracruz*. Available at: http://www.ifex.org/mexico/2010/07/23/lopez_hernandez_kidnapped/. CEPET. July 20, 2010. *Policías secuestran y atenta contra la vida de periodista en Veracruz*. Available at: <http://libexmexico.wordpress.com/2010/07/20/policias-secuestran-y-atentan-contra-la-vida-de-periodista-en-veracruz/>

¹⁴⁶ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹⁴⁷ CNDH. Press release CGCP/194/10, July 14, 2010. Available at: http://www.cndh.org.mx/comsoc/compre/2010/COM_2010_0194.pdf

¹⁴⁸ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹⁴⁹ Mexican State, “Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010”, from Mexico’s Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹⁵⁰ CNDH. Press release CGCP/198/10, July 19, 2010. Available at: http://www.cndh.org.mx/comsoc/compre/2010/COM_2010_0198_1.pdf

¹⁵¹ CNDH. Press release CGCP/198/10, July 19, 2010. Available at: http://www.cndh.org.mx/comsoc/compre/2010/COM_2010_0198_1.pdf

¹⁵² CENCOS. August 12, 2010. *Irineo Mújica presentó videos que prueban la agresión que sufrió por agentes del INM*. Available at: <http://www.cencos.org/es/node/24503>. Federal District Human Rights Commission, Press Release 226/2010, August 11, 2010, Available at: <http://www.cdhd.org.mx/index.php/boletines/540-boletin-2262010>

¹⁵³ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹⁵⁴ Mexican State, “Respuesta a la Solicitud de Información que Hicieran los Relatores Especiales para la Libertad de Expresión de la OEA y la ONU, en Seguimiento a su Visita Oficial a México del 9 al 24 de agosto de 2010”,

suggestion that any member of the Federal Police (PF) committed any assault on Mr. Mújica or violated his human rights.”¹⁵⁵

84. According to the information received, on July 27, 2010, **Martín López Castro**, a reporter for *Canal 44* in Ciudad Juárez, in the state of Chihuahua, received death threats from alleged drug traffickers and decided to seek refuge in the United States of America. The threats had been spray-painted on the façade of an electronic goods store in Ciudad Juárez, and read: “Journalist Martín López from 44 we’re going to cut off you and your brother’s heads for supporting *patas cortas*.” According to the information available the reporter had not been threatened before. Faced with this situation, López Castro decided to leave Mexico and move to Texas, United States.¹⁵⁶

85. According to the information received, on August 7, 2010, the reporter **Abenamar López** of the newspaper *Cuarto Poder* of the state of Chiapas, was assaulted and his equipment seized while he reported on the eviction of residents from unauthorized housing on the borders of the municipalities of Tuxtla Gutiérrez and Chiapa de Corzo, in the state of Chiapas. The journalist reported the incident to the Office of the Special Prosecutor for Crimes against Journalists.¹⁵⁷ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case.¹⁵⁸ In a reply received on November 12, 2010, the State reported that the Ministry for National Defense had no record of the case.¹⁵⁹

86. According to the information received, on August 18, 2010, the newspapers **La Jornada Zacatecas** and **Imagen** printed threats they had received at different times from alleged members of the criminal organization “Los Zetas” in Zacatecas, in the state of Zacatecas. The newspapers had been pressured to reveal information about civil society’s alleged repudiation of the Army as a result of the actions taken against organized crime in the state of Zacatecas. The directors, by refusing to print the articles, had received threats by telephone. The state of Zacatecas’ Public Prosecutor’s Office offered to provide protection for the newspapers’ offices.¹⁶⁰

Annex to Communication OEA-02567 from Mexico’s Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹⁵⁵ Mexican State, “Respuesta a la Solicitud de Información que Hicieran los Relatores Especiales para la Libertad de Expresión de la OEA y la ONU, en Seguimiento a su Visita Oficial a México del 9 al 24 de agosto de 2010”, Annex to Communication OEA-02567 from Mexico’s Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹⁵⁶ International Freedom of Expression Exchange (IFEX). August 3, 2010. *Journalist flees to Texas after receiving death threats*. Available at: http://www.ifex.org/mexico/2010/08/03/lopez_castro_flees/; CNN Mexico. August 3, 2010. *Desaparecido desde el jueves un periodista de un semanario de Zacatecas*. Available at: <http://mexico.cnn.com/nacional/2010/08/03/desaparecido-desde-el-jueves-un-periodista-de-un-semanario-de-zacatecas>

¹⁵⁷ Campaña Permanente de Protección a Periodistas. August 16, 2010. *Elementos Policiacos agreden y despojan a reportero de Cuarto Poder en Chiapas*. Available at: <http://www.libertad-expresion.org.mx/noticias/elementos-policiacos-agreden-y-despojan-a-reportero-de-cuarto-poder-en-chiapas/>. International Freedom of Expression Exchange (IFEX). August 11, 2010. *Elementos policiacos agreden y despojan a reportero de “Cuarto Poder” en Chiapas*. Available at: http://www.ifex.org/mexico/2010/08/12/lopez_agredido/es/

¹⁵⁸ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

¹⁵⁹ Mexican State, “Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010”, Annex to Communication OEA-02567 from Mexico’s Permanent Representation to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹⁶⁰ CEPET. August 20, 2010. *Crimen organizado presiona y amenaza a periodistas de Zacatecas*. Available at: <http://libexmexico.wordpress.com/2010/08/20/el-crimen-organizado-amenaza-a-periodistas-de-zacatecas/>. International Freedom of Expression Exchange (IFEX). September 9, 2010. *IAPA concerned over rise in violence in Zacatecas state and its impact on the press*. Available at: http://www.ifex.org/mexico/2010/09/13/zacatecas_violence/. CNN Mexico. August 20, 2010. *El crimen organizado amenaza a periodistas de Zacatecas*. Available at: <http://mexico.cnn.com/nacional/2010/08/20/el-crimen-organizado-amenaza-a-periodistas-de-zacatecas>. La Jornada. 19 de agosto de 2010. *Exigen Zetas a periódicos de Zacatecas publicar carta contra Ejército Mexicano*. Disponible en: <http://www.jornada.unam.mx/2010/08/19/index.php?section=politica&article=018n2pol>

87. According to the information received, on August 31, 2010, the director of the newspaper **Puebla sin Fronteras** of the state of Puebla was the victim of extortion and telephone threats from a man who identified himself as the new area boss of the criminal organization “Los Zetas.” The director reported the case to the state of Puebla’s Public Prosecutor’s Office.¹⁶¹

88. On September 2, 2010, one day after an armed assault on the newspaper **Noroeste** that involved the use of high-powered guns (see *infra*), the same newspaper again received a threat. According to the information received, three telephone calls were made to the newspaper offices demanding two hundred thousand pesos (approx. US\$16,500) to avoid their premises being blown up. Following the threat the offices were evacuated but the printing and senior management personnel remained to carry on working. According to the Public Prosecutor’s Office, the call appeared to come from the same person who had extorted the newspaper hours before an attack with high-powered weapons on September 1, 2010.¹⁶² Also, according to the information received, on the same September 2, newspaper staff were threatened by subjects traveling in a vehicle. Finally, at midday, men in a vehicle approached the delivery personnel showing them their high-powered weapons in an act of intimidation.¹⁶³

89. According to the information received, on September 14, 2010, **Jaime Ferrera**, a reporter for the newspaper **El Mexicano**, observed a group of people eating in a restaurant in Villa Ahumada, in the state of Chihuahua, under the protection of a group of people who appeared to be federal police officers. Upon noticing this, the police in the restaurant verbally assaulted him, seized his equipment, and threatened him.¹⁶⁴

90. According to the information received, on October 16, 2010, **Miguel Jaramillo**, a cameraman for the newspaper **El Pulso** of San Luis Potosí, arrived to report on a gun battle between federal police and alleged criminals. The federal agents, on noticing his presence, seized his photographic equipment, and knocked him to the ground. The assault was impeded following the intervention of rescue workers who were looking after those injured in the confrontation. The journalist reported the assault to the Public Prosecutor’s Office and filed a complaint with the San Luis Potosí State Human Rights Commission.¹⁶⁵

91. According to the information received, on October 21, 2010, journalist **Pedro Morales González** was taking photographs of a house presumably owned by Alex Ortiz Zamora, municipal president of Apizaco, as part of an investigation of alleged misappropriation of public funds, when some policemen arrested him and took him to the Public Security Offices of Apizaco. According to the complaint filed by the journalist, in these offices the municipal president hit him,

¹⁶¹ International Freedom of Expression Exchange (IFEX). September 9, 2010. *Presuntos narcotraficantes exigen cuota de protección a diario en Puebla*. Available at: http://www.ifex.org/mexico/2010/09/09/puebla_sin_fronteras_extorsion/es. CEPET. September 2, 2010. *Presuntos narcotraficantes exigen cuota de protección a diario en Puebla*. Available at: <http://libexmexico.wordpress.com/2010/09/02/presuntos-narcotraficantes-exigen-cuota-de-protección-a-diario-en-puebla/>

¹⁶² International Freedom of Expression Exchange (IFEX). September 3, 2010. *“Noroeste” newspaper threatened yet again*. Available at: http://www.ifex.org/mexico/2010/09/03/noroeste_extortion/. La Jornada. September 3, 2010. *Nuevas amenazas a directivos y trabajadores de Noroeste*. Available at: <http://www.jornada.unam.mx/2010/09/03/index.php?section=politica&article=010n1pol>

¹⁶³ International Freedom of Expression Exchange (IFEX). September 3, 2010. *“Noroeste” newspaper threatened yet again*. Available at: http://www.ifex.org/mexico/2010/09/03/noroeste_extortion/. El Universal. September 3, 2010. *Newspaper “Noroeste” recibe más amenazas*. Available at: <http://www.eluniversal.com.mx/states/77712.html>

¹⁶⁴ International Freedom of Expression Exchange (IFEX). September 30, 2010. *Elementos de la policía federal amenazan a reportero en Villa Ahumada, Chihuahua*. Available at: http://www.ifex.org/mexico/2010/09/30/farrera_amenazas/es/. CEPET. September 27, 2010. *Elementos federales amenazan a reportero en Villa Ahumada*. Available at: <http://libexmexico.wordpress.com/2010/09/27/elementos-federales-amenazan-a-reporter-en-villa-ahumada-chihuahua/>

¹⁶⁵ International Freedom of Expression Exchange (IFEX). October 18, 2010. *Photographer assaulted by police officers*. Available at: http://www.ifex.org/mexico/2010/10/21/jaramillo_assaulted/. El Universal. October 17, 2010. *Federales golpean a fotógrafo en SLP*. Available at: <http://www.eluniversal.com.mx/nacion/181229.html>

threatened him, and sent him to the State Public Prosecutor's Office where he was accused of breaking and entering and robbery. The accusations were deemed groundless, but the journalist was deprived of his liberty for approximately eight hours. Morales gained his freedom by paying a fine for an alleged administrative violation. The journalist reported the case to the National and State Public Prosecutor's Offices. The state of Tlaxcala congress officially requested that the Public Prosecutor's Office and the local Human Rights Commission to investigate.¹⁶⁶

92. According to the information received, on October 24, 2010, in the municipality of La Huerta, state of Jalisco, state police beat and used pepper spray on a group of journalists from various media outlets. The reporters assaulted included: **Lourdes Mireles** and **José Luis Valle**, reporter and cameraman for *TV Azteca*; **José Mendoza Navarro** and **Fabiola Rosales Calderón**, reporter and photographer for *El Occidental*; as well as **Susana Carreño** and **Analy S. Nuño**, reporters for *La Explosiva 590 AM* and *La Jornada*, respectively. According to the information received by the Office of the Special Rapporteur, the journalists were reporting on the protests of a group allegedly under the leadership of federal members of Congress. When the protestors tried to remove the road barrier that blocked the route to Tenacatita beach, the police attacked both the protestors and the journalists using pepper spray and their police batons.¹⁶⁷

93. According to the information received, on October 25, 2010, **Marta Chan Dzul**, a reporter for *Grupo Megamedia*, was assaulted by a group of people while reporting on abuses allegedly committed by a local agrarian leader (*comisario ejidal* or communal land commissioner) in San Diego Tixcacal, in the state of Yucatán. According to the information received, the assailants were family members of the commissioner, and they beat and harassed her until the journalist was rescued by state police.¹⁶⁸

94. According to the information received, on October 27, 2010, **Félix García**, a reporter for *Radio ORO*, was beaten and threatened, allegedly by officers of the State Investigation Agency in the city of Oaxaca, state of Oaxaca. According to the information available, Félix García was reporting on the looting carried out by a group of people at the former offices of the state of Oaxaca's Public Prosecutor's Office. Noticing the reporter's presence, three of the group approached him, and assaulted and threatened him. The journalist reported the assault to Oaxaca's Public Prosecutor's Office. Oaxaca's Human Rights Commission opened a file to monitor the investigations.¹⁶⁹

95. On October 30, 2010 the reporter **Adriana Luna** was intimidated by the Secretary of Public Security for the state of Jalisco. According to the information received, on October 30, 2010 the correspondent for the newspapers *Excelsior* and *Grupo Imagen* in the state of Jalisco had approached Secretary Carlos Nájera at the end of a ceremony to mourn the deaths of nine state police gunned down in Jilotlán de los Dolores, in the state of Jalisco, to ask him about versions of events according to which the convoy of state police was ambushed by a group

¹⁶⁶ International Freedom of Expression Exchange (IFEX). October 29, 2010. *Alcalde golpea y ordena detener a periodista por publicar presuntos desvíos de recursos públicos*. Available at: http://www.ifex.org/mexico/2010/10/29/morales_detained/es/

¹⁶⁷ International Freedom of Expression Exchange (IFEX). November 12, 2010. *Elementos policiacos agreden a siete periodistas que cubrían protesta*. Available at: http://www.ifex.org/mexico/2010/11/12/periodistas_agredidos/es/. Diario Milenio. October 25, 2010. *Policías estatales agreden a diputados en Tenacatita*. Available at: <http://www.milenio.com/node/561989>.

¹⁶⁸ International Freedom of Expression Exchange (IFEX). November 2, 2010. *Agreden físicamente a reportera por atender denuncias de supuestos actos de corrupción*. Available at: http://ifex.org/mexico/2010/11/02/chan_dzul_attacked/es/. Diario de Yucatán. October 27, 2010. *La agresión a una reportera del grupo Megamedia llega al Congreso de la Unión*. Available at: <http://www.yucatan.com.mx/20101027/nota-9/24824-la-agresion-a-una-reportera-de-grupo-megamedia-llega-al-congreso-de-la-union.htm>.

¹⁶⁹ CEPET. October 29, 2010. *Presuntos agentes estatales agreden y lesionan a periodista radiofónico en Oaxaca*. Available at: <http://libexmexico.wordpress.com/2010/10/30/presuntos-agentes-estatales-agreden-y-lesionan-a-periodista-radiofonico-en-oaxaca/>. Grupo Fórmula. October 28, 2010. *Denuncia reportero de Oaxaca a presuntos agentes de investigación por agresión*. Available at: <http://www.grupoformula.com/notas.asp?Idn=138389>

of hit-men who were allegedly guarding the successor of the drug-trafficker Ignacio “Nacho” Coronel, killed shortly before. The secretary did not reply to the questions, and accused the media of giving more say to criminals than to the authorities, before putting an end to the interview. According to the information received, the reporter approached Nájera soon afterwards to explain the reasons behind her questions but the latter warned that he would take measures against Moisés Mora, the reporter’s husband. The reporter filed a complaint with the state of Jalisco’s Human Rights Commission, which provided her and her family with measures of protection.¹⁷⁰

96. According to the information received, on October 31, 2010, the journalist **Jorge Alejandro Medellín** received death threats in relation to the publication of a report in the weekly magazine *Milenio*, which alleged links between criminal organizations and government authorities in the state of Chihuahua. Medellín filed a complaint with the National Human Rights Commission for it to monitor the investigation.¹⁷¹

97. According to the information received, on November 8, 2010, **two reporters, whose names were withheld, for *El Diario in Chihuahua***, state of Chihuahua, received death threats which led them to leave Mexico. The threats were made after the journalists covered a car accident in which one person died. The threats were revealed to the journalists by the policemen who had been working at the scene of the accident, who sought out the reporters to tell them that family members of the deceased had threatened to kill them and were already looking for them. Both journalists left the city with the support of the Chihuahua Journalists’ Association.¹⁷²

98. According to the information received, on November 14, 2010, **reporters from various media outlets** were assaulted while they reported on the story of an explosion in the Grand Rivera Princess hotel in Playa del Carmen, state of Quintana Roo. **Verónica Alfonso** of *El Quintanarooense* and **Matías Hau** of *Diario Respuesta* were hospitalized as a result of the assault. According to the information received by the Office of the Special Rapporteur, the hotel employees had used sticks, steel bars and fire extinguishers to attack the journalists who had come to the hotel to report on the incident, as those in charge of the hotel administration ordered them to prevent the journalists from entering. Three employees were arrested and handed over to the Public Prosecutor’s Office as part of the investigation.¹⁷³

99. According to the information received, on November 19, 2010, the reporter **Rebeca Luna Jiménez** of *Radio Mil México* was assaulted in the city of Oaxaca, state of Oaxaca. According to the information from the Federal District Human Rights Commission, the reporter was traveling on her motorcycle when unknown men on a similar vehicle approached

¹⁷⁰ International Freedom of Expression Exchange (IFEX). November 4, 2010. *Secretario de Seguridad Pública de Jalisco intimida a reportera*. Available at: http://www.ifex.org/mexico/2010/11/04/luna_amenazas/es/. La Jornada Jalisco. November 2, 2010. *Medidas cautelares para proteger a la reportera Adriana Luna* CEDHJ. Available at: <http://www.lajornadajalisco.com.mx/2010/11/02/index.php?section=politica&article=004n2pol>. Excelsior. November 1, 2010. *Intimida SSP de Jalisco a reportera de Excelsior*. Available at: http://www.excelsior.com.mx/index.php?m=nota&id_nota=680645

¹⁷¹ International Freedom of Expression Exchange (IFEX). November 3, 2010. *Journalist receives death threat after writing article on drug trafficking*. Available at: http://www.ifex.org/mexico/2010/11/04/medellin_death_threats/. Milenio. November 3, 2010. *Piden organizaciones civiles a PGR investigar amenazas a periodista*. Available at: <http://www.milenio.com/node/570038>; El Universal. November 3, 2010. *CNDH abre expediente por amenaza a periodista*. Available at: <http://www.eluniversal.com.mx/notas/720972.html>

¹⁷² International Freedom of Expression Exchange (IFEX). November 15, 2010. *Two reporters flee the country after receiving death threats*. Available at: http://www.ifex.org/mexico/2010/11/15/journalists_leave_mexico/. El Universal. November 12, 2010. *Dos periodistas dejan el país por amenazas*. Available at: <http://www.eluniversal.com.mx/primeria/35859.html>

¹⁷³ CEPET. November 16, 2010. *Agreden a periodistas para impedirles cubrir explosión en hotel*. Available at: <http://libexmexico.wordpress.com/2010/11/16/atacan-a-periodistas-para-impedirles-cubrir-explosion-en-hotel/>. Milenio. November 15, 2010. *Condena CDH de Q. Roo agresión a periodistas que cubrían explosión*. Available at: <http://www.milenio.com/node/578879>. La Crónica de Hoy. November 15, 2010. *Personal de hotel golpea y “gasea” a reporteros*. Available at: http://www.cronica.com.mx/nota.php?id_nota=544170

her, tried to pull her off her motorcycle, and attacked with a knife, cutting her forehead and arm. After the attack, the reporter was treated in a Red Cross hospital. According to the information available, Rebeca Luna had received a telephone call after the assault asking whether she had liked “the governor’s little present.” The journalist reported the incident to the Public Prosecutor’s Office of Oaxaca.¹⁷⁴

100. According to the information received, on November 28, 2010, the photographer **Marco Ugarte** was assaulted by the security personnel of a shopping mall in Mexico City. According to the information received, the Associated Press photographer was assaulted by security guards while reporting on a fashion show staged outside a shopping mall by the animal rights group “Anima Naturalis” in protest against the use of animal fur in clothes. The assault was stopped by other reporters at the scene. The assailants were arrested by the police. Ugarte reported the incident to the Public Prosecutor’s Office for the Federal District.¹⁷⁵

101. According to the information received, on November 24, 2010, **Selene Ríos Andraca**, a reporter for the newspaper *Cambio*, was threatened by the press coordinator of the governor-elect of the state of Puebla and beaten by a bodyguard of the same. According to the information received by the Office of the Special Rapporteur, the threat was made on the morning of November 24 in Izúcar de Matamoros, state of Puebla, when the journalist, in an attempt to interview the governor, crossed over the line established for the press, and the press coordinator threatened to attack her with her own equipment. The same afternoon in the city of Puebla, state of Puebla, the physical assault occurred at the end of an event when the journalist tried to approach the governor and one of his bodyguards took her by the arm and punched her in the abdomen and chest to prevent her approaching the governor.¹⁷⁶

102. According to the information received, on December 18, 2010, unknown subjects in two moving vehicles fired shots at the home of **José Rosario Olán Hernández**, editor of the magazine *Veredicto Popular*, in Cárdenas, state of Tabasco. The shots damaged the sides and bodywork of the journalist’s car. According to the information received, criticism had been expressed in *Veredicto Popular*—and particularly in Olán Hernández’ column “*El verdugo*” (“The Executioner”)—at the performance of some officials and *regidores* (town council members) from Cárdenas town hall.¹⁷⁷

d. Attacks on media outlets

103. According to the information received, on April 12, 2010 the offices of the magazine **Contralínea** in Mexico City were robbed. According to the information received, financial and fiscal documents and the computer of the magazine’s editor were removed from the

¹⁷⁴ Federal District Human Rights Commission. Press Release 365/2010, November 23, 2010. Available at: <http://www.cdhdh.org.mx/index.php/boletines/460-boletin-3652010>. CENCOS. November 25, 2010. *Agreden a reportera en Oaxaca*. Available at: <http://www.cencos.org/en/node/25687>. El Universal. November 23, 2010. *CDHDF pide investigar agresión a reportera*. Available at: <http://www.eluniversal.com.mx/notas/725521.html>

¹⁷⁵ CEPET. November 30, 2010. *Agreden a fotógrafo de AP durante protesta de grupo pro defensa de los animales*. Available at: <http://libexmexico.wordpress.com/2010/12/01/agreden-a-fotografo-de-ap-durante-protesta-de-grupo-pro-defensa-de-los-animales/>. Milenio. November 29, 2010. *Agreden a fotógrafo de AP durante protesta contra comercio de pieles*. Available at: <http://www.milenio.com/node/588780>

¹⁷⁶ CEPET. November 29, 2010. *Escortas del gobernador electo de Puebla golpean a reportera*. Available at: <http://libexmexico.wordpress.com/2010/11/29/escortas-del-gobernador-electo-de-puebla-golpean-a-reporteras/>. Noticias MVS. November 25, 2010. *Agreden guaruras de Moreno Valle a reportera*. Available at: <http://www.noticiasmvs.com/Agreden-guaruras-de-Moreno-Valle-a-reportera.html>

¹⁷⁷ CEPET/IFEX. December 23, 2010. *Journalist’s house, car shot at in Cárdenas, Tabasco*. Available at: http://www.ifex.org/mexico/2010/12/23/olan_hernandez/. El Independiente del Sureste. December 19, 2010. *Atentan contra el periodista José Rosario Olán en Cárdenas*. Available at: http://www.elindependiente.mx/sitio/index.php?option=com_content&view=article&id=5447:atentan-contra-el-periodista-jose-rosario-olan-en-cardenas&catid=13:agenda&Itemid=5

administrative and editorial offices of the magazine. The theft was reported to the Public Prosecutor's Office of the Federal District.¹⁷⁸

104. On May 17, 2010, according to information from the CNDH, the offices of the **Canal 2** television channel in Tepic, state of Nayarit, were attacked with over 100 bullet rounds and three grenades. At around 1:30 a.m. a grenade exploded, while two more failed to detonate. There were no victims, though property damage did occur. It appears that a message attributed to drug trafficking groups was found after the attack. The message read: "Regards, the New People, Chapo Guzmán and Nacho Coronel."¹⁷⁹

105. According to the information received, at around 11:45 p.m. on June 17 a fragmentation grenade was thrown at the offices of the newspaper **Zócalo**, in Piedras Negras, in the state of Coahuila, which caused damage to windows, doors and parked cars upon exploding.¹⁸⁰

106. On June 22, 2010, according to the CNDH the newspaper **Noticias de El Sol de la Laguna**, in Torreón, Coahuila, was attacked by a group bearing high-caliber weapons who opened fire on the building, breaking windows in the entrance door and some of the vehicles in the parking lot. The receptionist for the newspaper was injured by shrapnel from the bullets.¹⁸¹

107. On June 25, 2010, according to information from the CNDH, the headquarters of **Televisa** in Torreón, Coahuila, was attacked with high-caliber weapons, causing property damage, including to the electric installations, taking the channel off the air. There were no victims.¹⁸²

108. On July 6, 2010, according to information confirmed by Mexican and international press organizations, unidentified persons entered the offices of the **El Día de Michoacán** newspaper in the early morning. Here the journalist Hugo Alfredo Olivera Cartas, who turned up dead on the same day, worked as an editor. Computers and memory devices were stolen.¹⁸³

¹⁷⁸ Campaña Permanente de Protección a Periodistas en México. June 3, 2010. *El peligroso periodismo a Contralínea*. Available at: <http://www.libertad-expresion.org.mx/noticias/el-peligroso-periodismo-a-contralinea/> - more-4849. Asociación Mundial de Radios Comunitarias (AMARC). April 14, 2010. *Allanan y Roban Instalaciones de Contralínea*. Available at: <http://www.amarcMexico.org/Communications/3096.html>

¹⁷⁹ CNDH. Press release CGCP/133/10, May 17, 2010. Available at: <http://www.cndh.org.mx/comsoc/compre/2010/133.pdf>. Campaña Permanente de Protección a Periodistas. May 19, 2010. *Atacan con armas de fuego y granadas instalaciones de televisora en Nayarit*. Available at: <http://www.libertad-expresion.org.mx/noticias/atacan-con-armas-de-fuego-y-granadas-instalaciones-de-televisora-en-nayarit/> - more-4727. El Universal. May 18, 2010. *Comando lanza granadas contra televisora en Tepic*. Available at: <http://www.eluniversal.com.mx/primera/34955.html>

¹⁸⁰ International Freedom of Expression Exchange (IFEX). July 2, 2010. *Grenade launched against newspaper building*. Available at: http://www.ifex.org/mexico/2010/07/06/zocalo_grenade_attack/; Noticias MVS. June 18, 2010. *Atacan diario Zócalo en Coahuila*. Available at: <http://www.noticiasmvs.com/Atacan-diario-Zocalo-en-Coahuila.html>

¹⁸¹ CNDH. Press release CGCP/171/10, June 23, 2010. Available at: http://www.cndh.org.mx/comsoc/compre/2010/COM_2010_0171.pdf. International Freedom of Expression Exchange (IFEX). June 23, 2010. *Shots fired at "noticias de el Sol de la Laguna" offices in Torreón*. Available at: http://www.ifex.org/mexico/2010/06/23/noticias_de_el_sol/. La Jornada. June 23, 2010. *Atacan con metralletas la sede del Diario Noticias Del Sol de la Laguna*. Available at: <http://www.jornada.unam.mx/2010/06/23/index.php?section=politica&article=015n1pol>

¹⁸² CNDH. Press release CGCP/174/10, June 25, 2010. Available at: http://www.cndh.org.mx/comsoc/compre/2010/COM_2010_0174.pdf. CENCOS. June 25, 2010. *Atacan instalaciones de transmisión de televisora en Coahuila*. Available at: <http://www.cencos.org/es/node/24037>; La Jornada. July 26, 2010. *Atacan sede de Televisa in Torreón*. Available at: <http://www.jornada.unam.mx/2010/06/26/index.php?section=politica&article=010n2pol>

¹⁸³ Office of the Special Rapporteur for Freedom of Expression – IACHR. July 8, 2010. Press release No. R67/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=804&IID=1>; Milenio. July 6, 2010. *Ejecutan al periodista Hugo Olivera, colaborador de Quadratin*. Available at: <http://www.milenio.com/node/481004>; El Universal. July 6, 2010. *Matan a periodista en Michoacán*. Available at: http://www.eluniversal.com.mx/notas/vi_693419.html

109. According to the information received, on July 9, 2010, unknown subjects threw a grenade, which failed to detonate, at the offices of the broadcaster **AW Noticias (XEAW 1280 AM)**, belonging to the Multimedios company, in Monterrey, state of Nuevo León. The projectile smashed the glass of the building's front door. According to the information received, 1,000 staff worked in the building, including journalists and personnel who worked for the company.¹⁸⁴

110. On July 30, 2010, the offices of the Televisa media company's **Canal 57** in Nuevo Laredo, state of Tamaulipas, were attacked. According to the information received a group of people traveling in a moving vehicle launched a grenade against the façade of the building, which upon exploding caused property damage, but no deaths or injuries.¹⁸⁵

111. According to the information received, on August 14 and 15, 2010, the offices of the **Televisa** media company in Matamoros, state of Tamaulipas and Monterrey, state of Nuevo León, were attacked with grenades.¹⁸⁶ The PGR appears to be carrying out an investigation into the case.¹⁸⁷

112. According to the information received, in the early morning of August 27, 2010, a car bomb exploded outside the offices of the **Televisa** media company, in Ciudad Victoria, state of Tamaulipas. The TV company staff had left the building just a few minutes before the attack. This was the third and largest in a series of attacks against the company in the course of a single month.¹⁸⁸

113. According to the information received, in the early morning of September 1, 2010, armed individuals opened fire with high-powered weapons on the offices of the newspaper **Noroeste** in Mazatlán in the state of Sinaloa, causing property damage but no victims. The newspaper reported just hours previously receiving telephone calls from persons identifying themselves as members of the criminal organization "La Línea", demanding the publication of

¹⁸⁴ Office of the Special Rapporteur for Freedom of Expression – IACHR. July 5, 2010. Press release No. R70/10. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=805&IID=2>. Campaña Permanente de Protección a Periodistas en México. July 14, 2010. *Nuevo León, ambiente de inseguridad and violence inhibe flujo de información*. Available at: <http://www.libertad-expresion.org.mx/noticias/nuevo-leon-ambiente-de-inseguridad-y-violence-inhibe-flujo-de-informacion/>; International Freedom of Expression Exchange (IFEX). July 14, 2010. *Five journalists and media workers killed in two weeks*. Available at: http://www.ifex.org/mexico/2010/07/14/journalists_slain/; CNN Mexico. July 10, 2010. *Nueve empresarios con signos de tortura fueron rescatados en Nuevo León*. Available at: <http://mexico.cnn.com/nacional/2010/07/10/nueve-microempresarios-estaban-secuestrados-en-un-taller-mecanico>

¹⁸⁵ Office of the Special Rapporteur for Freedom of Expression – IACHR. August 27, 2010. Press release No. R87/10. Available at: <http://www.cidh.org/relatoria/showarticle.asp?artID=815&IID=1>. CEPET. August 2, 2010. *Atacan con granada televisora en Nuevo Laredo, otro medio recibe amenazas en Ciudad Juárez*. Available at: <http://libexmexico.wordpress.com/2010/08/02/atacan-con-granada-televisora-en-nuevo-laredo-otro-medio-recibe-amenaza-en-ciudad-juarez/>; CNN Mexico. July 30, 2010. *En Nuevo Laredo arrojan granada a instalaciones de la empresa Televisa*. Available at: <http://mexico.cnn.com/nacional/2010/07/30/en-nuevo-laredo-arrojan-granada-a-instalaciones-de-la-empresa-televisa>

¹⁸⁶ Office of the Special Rapporteur for Freedom of Expression – IACHR. August 27, 2010. Press release No. R87/10. Available at: <http://www.cidh.org/relatoria/showarticle.asp?artID=815&IID=1>. CNN Latinoamérica, August 15, 2010. *Granada lanzada a una estación de televisión mexicana, no hubo heridos*. Available at: <http://www.cnn.com/2010/WORD/americas/08/15/mexico.station.grenade/>

¹⁸⁷ Committee for the Protection de Journalists (CPJ). *CPJ condena ataques con granadas contra Televisa*, August 16, 2010. Available at: <http://cpj.org/es/2010/08/cpj-condena-ataques-con-granadas-contra-televisa.php>. Reporters without Borders. August 17, 2010. *La cadena nacional Televisa fue atacada dos veces en una sola noche en Monterrey y Matamoros*. Available at: http://es.rsf.org/mexico-una-desaparicion-y-un-exilio-03-08-2010_38088.html. El Universal. August 15, 2010. *PGR abre dos actas por ataques contra Televisa*. Available at: <http://www.eluniversal.com.mx/notas/701814.html>

¹⁸⁸ Office of the Special Rapporteur for Freedom of Expression – IACHR. August 27, 2010. Press release No. R87/10. Available at: <http://www.cidh.org/relatoria/showarticle.asp?artID=815&IID=1>. International Freedom of Expression Exchange (IFEX). September 1, 2010. *Drugs cartels terrorize media with car bombs and grenades*. Available at: http://www.ifex.org/mexico/2010/09/01/car_bomb/. El Universal. August 27, 2010. *SIP repudia atentado con coche bomba a Televisa*. Available at: <http://www.eluniversal.com.mx/notas/704721.html>

certain information and making threats. The Deputy Prosecutor General for the state of Sinaloa declared that the attacks may have been the consequence of the newspaper's refusal to publish a certain type of information.¹⁸⁹

114. On October 3, 2010, unidentified individuals armed with high-powered weapons attacked the offices of the newspaper *El Debate* in Mazatlán, state of Sinaloa. According to the information received on the morning of Sunday October 3, 2010, individuals traveling in a vehicle opened fire on the façade and the entrance to the parking lot, causing property damage but no injuries. The newspaper staff who were in the building at the time, took refuge after the first shots.¹⁹⁰

115. According to the information received, on Wednesday November 10, 2010, an unknown group of armed individuals opened fire on the offices of the newspaper *El Sur* in Acapulco, and subsequently burst into the editing room where they fired their weapons, cut telephone lines and poured gasoline around, threatening to start a fire. The staff who were in the building at the time of the attack were able to take refuge, meaning there were no injuries. *El Sur* regularly covers local politics, violence and organized crime.¹⁹¹

e. Detentions

116. According to the information received, on May 5, 2010, **Carlos Alberto Salazar Ortiz, Carlos Ferrer González** and **Marcos Flores Aguilar**, who work as cameraman, photographer and driver, respectively, for the multimedia publication *Reporte Índigo*, were arrested at approximately 1.00 p.m. near the headquarters of the Federal Public Security Ministry. According to the information received by the Office of the Special Rapporteur, the reporters were taking photographs and video of the building as part of a journalistic investigation. The three individuals were freed on May 6 at around 11.00 a.m. after being detained for around 20 hours in the Camarones Metropolitan Sub-Office of the PGR where, according to the information received, the material they had collected was confiscated.¹⁹²

117. Within the framework of its visit, the Office of the Special Rapporteur requested that the Mexican State provide detailed information about this case.¹⁹³ In a reply received on November 12, 2010, the State indicated that both the CNDH and the Public Security Ministry, through the Human Rights Department and the Internal Affairs Department of the Federal Police,

¹⁸⁹ International Freedom of Expression Exchange (IFEX). September 2, 2010. "Noroeste" newspaper facilities in Sinaloa attacked by armed men. Available at: http://www.ifex.org/mexico/2010/09/02/atentado_noroeste_mazatlan/. El Universal. September 2, 2010. Disparan contra diario "Noroeste". Available at: <http://www.eluniversal.com.mx/primera/35481.html>. La Jornada. September 2, 2010. Ataque al Noroeste de Mazatlán, por negarse a publicar "cierta información". Available at: <http://www.jornada.unam.mx/2010/09/02/index.php?section=politica&article=016n2pol>

¹⁹⁰ International Freedom of Expression Exchange (IFEX). October 4, 2010. Shots fired at "El Debate" newspaper building in Mazatlán. Available at: http://www.ifex.org/mexico/2010/10/05/el_debate_shots_fired/. Inter-American Press Society (IAPA). October 4, 2010. Condena SIP ataque a diario mexicano El Debate de Mazatlán. Available at: http://www.sipiapa.org/v4/index.php?page=cont_Communications&seccion=detalles&id=4452&idioma=sp

¹⁹¹ Committee to Protect Journalists (CPJ). November 12, 2010. Sujetos armados atacan diario en Acapulco. Available at: <http://cpj.org/es/2010/11/sujetos-armados-atacan-periodico-en-acapulco.php>. El Economista. November 11, 2010. Bolean al diario El Sur en Acapulco. Available at: <http://eleconomista.com.mx/states/2010/11/11/atacan-periodico-sur-querrero>. Proceso. November 10, 2010. Rafaguean el diario El Sur de Acapulco. Available at: <http://www.proceso.com.mx/rv/modHome/detalleExclusiva/85277>

¹⁹² Campaña Permanente de Protección a Periodistas en México. May 7, 2010. Urgente que las autoridades se responsabilicen de promover y defender la libertad de prensa. Available at: <http://www.libertad-expresion.org.mx/noticias/urgente-que-las-autoridades-se-responsabilicen-de-promover-y-defender-la-libertad-de-prensa/#more-4696>. La Jornada. May 7, 2010. Empleados de Reporte Índigo quedan libres. Available at: <http://www.jornada.unam.mx/2010/05/07/index.php?section=politica&article=008n2pol>. CNN Mexico. 6 May 6, 2010. Tres periodistas detenidos frente a la casa del Secretario de Seguridad. Available at: <http://mexico.cnn.com/nacional/2010/05/06/tres-periodistas-detenido-frente-a-la-casa-del-secretario-de-seguridad>

¹⁹³ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

had begun the corresponding investigations, which remain open.¹⁹⁴ The Public Security Ministry indicated that, according to its investigations, “the complainants did not identify themselves as journalists and [...] merely stated they were undertaking confidential research, which led to doubts concerning the authenticity of the identifications which they subsequently presented.” It also stated that the journalists “were at no time deprived of their liberty but were detained and taken to where they were presented before the ministerial authority as subject to investigation.”¹⁹⁵

f. Other incidents

118. According to the information received, on April 5, 2010 unidentified persons bought from the distributor almost all copies of the weekly magazine *Proceso* intended for public sale in the state of Sinaloa. According to the information received, only 200 of the 1779 copies were distributed. The issue of *Proceso* published an interview with Ismael “El Mayo” Zambada, one of the leaders of the Sinaloa Cartel, and articles which made allegations about the drug trafficking *capo*’s relationship with a local politician in Sinaloa.¹⁹⁶

3. Illustrative cases of violence and impunity 1988-2009

119. As a complement to the previous section regarding acts of violence that occurred during 2010, in the following section the Office of the Special Rapporteur analyzes a number of cases of violence against journalists from prior years about which it received information within the framework of its on-site visit to Mexico. These cases, which to date have gone unpunished, were chosen for their representative nature with regard both to the nature of the crime itself as well as to the obstacles that have been observed in the judicial process. As has been stated, the Office of the Special Rapporteur does not intend to award greater significance to these cases over others, but rather to use them to explain and provide evidence for some of the patterns that it has observed with regard to the violence carried out against journalists in Mexico and the impunity that characterizes the majority of these acts.

a. Murder

Felicitas Martínez Sánchez and Teresa Bautista Merino

120. On April 7, 2008, Felicitas Martínez Sánchez and Teresa Bautista Merino, community radio presenters for *La Voz que Rompe el Silencio* of the Triqui Indigenous community in the state of Oaxaca, were murdered in an ambush by unidentified individuals who opened fire on the vehicle they were traveling in with automatic weapons. A further four people were wounded.¹⁹⁷

¹⁹⁴ Mexican State, “Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010”, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹⁹⁵ Mexican State, “Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010”, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

¹⁹⁶ International Freedom of Expression Exchange (IFEX). April 13, 2010. *Realizan en Sinaloa compra masiva de ejemplares de “Proceso”; impiden su circulación normal*. Available at: http://www.ifex.org/mexico/2010/04/13/el_proceso/es/. BBC Mundo. April 18, 2010. *México: crece la polémica por entrevista a capo del narcotráfico*. Available at: http://www.bbc.co.uk/mundo/america_latina/2010/04/100408_mexico_revista_proceso_entrevista_cartel_jp.shtml

¹⁹⁷ IACHR. *Annual Report 2008*. OEA/Ser.L/V/II.134, February 25, 2009. Vol. III, *Report of the Office of the Special Rapporteur for Freedom of Expression*, chap. 2, par. 157. Available at: http://www.cidh.oas.org/annualrep/2008eng/Annual_Report_2008-RELE-version_final.pdf. See Office of the Special Rapporteur for Freedom of Expression – IACHR. April 18, 2008. Press release No. 190/08. Available at: <http://www.cidh.org/relatoria/showarticle.asp?artID=729&IID=1>. CENCOS/Article 19. April 8, 2008. *Asesinan a dos locutoras de radio comunitaria en Oaxaca*. Available at: <http://cencos.org/es/node/18232>. Reporters without Borders. April

121. The radio station *La voz que rompe el silencio* forms part of the project for greater autonomy of the municipality of San Juan Copala and belongs to the Network of Community Radio and Television Stations of Southeastern Mexico, as well as the Network of Indigenous Media Workers of the Mixteca-Triqui Region.¹⁹⁸ According to the information received, since its creation the radio sought to be an instrument to make calls for unity, to overcome conflicts and to promote communication. It began transmission on January 20, 2008.¹⁹⁹ According to the information received, the journalists Martínez and Bautista worked as presenters and reporters at the community radio station and often presented information on subjects relating to the autonomous indigenous government, health, education and the culture of their community, thereby complying with a duty assigned to them by their community.²⁰⁰ After the murders, the station reduced its coverage of delicate political issues.²⁰¹

122. The two media workers were murdered on April 7, 2008, in the course of an ambush in the locality of Llano Juárez, on the highway that leads from Joya del Mamey to Putla de Guerrero, when they were traveling together with other individuals in a private vehicle. According to the information received, the investigations undertaken have shed no light on information that might identify the responsible party.²⁰²

123. Both the Commission for the Defense of Human Rights of Oaxaca (hereinafter, “CEDHOAX”) and the CNDH monitored the case and the measures taken by the judicial authorities. The analysis carried out by these autonomous bodies allow some of the obstacles facing investigation of the crime to be understood.

124. On April 16 and 17, 2008, the CEDHOAX requested protective measures be taken in favor of the survivors of the attack in which the journalists died, as well as the children of the victims and the new presenters of the community radio station, considering there to be a risk

9, 2008. *Asesinadas a disparos dos jóvenes periodistas de una radio comunitaria indígena, el estado de Oaxaca*. Available at: http://www.rsf.org/article.php3?id_article=26514. Committee to Protect Journalists (CPJ). 10 de April de 2008. *Dos locutoras de una radio comunitaria asesinadas*. Available at: <http://cpj.org/es/2008/04/dos-locutoras-de-una-radio-comunitaria-asesinadas.php>. Office in Mexico of the United Nations High Commissioner for Human Rights. April 17, 2008. *Press release: La OACNUDH condena los asesinatos y agresiones de periodistas y comunicadores/as sociales*. Available at: <http://www.hchr.org.mx/documentos/Comunicaciones/Communicationprensa7abril2008.pdf>

¹⁹⁸ Luís Hernández Navarro, “México: Once retratos de la impunidad”. *El Cotidiano* (Mexico D.F.) July/August 2008. Available at: <http://redalyc.uaemex.mx/pdf/325/32515014.pdf>. Fr. Francisco de Vitoria Center for Human Rights. April 11, 2008. *Asesinato de dos radialistas indígenas*, CACTUS. Available at: <http://www.derechoshumanos.org.mx/modules.php?name=News&file=article&sid=806>

¹⁹⁹ Luís Hernández Navarro, “Mexico: Once retratos de la impunidad”. *El Cotidiano* (Mexico D.F.) July/August 2008. Available at: <http://redalyc.uaemex.mx/pdf/325/32515014.pdf>

²⁰⁰ IACHR. *Annual Report 2008*. OEA/Ser.L/V/II.134, February 25, 2009. Vol. III, *Report of the Office of the Special Rapporteur for Freedom of Expression*, chap. 2, par. 157. Available at: http://www.cidh.oas.org/annualrep/2008eng/Annual_Report_2008-RELE_-_version_final.pdf. See Office of the Special Rapporteur for Freedom of Expression – IACHR. April 18, 2008. Press release No. 190/08. Available at: <http://www.cidh.org/relatoria/showarticle.asp?artID=729&IID=1>. CENCOS/Article 19. April 8, 2008. *Asesinan a dos locutoras de radio comunitaria en Oaxaca*. Available at: <http://cencos.org/es/node/18232>. Reporters without Borders. April 9, 2008. *Asesinadas a disparos dos jóvenes periodistas de una radio comunitaria indígena, el estado de Oaxaca*. Available at: http://www.rsf.org/article.php3?id_article=26514. Committee to Protect Journalists (CPJ). April 10, 2008. *Dos locutoras de una radio comunitaria asesinadas*. Available at: <http://cpj.org/es/2008/04/dos-locutoras-de-una-radio-comunitaria-asesinadas.php>. Office in Mexico of the United Nations High Commissioner for Human Rights. April 17, 2008. *Press release: La OACNUDH condena los asesinatos y agresiones de periodistas y comunicadores/as sociales*. Available at: <http://www.hchr.org.mx/documentos/comunicados/comunicadoprensa7abril2008.pdf>. Centro de Derechos Humanos Fr. Francisco de Victoria O.P.A.C. April 11, 2008. *Asesinato de dos radialistas indígenas*, CACTUS. Available at: <http://www.derechoshumanos.org.mx/modules.php?name=News&file=article&sid=806>

²⁰¹ Committee to Protect Journalists (CPJ). September, 2010. *Silence or Death in Mexico's Press*, (New York: CPJ, 2010), appendix 1. Available at: http://cpj.org/reports/cpj_mexico_english.pdf

²⁰² Office in Mexico of the United Nations High Commissioner for Human Rights. *Defender los derechos humanos: entre el compromiso y el riesgo. Informe sobre la situación de las and los Defensores*, p. 39. Available at: <http://www.hchr.org.mx/documentos/informes/informepdf.pdf>

to the lives of these people.²⁰³ The requests for protective measures were accepted by the corresponding authorities.²⁰⁴ On May 15, 2008, the CNDH also requested protective measures be taken in favor of the survivors, the radio staff, the relatives of the murdered women and the human rights workers who filed the complaint and requested investigation of the crimes.²⁰⁵ The Office of the Special Rapporteur notes that, according to the CEDHOAX, the atmosphere of violence and hostility that held sway led to distrust and fear among those who might help to clarify what occurred, and even among the local police force.²⁰⁶

125. Meanwhile, both the CEDHOAX and the CNDH identified various obstacles and irregularities in the investigation. In the first place, as the analysis by the CNDH shows, there was no clarity about the jurisdiction responsible for the investigation, since it was begun by the Public Prosecutor's Office of the state of Oaxaca, and then taken up by the PGR.²⁰⁷

126. The CEDHOAX and the CNDH identified a number of deficiencies in the investigation begun by the state judicial authorities. For example, on April 15, 2008, eight days after the attack, the Public Prosecutor's Office had still not visited the site of the attack nor interviewed the police officers who were the first to reach the location of the crime.²⁰⁸ Further, it failed to make use of police investigation techniques and avoid the loss, destruction, or alteration of tracks or clues; nor did it even cordon off and safeguard the crime scene; nor did it seek the involvement of forensic experts.²⁰⁹ In the view of the CNDH, the actions of the Public Prosecutor's Office of the state of Oaxaca "lacked any real intention to investigate the offense, insofar as it failed to carry out procedures that would identify the parties likely to be responsible for the crime."²¹⁰

127. As for the investigations undertaken by the PGR, the CNDH considered that while forensic tests in a number of areas were requested, the ministerial authority did not respond in timely fashion to the requirements set out by specialists from the same government body, with regard to the need to carry out a visual inspection and reconstruction of the events, as well as guaranteeing the security of the personnel involved in these procedures.²¹¹

128. Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case of Teresa Bautista and Felicitas

²⁰³ Commission for the Defence of Human Rights in Oaxaca, *Informe Especial Público, Caso: Homicidio de Teresa Bautista Merino y Felicitas Martínez Sánchez* (Oaxaca: April 23, 2008), pp. 6-7, Available at: <http://www.cedhoax.org/newcddho/infesp/Homicidio%20Teresa%20y%20Felicitas.pdf>

²⁰⁴ Commission for the Defence of Human Rights in Oaxaca, *Informe Especial Público, Caso: Homicidio de Teresa Bautista Merino y Felicitas Martínez Sánchez* (Oaxaca: April 23, 2008), pp. 6-7, Available at: <http://www.cedhoax.org/newcddho/infesp/Homicidio%20Teresa%20y%20Felicitas.pdf>

²⁰⁵ CNDH. Press release CGCP/081/08, May 15, 2008. Available at: <http://www.cndh.org.mx/comsoc/compre/2008/081.htm>

²⁰⁶ Commission for the Defence of Human Rights in Oaxaca, *Informe Especial Público, Caso: Homicidio de Teresa Bautista Merino y Felicitas Martínez Sánchez* (Oaxaca: April 23, 2008), pp. 6-7, Available at: <http://www.cedhoax.org/newcddho/infesp/Homicidio%20Teresa%20y%20Felicitas.pdf>

²⁰⁷ CNDH. General Recommendation 17, August 19, 2009. Available at: <http://www.cndh.org.mx/recomen/general/017.htm>

²⁰⁸ Commission for the Defence of Human Rights in Oaxaca, *Informe Especial Público, Caso: Homicidio de Teresa Bautista Merino y Felicitas Martínez Sánchez* (Oaxaca: April 23, 2008), p. 7, Available at: <http://www.cedhoax.org/newcddho/infesp/Homicidio%20Teresa%20y%20Felicitas.pdf>

²⁰⁹ CNDH. General Recommendation 17, August 19, 2009. Available at: <http://www.cndh.org.mx/recomen/general/017.htm>

²¹⁰ CNDH. General Recommendation 17, August 19, 2009. Available at: <http://www.cndh.org.mx/recomen/general/017.htm>

²¹¹ CNDH. General Recommendation 17, August 19, 2009. Available at: <http://www.cndh.org.mx/recomen/general/017.htm>

Martínez.²¹² In a reply received on November 12, 2010, the State sent a number of documents relating to the investigation. These documents included a letter from the then Special Prosecutor's Office for Crimes against Journalists (hereinafter "FEADP") dated April 25, 2008, in which it affirmed that "neither woman engaged in activity as a media worker, reporter or presenter for the radio station", such that the "Special Prosecutor is not the competent authority to follow up this case."²¹³ However, a letter dated May 21, 2008, also from the FEADP, states that "as of May 17 of the present year, this Special Prosecutor for Offenses Committed against Journalists of the PGR exercised its authority to assert jurisdiction and is now in charge of this investigation at its Oaxaca State office."²¹⁴ Indeed, the information provided indicates that the criminal investigation is currently being processed by the FEADLE.²¹⁵ The available information indicates that those responsible for the deaths of the journalists Teresa Bautista Merino and Felicitas Martínez Sánchez have yet to be identified.

Armando Rodríguez Carreón

129. Armando Rodríguez Carreón, a journalist at the newspaper *El Diario* in Ciudad Juárez in the state of Chihuahua, was murdered on November 13, 2008. That morning Rodríguez Carreón was in his car, outside his home with his daughter, who he was about to take to school, when unidentified individuals shot at him with a firearm. The reporter died at the scene. In early 2008, the journalist had received threats, which had led him to leave the city for two months, according to information published at the time by the local press and by NGOs.²¹⁶ According to *El Diario*, Rodríguez Carreón had been covering public security issues for more than ten years for the newspaper, and was the author of several analyses and statistics that showed the scale of the rise in violence in Ciudad Juárez.²¹⁷ Two weeks before his death, he had published an article that linked family members of a high official at the state Public Prosecutor's office with drug trafficking.²¹⁸

130. According to the press, the then-FEADP immediately exercised its authority to assert its jurisdiction over the homicide of journalist Armando Rodríguez.²¹⁹ The state governor announced, however, that the crime would be investigated jointly with the state Public Prosecutor's Office.²²⁰ Indeed, the information available indicates that two investigations were undertaken, one at the federal level and the other at state level, into the murder of Armando

²¹² Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

²¹³ FEADP, Memo No. SDHAVSC/FEADP/0420/08 of April 25, 2008, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²¹⁴ FEADP, Memo No. SDHAVSC/FEADP/0513/08 of May 21, 2008, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²¹⁵ FEADLE, Memo No. 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²¹⁶ Office of the Special Rapporteur for Freedom of Expression – IACHR. November 14, 2008. Press release No. R50/08. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=734&IID=2>. See also *El Diario*. September 24, 2010. *Ponen a torturado y a 2 muertos como asesinos de El Choco*. Available at: <http://www.diario.com.mx/notas.php?f=2010/09/24&id=2faa7246b17b2a059648c0b775f636fb>

²¹⁷ *El Diario*. September 24, 2010. *Ponen a torturado y a 2 muertos como asesinos de El Choco*. Available at: <http://www.diario.com.mx/notas.php?f=2010/09/24&id=2faa7246b17b2a059648c0b775f636fb>

²¹⁸ *El Diario*. September 24, 2010. *Ponen a torturado y a 2 muertos como asesinos de El Choco*. Available at: <http://www.diario.com.mx/notas.php?f=2010/09/24&id=2faa7246b17b2a059648c0b775f636fb>

²¹⁹ *El Universal*. November 14, 2008. *Atrae PGR el homicidio de periodista en Chihuahua*. Available at: http://www.eluniversal.com.mx/notas/vi_555641.html

²²⁰ *El Universal*. November 14, 2008. *Atrae PGR el homicidio de periodista en Chihuahua*. Available at: http://www.eluniversal.com.mx/notas/vi_555641.html

Rodríguez.²²¹ While the authorities claimed that the two investigations were coordinated,²²² the information available raises doubts about this, as detailed below.

131. According to press reports, federal authorities claimed that the Public Prosecutor's Office of the state of Chihuahua had direct responsibility for carrying out the investigation.²²³ In fact, the authorities of the state Public Prosecutor's Office provided information that at a given moment the Special Prosecutor's Office had renounced its competence over the case, finding no proof that the murder of Armando Rodríguez was motivated by his profession.²²⁴ According to information *El Diario* claims to have received from the Public Prosecutor's Office for the state of Chihuahua, the investigation carried out by the state Public Prosecutor's office pointed to the perpetrator being Juan Gabriel Dávila Antillón.²²⁵

132. Notwithstanding the foregoing, on September 23, 2010, the PGR announced the arrest by the federal authorities of a suspect involved in the murder of Armando Rodríguez, and stated that the motive for the murder was his having written "many journalistic articles against one of the criminal organizations that dispute control of the drugs corridor."²²⁶ The detainee, according to press reports, was an individual identified by the nickname *El 7*, who was alleged to have driven the vehicle used by the journalist's murderers.²²⁷ The PGR later informed that it had also detained Hugo Valenzuela Castañeda, known as *El 3*.²²⁸ According to declarations made by the Prosecutor General reported in the press, the information provided by *El 7* allowed identification of the perpetrator as a person known as *El 6* or *El Junior*, and identification of the mastermind as José Antonio Acosta Hernández, *Diego*, who had been killed in 2009.²²⁹

133. However, *El Diario* and the Committee to Protect Journalists have expressed a series of doubts about these advances in the investigation.²³⁰ As well as the lack of consistency

²²¹ Reporters without Borders. *México: Los entresijos de la impunidad* (Paris: RSF, September, 2009), p. 9. Available at: http://files.reporterossinfronteras.webnode.es/200000142-a5a9ca6a3f/RsF_Informe_Mexico_impunidad_sept09.pdf. *El Diario*. September 24, 2010. *Chocan versiones en expedientes de las Procuradurías estatal y federal*. Available at: <http://www.diario.com.mx/notas.php?f=2010/09/24&id=4df9d5ab3a977336988078701e342141>. See also Memo 0000144/FEADLE/2010, Communication from the FEADLE to the Office of the Special Rapporteur received October 20, 2010, in response to the information request of September 2, 2010.

²²² See *El Diario*. September 26, 2010. *Ciudad Juárez: Inconsistencias sobre quién mató a 'El Choco'*. Available at: <http://www.eldiariodechihuahua.com/notas.php?IDNOTA=210421&IDSECCION=EI%20State&IDREPORTERO=Elena%20Balti%E9rrez>

²²³ *El Diario*. September 24, 2010. *Chocan versiones en expedientes de las Procuradurías estatal and federal*. Available at: <http://www.diario.com.mx/notas.php?f=2010/09/24&id=4df9d5ab3a977336988078701e342141>

²²⁴ See *El Diario*. September 24, 2010. *'Fiscalía federal regresó el caso al no hallar pruebas de que profesión fuera el móvil'*. Available at: <http://www.diario.com.mx/notas.php?f=2010/09/24&id=11779a8e8be92631ed449781f0368937#>

²²⁵ See *El Diario*. September 26, 2010. *Ciudad Juárez: Inconsistencias sobre quién mató a 'El Choco'*. Available at: http://www.eldiariodechihuahua.com/notas.php?IDNOTA=210421&IDSECCION=EI_Estado&IDREPORTERO=ElenaBalti%E9rrez

²²⁶ PGR, Boletín 1108/10, September 23, 2010. Available at: <http://www.pgr.gob.mx/prensa/2007/bol10/Sep/b110810.shtm>

²²⁷ *La Jornada*. September 24, 2010. *El homicidio de Rodríguez Carreón, de El Diario, "por hacer notas" sobre La Línea*. Available at: <http://www.jornada.unam.mx/2010/09/24/index.php?section=politica&article=015n1pol>

²²⁸ *El Diario*. September 24, 2010. *Fue estrangulado en su celda, recluso que PGR presenta como detenido*. Available at: <http://www.diario.com.mx/notas.php?f=2010/09/24&id=4fc5da8c086fbc158430cd13986cda30>

²²⁹ *La Jornada*. September 24, 2010. *El homicidio de Rodríguez Carreón, de El Diario, "por hacer notas" sobre La Línea*. Available at: <http://www.jornada.unam.mx/2010/09/24/index.php?section=politica&article=015n1pol>. Committee to Protect Journalists (CPJ). September 24, 2010. *Doubt cast on confession in Rodríguez murder*. Available at: <http://cpj.org/blog/2010/09/doubt-cast-on-confession-in-rodriguez-murder.php>

²³⁰ *El Diario*. September 26, 2010. *Ciudad Juárez: Inconsistencias sobre quién mató a 'El Choco'*. Available at: http://www.eldiariodechihuahua.com/notas.php?IDNOTA=210421&IDSECCION=EI_Estado&IDREPORTERO=Elena

between the line of enquiry taken by the state Public Prosecutor's office and the results presented by the PGR, *El Diario* reported that Hugo Valenzuela Castañeda, *El 3*, had been strangled in a cell of the state correctional facility on July 8, 2010, making it impossible for him to have been detained at the end of September, 2010, as part of the investigation of the murder of Armando Rodríguez.²³¹ It also reported that the alias "*El 7*" corresponds to Juan Alfredo Soto Arias, who was arrested in March, 2010, and who had filed a complaint with the CNDH alleging that he was tortured.²³² *El Diario* claims to have access to the information that indicates that one of the offenses that Soto Arias had been forced to confess to, was the murder of Armando Rodríguez.²³³

134. As of the date on which this report was completed, the murder of Armando Rodríguez remains unpunished, given that not one of those responsible has been prosecuted or sentenced. There is no clarity, either, about the course taken by the legal proceedings following the progress in the inquiry announced by the PGR in September, 2010, and the subsequent public doubts that were raised in the press and in civil society about these advances. Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case of Armando Rodríguez.²³⁴ In a reply received on November 12, 2010, the State forwarded a FEADLE report that indicates that the investigation is currently "being processed by the state of Chihuahua Public Prosecutor's Office."²³⁵

Bradley Roland Will

135. On October 27, 2006, the American journalist Brad Will lost his life while he was filming a confrontation between sympathizers of the Popular Assembly of the Peoples of Oaxaca (*Asamblea Popular de los Pueblos de Oaxaca*, hereinafter "APPO") and the local police in Santa Lucia del Camino, Oaxaca state. The documentary maker and photojournalist, who was covering the conflict between the state government and a coalition of organizations and labor unions grouped together in the APPO for the independent media organization *Indymedia*, died from the bullet wounds he received. The information received by the Office of the Special Rapporteur at the time of the events indicated that the shots may have come from municipal police dressed as civilians and personnel from the mayor's office, who had opened fire against an APPO barricade near where Brad Will was standing.²³⁶

136. The investigation into the homicide of the journalist Brad Will was initially assumed by the Oaxaca State Public Prosecutor's Office. On November 2, 2006, the State Public Prosecutor's Office opened a prosecution against two municipal police officers identified as suspects in the homicide. However, on November 28, 2006, the criminal judge of the district court in Etla, Oaxaca released the detained officers due to the annulment of the evidence to be used to try them. On March 22, 2007 the state Public Prosecutor's office declined its competence and referred the inquest to the PGR.²³⁷

[Balti%E9rez](http://www.baltimorerep.com/stories/2010/09/24/doubt-cast-on-confession-in-rodriguez-murder.php). Committee to Protect Journalists (CPJ). September 24, 2010. Doubt cast on confession in Rodríguez murder. Available at: <http://cpj.org/blog/2010/09/doubt-cast-on-confession-in-rodriquez-murder.php>

²³¹ *El Diario*. September 24, 2010. *Fue estrangulado in su celda, recluso que PGR presenta como detenido*. Available at: <http://www.diario.com.mx/notas.php?f=2010/09/24&id=4fc5da8c086fbc158430cd13986cda30>

²³² *El Diario*. September 24, 2010. *Ponen a torturado and a 2 muertos como asesinos de El Choco*. Available at: <http://www.diario.com.mx/notas.php?f=2010/09/24&id=2faa7246b17b2a059648c0b775f636fb>

²³³ *El Diario*. September 24, 2010. *Ponen a torturado and a 2 muertos como asesinos de El Choco*. Available at: <http://www.diario.com.mx/notas.php?f=2010/09/24&id=2faa7246b17b2a059648c0b775f636fb>

²³⁴ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

²³⁵ PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²³⁶ Office of the Special Rapporteur for Freedom of Expression – IACHR. October 31, 2006. Press release No. 156/06. Available at: <http://www.cidh.oas.org/relatoria/artListCat.asp?year=2006&countryID=1&IID=1&catID=1>

²³⁷ CNDH, Recommendation 50 of 2008, September 26, 2008.

137. The PGR accepted competence with regard to the case of Brad Will on April 4, 2007, and on October 22, 2007—almost a year after the murder—the then-Special Prosecutor's Office for Crimes against Journalists assumed competence over the case.²³⁸ After a year of enquiries the Special Prosecutor decided to prosecute Juan Manuel Martínez Moreno, an APPO sympathizer, as the perpetrator of the homicide of Brad Will, and against a further two people for the offense of accessory after the fact.²³⁹ On February 18, 2010, after spending 16 months in detention, Juan Manuel Martínez Moreno had the charges against him quashed by order of a federal tribunal.²⁴⁰ The legal representation of the family of Brad Will informed the Office of the Special Rapporteur that the PGR had not advised the reporter's family if it would continue with the investigation following the liberation of Mr. Martínez.²⁴¹

138. The investigations undertaken in the case of Brad Will have been repeatedly questioned by the CNDH and international organizations such as the CPJ. The CNDH carried out a detailed study of the judicial process in its Recommendation 50/2008, identifying a series of irregularities. With regard to the investigation carried out by the state Public Prosecutor's Office, the CNDH detected a number of significant omissions, including the failure to immediately arrive at and secure the crime scene. In addition, according to the CNDH, the state Public Prosecutor's Office did not interrogate the two individuals who were first detained and presented as probable perpetrators of the homicide, and failed to identify, locate or interrogate the armed individuals who appear in the video stills and photographs of the death of the reporter, which were widely circulated in the media. The CNDH also criticized failures on the part of the state Public Prosecutor's Office in the examination of the weapons the municipal police were carrying on the day of the incident. Finally, the CNDH concluded on the basis of independent forensic analysis that the state Public Prosecutor's Office was wrong to determine that the shot that killed the journalist Brad Will was fired from a close distance, at a different time and place from where the initial incident occurred. On the contrary, according to the analysis of the CNDH, Brad Will was killed by shots fired in close succession from a distance of approximately 35 to 50 meters (115 to 164 feet), from a single weapon fired by the same person.²⁴²

139. The investigation carried out by the PGR's Special Prosecutor's Office was still in process when the CNDH issued its Recommendation 50/08, and Juan Manuel Martínez Moreno had not yet been accused of the crime. Nonetheless, the CNDH observed that said investigation had "failed to put principles of criminology into effect" and recommended "the inclusion of a group of forensic experts, who work together, in order to analyze the clues, evidence and elements of proof that have been recorded in the criminal investigation."²⁴³ The PGR did not accept the CNDH's Recommendation 50/08.²⁴⁴ In a detailed response to the Recommendation issued by the CNDH, the PGR defended the conclusions of its investigation, noting in the first place that "it is the case that some of the actions requested are being undertaken, have already been carried out, or were of no relevance."²⁴⁵ It also clarified that the PGR "chose not to be influenced by the

²³⁸ CNDH, Recommendation 50 of 2008, September 26, 2008.

²³⁹ PGR, Memo No. SDHAVSC/FEADP/1058/08, communication from the Special Prosecutor for Crimes against Journalists to the CPJ of October 28, 2008, Available at: <http://cpj.org/blog/Mexico.Brad%20Will%5BEspa%C3%B1ol%5D.PDF>

²⁴⁰ Committee to Protect Journalists (CPJ). February 24, 2010. *Only man accused in Brad Will murder goes free*. Available at: <http://cpj.org/blog/2010/02/only-man-accused-in-brad-will-murder-goes-free.php>

²⁴¹ Letter from Miguel Ángel de los Santos Cruz to the Office of the Special Rapporteurs of the IACHR and the United Nations, August 10, 2010, document provided to the Office of the Special Rapporteur during the on-site visit.

²⁴² CNDH, Recommendation 50 of 2008, September 26, 2008.

²⁴³ CNDH, Recommendation 50 of 2008, September 26, 2008.

²⁴⁴ PGR, Memo PGR/669/08 October 16, 2008, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²⁴⁵ PGR, Memo PGR/669/08 October 16, 2008, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

rulings at work in the criminal investigation, by requesting a forensic analysis that dissipated the doubts and established the circumstances of the actions that led to the death of the journalist Bradley Roland Will [...] which was delivered on March 18, 2008, and to which forensic experts in criminology, chemistry, ballistics, planimetry, photography, video, audio and forensic medicine contributed.”²⁴⁶ The PGR argued that the “CNDH should give total credibility to the report made by the forensic expert’s office of this national body”, and insisted on giving greater credibility to the conclusions of its own experts, noting that “the conclusions issued by the forensic experts provide elements to establish the circumstances of the manner, time and place in which Mr. Will lost his life.”²⁴⁷ The conclusions of the PGR’s forensic analysis, to the effect that “the killer fired from a distance of approximately 2 meters (6.5 feet) from the victim for the first shot and for the second shot was located at an approximate distance of between 2 and 8 meters (6.5-26 feet),”²⁴⁸ was the basis for the prosecution of Juan Manuel Martínez Moreno.

140. On October 21, 2008, Mr. Martínez Moreno was put on trial for the murder of Brad Will. The CPJ questioned the investigation undertaken by the PGR that led to this decision, observing that “the prosecution had failed to present forensic evidence, witness statements or clear and convincing motives in the accusation against Martínez and the other suspects in the murder. At the same time, they appear to have discarded evidence – ballistic, photographic and medical – that would implicate sympathizers with the Oaxaca state government.”²⁴⁹ Similarly, CNDH authorities publicly questioned the forensic analysis that led the PGR to conclude that the murder was committed by an APPO sympathizer standing a short distance from the victim, and not further away, where the police agents were located.²⁵⁰ As mentioned above, the accused, Martínez, had the charges against him quashed in February, 2010.

141. Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case of Brad Will.²⁵¹ In a reply received on November 12, 2010, the State sent a number of relevant documents concerning the investigation, including the PGR’s responses to a letter from the CPJ and to the CNDH’s Recommendation 50/08.²⁵² The FEADLE report forwarded by the State indicates that the investigation is in the hands of a judge of the state of Oaxaca.²⁵³ As of the date on which this report was completed the murder of Brad Will remains unpunished and the current direction of the investigation following the release of Juan Manuel Martínez Moreno is unclear. On November 3, 2010, the IACHR granted protective measures to protect the life and integrity of Juan Manuel Martínez Moreno and his family, in response to the harassment they received during and after the detention of Mr. Martínez.

José Bladimir Antuna García

²⁴⁶ PGR, Memo PGR/669/08 October 16, 2008, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²⁴⁷ PGR, Memo PGR/669/08 October 16, 2008, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²⁴⁸ PGR, Memo PGR/669/08 October 16, 2008, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²⁴⁹ Committee to Protect Journalists (CPJ). Letter to Prosecutor General Eduardo Medina Mora, October 24, 2008. Available at: <http://cpj.org/es/2008/10/el-cpj-preocupado-por-investigacion-en-el-caso-wil.php>

²⁵⁰ Milenio. August 6, 2009. *PGR miente en el caso Brad Will*. Available at: <http://www.milenio.com/node/262566>

²⁵¹ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

²⁵² PGR, Memo No. SDHAVSC/FEADP/1058/08 October 28, 2008 and Memo PGR/669/08 October 16, 2008, Annexes to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²⁵³ PGR, Memo 0000144/FEADLE/2010, Annex to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

142. On November 2, 2009 the journalist José Bladimir Antuna García was murdered in the city of Durango, Durango State. García, who covered police and court news for *El Tiempo de Durango* and *La Voz de Durango*, was taken from his car and kidnapped by armed men on a city street on the morning of November 2, and his body was found with signs of torture the same night. A note left beside his body warned others not to give information to the army.²⁵⁴

143. The journalist García had suffered threats and acts of violence during the year prior to his murder. In October 2008 he began to receive the first threatening calls to his cell phone. On April 28, 2009, as he left his house to go to work, he was the victim of an attack when a person emerged from a vehicle and opened fire. García managed to take refuge in his house and emerged unscathed.²⁵⁵ García also received threats following the murder of the journalist Eliseo Barrón,²⁵⁶ which occurred on May 26, 2009.²⁵⁷ García, who had worked with Barrón on reports about police corruption and organized crime, said that in the threats he received after the death of the reporter he was told that he would be the next to die.²⁵⁸ García publicly denounced the threats and the attack in an interview with the magazine *Buzos* published in August 2009, and also informed the organization Center for Journalism and Public Ethics (*Centro de Periodismo y Ética Pública*, hereinafter “CEPET”).²⁵⁹ Furthermore, he formally reported the attack on him to the state Public Prosecutor’s Office, as the CPJ was able to verify.²⁶⁰ Despite these denunciations, no progress was made in the investigation and García received no protection from the authorities, such that, his friends informed the CPJ, in the months prior to his death he barely left his house and appeared resigned to being murdered.²⁶¹

144. There is scant information available about the investigation into the homicide of García. The investigation was opened by the Public Prosecutor’s Office of Durango State and the available information indicates that, save for a brief period during which the PGR assumed responsibility for the investigation, the state Public Prosecutor’s Office has been responsible for investigating the murder.²⁶² In March 2010 the CPJ undertook a review of the investigation,

²⁵⁴ Office of the Special Rapporteur for Freedom of Expression – IACHR. November 4, 2009. Press release R76/09. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=772&IID=1>; Committee to Protect Journalists (CPJ), *Silence or Death in Mexico’s Press* (New York: CPJ, 2010), chapter 3 “Murder in Durango”, Available at: http://cpj.org/reports/cpj_mexico_english.pdf

²⁵⁵ Committee to Protect Journalists (CPJ). *Silence or Death in Mexico’s Press* (New York: CPJ, 2010), chapter 3 “Murder in Durango”, Available at: http://cpj.org/reports/cpj_mexico_english.pdf. *Buzos. Con el miedo a flor de piel*. Available at: http://www.buzos.com.mx/360/reporte_especial.html

²⁵⁶ Sobre el murder de Eliseo Barrón see IACHR, Office of the Special Rapporteur for Freedom of Expression, Press release R34/09, May 29, 2009.

²⁵⁷ Committee to Protect Journalists (CPJ). *Silence or Death in Mexico’s Press* (New York: CPJ, 2010), chapter 3 “Murder in Durango”, Available at: http://cpj.org/reports/cpj_mexico_english.pdf. *Con el miedo a flor de piel*. Available at: http://www.buzos.com.mx/360/reporte_especial.html

²⁵⁸ Committee to Protect Journalists (CPJ). *Silence or Death in Mexico’s Press* (New York: CPJ, 2010), chapter 3 “Murder in Durango”, Available at: http://cpj.org/reports/cpj_mexico_english.pdf. *Buzos. Con el miedo a flor de piel*. Available at: http://www.buzos.com.mx/360/reporte_especial.html

²⁵⁹ Committee to Protect Journalists (CPJ). *Silence or Death in Mexico’s Press* (New York: CPJ, 2010), chapter 3 “Murder in Durango”, Available at: http://cpj.org/reports/cpj_mexico_english.pdf. *Buzos. Con el miedo a flor de piel*. Available at: http://www.buzos.com.mx/360/reporte_especial.html

²⁶⁰ Committee to Protect Journalists (CPJ). *Silence or Death in Mexico’s Press* (New York: CPJ, 2010), chapter 3 “Murder in Durango”, Available at: http://cpj.org/reports/cpj_mexico_english.pdf. See also *Buzos. Con el miedo a flor de piel*. Available at: http://www.buzos.com.mx/360/reporte_especial.html

²⁶¹ Committee to Protect Journalists (CPJ). *Silence or Death in Mexico’s Press* (New York: CPJ, 2010), chapter 3 “Murder in Durango”, Available at: http://cpj.org/reports/cpj_mexico_english.pdf

²⁶² Committee to Protect Journalists (CPJ). *Silence or Death in Mexico’s Press* (New York: CPJ, 2010), chapter 3 “Murder in Durango”, Available at: http://cpj.org/reports/cpj_mexico_english.pdf

interviewing the highest-ranking prosecutor with responsibility for cases of offenses against journalists in the Durango Public Prosecutor's Office office.²⁶³ The CPJ identified a series of major omissions in the investigation, in particular that:

The authorities did not even take the most basic steps to solve the homicide. The investigators did not question his friends, or his enemies, his sources or his colleagues. They did not analyze the close links that Antuna García had with the police or with the gangs that controlled the drugs business in the mountainous region of the state. The investigators did not read news stories that Antuna had written to see whom he could have angered, or check into his pending investigation into police corruption. They never bothered to check Antuna's statement that phone threats had been made by members of the Zetas criminal gang, as he told the Center for Journalism and Public Ethics. State investigators never contacted the center or retrieved telephone records that could have traced the calls.²⁶⁴

145. On November 1, 2010, a year after the murder of José Bladimir Antuna García, one of the newspapers where he worked, *La Voz de Durango*, denounced the "lack of progress in the investigation and the unsolved case."²⁶⁵ Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case of José Bladimir Antuna García.²⁶⁶ In a reply received on November 12, 2010, the State sent some documents relating to the investigation, which indicate that the PGR opened a criminal investigation into the case of Antuna García, which was referred to the Public Prosecutor's Office of the state of Durango on November 26, 2009, for jurisdictional reasons, where the investigation is currently in process.²⁶⁷

Cases 11.739 (Héctor Félix Miranda)²⁶⁸ and 11.740 (Víctor Manuel Oropeza)²⁶⁹

146. Below, the Office of the Special Rapporteur summarizes the relevant conclusions of the IACHR in two cases decided by the Inter-American Commission on Human Rights in 1999: the cases of Mexican journalists Héctor Félix Miranda, murdered in 1988, and Víctor Manuel Oropeza, murdered in 1991. The Office of the Special Rapporteur includes these cases in light of their historical and symbolic importance for the Mexican press and for the IACHR itself, the fact that compliance with the recommendations of the Commission in both cases remains pending, and the fact that they reveal causes of violence and impunity that remain relevant despite being crimes that occurred almost two decades ago.

Héctor Félix Miranda

147. On April 20, 1988, the journalist Héctor Félix Miranda was murdered in the city of Tijuana, Baja California State. That day, the journalist was driving his car towards his office at the weekly *Zeta* when two vehicles began to follow him. An individual got out of one of them and shot him at close range with a 12 mm rifle, causing his death. Victoriano Medina Moreno, a former

²⁶³ Committee to Protect Journalists (CPJ). *Silence or Death in Mexico's Press* (New York: CPJ, 2010), chapter 3 "Murder in Durango", Available at: http://cpj.org/reports/cpj_mexico_english.pdf

²⁶⁴ Committee to Protect Journalists (CPJ). *Silence or Death in Mexico's Press* (New York: CPJ, 2010), chapter 3 "Murder in Durango", Available at: http://cpj.org/reports/cpj_mexico_english.pdf

²⁶⁵ *La Voz de Durango*. November 1, 2010. *Bladimir Antuna, un año de un crimen sin resolver*. Available at: <http://www.lavozdedurango.com/noticias/durango/bladimir-antuna-un-ano-de-un-crimen-sin-resolver>

²⁶⁶ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

²⁶⁷ PGR, Memo No. SJA/CAIA/DGCI/2816/2010 of July 20, 2010 and Memo 0000144/FEADLE/2010, Annexes to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²⁶⁸ IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda, Mexico, April 13, 1999.

²⁶⁹ IACHR. Report No. 130/99. Case 11.740. Víctor Manuel Oropeza, Mexico, November 19, 1999.

judicial police officer from the state of Baja California and his former boss, Antonio Vera Palestina, responsible for security at the Agua Caliente racetrack in Tijuana were accused and prosecuted as perpetrators of the crime.²⁷⁰

148. Héctor Félix Miranda was co-editor of the weekly *Zeta*, for which he wrote a column entitled "*Un poco de algo*" ("A bit of something") with stories from the political sphere and sarcastic comments about government officials. The petitioners (the Inter-American Press Association) made allegations to the IACHR that his murder was directly linked to the publication of his column, for which reason they believed it necessary to investigate who was behind the crime. In this regard, they highlighted the fact that on the day of the murder, Vera Palestina had received a payment equivalent to \$10,000 dollars, a fact that was not investigated by state judicial bodies. When the IACHR published its report, the investigation into the murder remained open, in order for the identity of the mastermind to be determined, but the petitioners alleged that this investigation was stalled, due to a lack of will on the part of the Mexican State.²⁷¹ The petitioners did not question the trial and sentencing of the direct perpetrators, but the lack of inquiry into the masterminds behind the murder. They considered that the crime was the direct consequence of the publication of the column "*Un poco de algo*", in which the journalist "in a harsh and at times sarcastic vein, criticized and denounced private and public matters in connection with acts of corruption, crimes in general and drug trafficking."²⁷² The petitioners added that the businessman Jorge Hank Rhon—who they described as "the son of one of the wealthiest and most powerful men in Mexico"—had been attacked several times by Félix Miranda in his *Zeta* column in the months before the murder. This fact was of relevance to the petitioners since both Medina Romero and Vera Palestina were employees at the Tijuana racetrack, the property of the Hank Rhon family. Finally, evidence was found of the payment of a large sum of money to Vera Palestina, traced to the racetrack.²⁷³

149. In its report, the IACHR considered that the evidence provided by the petitioners contained numerous elements that pointed to the existence of a mastermind: the payment to the assassins, the inconsistencies in the confessions of the perpetrators, the failure to question the then co-editor of the weekly *Zeta*, Jesús Blancornelas, and the abrupt closure of the police investigation, among others.²⁷⁴ The Commission established that the Mexican State was responsible for an unreasonable delay in the investigation of the murder of Héctor Félix Miranda²⁷⁵ and that the behavior of the authorities responsible was defined by inactivity in the investigation, interrupted solely by a few procedures of a bureaucratic nature, of no significance and with no concrete outcome whatsoever.²⁷⁶ The IACHR concluded that despite its exercise of a monopoly on criminal proceedings, the State had declined to conduct the complete and serious investigation of the crime befalling the journalist as its own juridical duty, so that the judicial remedy available in Mexico had not been simple, rapid or effective.²⁷⁷

150. The Commission determined that the Mexican State violated articles 13, 8 and 25, in relation to article 1.1 of the American Convention on Human Rights in the case of Héctor Félix Miranda, and ordered the State:

²⁷⁰ IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda, Mexico, April 13, 1999, par. 2.

²⁷¹ IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda, Mexico, April 13, 1999, par. 3.

²⁷² IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda, Mexico, April 13, 1999, par. 19.

²⁷³ IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda, Mexico, April 13, 1999, par. 20.

²⁷⁴ IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda, Mexico, April 13, 1999, par. 29.

²⁷⁵ IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda, Mexico, April 13, 1999, par. 40.

²⁷⁶ IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda, Mexico, April 13, 1999, par. 38.

²⁷⁷ IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda, Mexico, April 13, 1999, par. 40.

1. To conduct a serious, exhaustive and impartial investigation to determine the punitive responsibility of all the perpetrators of Héctor Félix Miranda's assassination.

2. To conduct a serious, exhaustive and impartial investigation to determine whether there have been instances of concealment and crimes against the administration of justice which have impeded a complete investigation of the incidents which give rise to the present report; and, if so, that it apply such pertinent penal, administrative and/or disciplinary measures which may be pertinent.

3. To provide members of Héctor Félix Miranda's family with adequate reparation and compensation for the human rights violations established in this document.²⁷⁸

151. Following the publication of its Report No. 50/99, on October 20, 2003, the IACHR called a hearing to follow up on its recommendations in the Héctor Félix Miranda case. At this meeting the State declared that the Prosecutor General was prepared to meet with the petitioners and that an agreement had been reached between the state and federal governments to proceed with the investigation.²⁷⁹ At this meeting the parties also agreed to work on a timetable for following up on the recommendations of the Commission.²⁸⁰ In effect, on March 13, 2004, the petitioners and the Mexican State signed a document entitled "Terms of Reference: Working Group for Reviewing the Case Files of Héctor Félix Miranda and Víctor Manuel Oropeza," by which they agreed to, among other things, set up a Working Group to review and analyze the criminal investigations and judicial processes in the two cases, with a view to reopening and restarting the investigations and judicial proceedings.²⁸¹

152. To this effect, on April 23, 2004, the petitioners, the Foreign Ministry and the Public Prosecutor's Office of the state of Baja California signed an agreement that ordered the creation of a Technical Group to review the initial criminal investigations and judicial processes in the case of Héctor Félix Miranda; each of the three parties designated a representative for the Technical Group.²⁸² On May 13, 2004, the Technical Group met for the first time, analyzed the legal file in the case, and agreed to request a series of actions from the judicial authorities.²⁸³

153. On June 22, 2004, the representative of the petitioners on the Technical Group, Francisco Ortiz Franco, was murdered; Ortiz Franco was editor and, together with Héctor Félix Miranda, co-founder of the weekly *Zeta*.²⁸⁴ The information provided to the Commission by the parties indicates that the Technical Group met again on March 17-18, 2005, and on September 26-27 of the same year.²⁸⁵ Since then, the information available indicates that the Technical Group has not met again, nor has any significant progress been made in the investigation into the murder of Héctor Félix Miranda.

²⁷⁸ IACHR. *Report No. 50/99*. Case 11.739. Héctor Félix Miranda, Mexico, April 13, 1999, par. 67.

²⁷⁹ IACHR, Summary of Meeting No. 43, Follow-up of the Cases 11.739 – Héctor Félix Miranda (Report 50/99) and 11.740 – Víctor Manuel Oropeza (Report 130/99), October 20, 2003.

²⁸⁰ IACHR, Summary of Meeting No. 43, Follow-up of the Cases 11.739 – Héctor Félix Miranda (Report 50/99) and 11.740 – Víctor Manuel Oropeza (Report 130/99), October 20, 2003.

²⁸¹ "Terms of Reference: Working Group for Reviewing the Case Files of Héctor Félix Miranda and Víctor Manuel Oropeza", March 13, 2004, on file with the IACHR.

²⁸² "Agreement signed between the Inter-American Press Association (IAPA), the Ministry of Foreign Affairs (SRE) and the Public Prosecutor's Office of the state of Baja California (PFJE) in compliance with the recommendation included in Report 50-99 issued by the Inter-American Commission for Human Rights (IACHR) on the case 11.739 Héctor Félix Miranda, April 23, 2004 in the city of Tijuana, Baja California", on file with the IACHR.

²⁸³ Minutes of the Working Meeting of the Technical Group on the Death of Mr. Héctor Félix Miranda, May 13, 2004, on file with the IACHR.

²⁸⁴ *Washington Post*. 23 de June de 2004. *Gunmen Kill Editor of Tijuana Newspaper*. Available at: <http://www.washingtonpost.com/wp-dyn/articles/A61807-2004Jun22.html>. UNESCO. June 25, 2004. *El Director General Condena el Asesinato del Periodista Mexicano Francisco Ortiz Franco*. Available at: http://portal.unesco.org/es/ev.php-URL_ID=21346&URL_DO=DO_TOPIC&URL_SECTION=201.html

²⁸⁵ Working Meeting on the Héctor Félix Case, March 17-18, 2005, on file with the IACHR. Working Meeting on the Héctor Félix Case, September 26-27, 2005, on file with the IACHR.

154. Within the framework of its visit, the Office of the Special Rapporteur requested up-to-date information from the Mexican State on the investigation into the murder of Héctor Félix Miranda.²⁸⁶ In a reply received on November 12, 2010, the State indicated that the FEADLE had been charged with the task of documenting cases of homicides and disappearances of journalists that had occurred since the year 2000, and that, once this first stage was complete, it would proceed with the task of documenting those cases which occurred prior to 2000, including the murder of Héctor Félix Miranda. The information sent by the State also indicates that a criminal investigation into the case remains open with the Deputy Attorney General's Office for Special Investigation into Organized Crime.²⁸⁷

155. The Office of the Special Rapporteur expresses its extreme concern about the fact that the recommendations of the IACHR in the case of Héctor Félix Miranda remain pending 11 years after the publication of the decision in the case, and urges the Mexican State to reactivate the investigations into the murder of the journalist in order to comply with these recommendations.

Víctor Manuel Oropeza

156. Víctor Manuel Oropeza was murdered on July 3, 1991, in Ciudad Juárez, state of Chihuahua. That day, the journalist was in his consulting room when, according to information from witnesses, two individuals entered and after a struggle, inflicted 14 stab wounds in his torso. Víctor Manuel Oropeza was a doctor by profession, and since 1984 had written a column entitled "*A mi manera*" ("My way") for the *Diario de Juárez*, of Ciudad Juárez. Oropeza used this space to lay out criticisms of the authorities and to denounce the "close ties between police forces and drug traffickers" in the region. The judicial investigation took a number of turns and at the time of the publication of the IACHR's report the only suspect was in prison in the United States on an unrelated matter. The petitioners (the Inter-American Press Association) considered that his murder was committed with the intention of silencing his allegations and that as a result the investigation had been deliberately stalled by the authorities he had implicated.²⁸⁸

157. The IACHR noted in its report that over eight years had passed since the murder of the journalist Víctor Manuel Oropeza and the investigation remained open, but not a single person responsible for planning or carrying out the murder had been identified, nor had reparations been made for the consequences of the murder.²⁸⁹ Marco Arturo Salas Sánchez and Sergio Aguirre Torres were initially tried for the murder, but they were freed once the CNDH had established that their confessions had been produced under torture.²⁹⁰ With regard to the legal process set out before the IACHR the State itself provided numerous details about the punishment of various officials for serious irregularities in this investigation that, as mentioned, went as far as the torture of two people to force them to incriminate themselves. Indeed, the Commission observed that six government employees were accused of abuse of authority, obstruction of justice, and torture; that they were neither tried nor indicted for these acts, due to irregularities in the investigations by the agents responsible from the Public Prosecutor's Office; and that one of these agents was "punished" with dismissal and the other with a written warning.²⁹¹

²⁸⁶ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

²⁸⁷ Mexican State, "Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010" and PGR, Memo 0000144/FEADLE/2010, Annexes to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

²⁸⁸ IACHR. *Report No. 130/99*. Case 11.740. Víctor Manuel Oropeza, Mexico, November 19, 1999, par. 2.

²⁸⁹ IACHR. *Report No. 130/99*. Case 11.740. Víctor Manuel Oropeza, Mexico, November 19, 1999, par. 30.

²⁹⁰ IACHR. *Report No. 130/99*. Case 11.740. Víctor Manuel Oropeza, Mexico, November 19, 1999, par. 31.

²⁹¹ IACHR. *Report No. 130/99*. Case 11.740. Víctor Manuel Oropeza, Mexico, November 19, 1999, par. 38.

158. The IACHR observed that the only person accused was one Samuel de la Rosa Reyes, who was in prison in Texas, U.S.A., on a matter unrelated to the homicide of Oropeza. According to the documentation supplied by the State, on November 14, 1997, officials from the consulate and the Public Prosecutor's Office of Chihuahua traveled to the high-security penitentiary in the city of Livingston, Texas, in order to take a statement from Samuel Reyes. The same documentation indicates that the detainee refused to give a statement, despite the insistence of the Mexican officials; and that, in consequence, they drew up the corresponding report and treated the matter as closed.²⁹² At no time was the Commission informed about the motive for which this person was considered the "probable culprit" for the murder, or the reasons why they lacked any other clue that might lead to the identification of the other perpetrators, given it was clear several people were involved in the murder of the journalist, as a number of witnesses at the scene had declared.²⁹³

159. The Commission established that the Mexican State was responsible for an unreasonable delay in the investigation of the murder of Víctor Manuel Oropeza. It concluded that despite its exercise of a monopoly on criminal proceedings, the State had declined to conduct the complete and serious investigation of the crime befalling the journalist as its own juridical duty, so that the judicial remedy available in Mexico had not been simple, rapid or effective.²⁹⁴

160. The Commission determined that the Mexican State violated articles 13, 8 and 25, in relation to article 1.1 of the American Convention on Human Rights in the case of Víctor Manuel Oropeza, and ordered the State to:

1. Investigate in a complete, impartial, and effective manner in order to determine the criminal responsibility of all of the perpetrators of Víctor Manuel Oropeza's assassination.

2. Investigate in a complete, impartial, and effective manner in order to determine whether cover-up actions were taken and crimes were committed against the Administration of Justice, including the possible participation of judicial personnel, which impeded the complete investigation of the facts addressed in this report; and, as appropriate, apply criminal, administrative, and/or disciplinary sanctions.

3. Provide redress and proper compensation to the family members of Víctor Manuel Oropeza for the violations established herein.²⁹⁵

161. Following the publication of its Report No. 130/99, on October 20, 2003, the IACHR called a meeting to follow up on its recommendations in the Víctor Manuel Oropeza case. At this meeting the State declared that the Prosecutor General was prepared to meet with the petitioners and that an agreement had been reached between the state and federal governments to proceed with the investigation.²⁹⁶ At this meeting the parties also agreed to work on a timetable for following up on the recommendations of the Commission.²⁹⁷ In effect, on March 13, 2004, the petitioners and the Mexican State signed a document entitled "Terms of Reference: Working Group for the Review of the Case Files on Héctor Félix Miranda and Víctor Manuel Oropeza", by which they agreed to, among other things, set up a Working Group to review and analyze the

²⁹² IACHR. *Report No. 130/99*. Case 11.740. Víctor Manuel Oropeza, Mexico, November 19, 1999, par. 40.

²⁹³ IACHR. *Report No. 130/99*. Case 11.740. Víctor Manuel Oropeza, Mexico, November 19, 1999, par. 41.

²⁹⁴ IACHR. *Report No. 130/99*. Case 11.740. Víctor Manuel Oropeza, Mexico, November 19, 1999, par. 44.

²⁹⁵ IACHR. *Report No. 130/99*. Case 11.740. Víctor Manuel Oropeza, Mexico, November 19, 1999, par. 77.

²⁹⁶ IACHR, Summary of Meeting No. 43, Follow-up of Cases 11.739 – Héctor Félix Miranda (Report 50/99) and 11.740 – Víctor Manuel Oropeza (Report 130/99), October 20, 2003.

²⁹⁷ IACHR, Summary of Meeting No. 43, Follow-up of Cases 11.739 – Héctor Félix Miranda (Report 50/99) and 11.740 – Víctor Manuel Oropeza (Report 130/99), October 20, 2003.

criminal investigations and judicial processes in the two cases, with a view to reopening and restarting the investigations and judicial processes.²⁹⁸

162. On February 9 and 10, 2005, a meeting of the Working Group for Joint Review of the Oropeza Case was held, at which representatives of the petitioners, the Public Prosecutor's Office of the state of Chihuahua and the Foreign Ministry were all present.²⁹⁹ At this meeting of the Working Group it was established, after reviewing the legal file of the case, that "significant failings were detected in the inquiry and judicial processes," and that "the ministerial authority failed to consider in its investigation whether the motive was connected to his activity as a journalist."³⁰⁰ Based on these conclusions, the State Public Prosecutor's Office committed itself to reactivating the case.³⁰¹ On September 27 and 28, 2005, the Working Group met again. At this meeting "the progress that has been made [...] on lines of enquiry that had not previously been exhausted was noted", and the Office of the state Public Prosecutor "reaffirmed its commitment to continue to examine as much evidence as is necessary to clarify the events."³⁰² Since then, the information available indicates that the Working Group has not met again, nor has any significant progress been made in the investigation of the murder of Víctor Manuel Oropeza.

163. Within the framework of its visit, the Office of the Special Rapporteur requested additional information from the State about the investigation of these events, both in writing and at its meeting with the authorities from the Public Prosecutor's Office of the state of Chihuahua. At this meeting the authorities expressed their opinion that the real perpetrators of the crime were freed as a result of the CNDH report that concluded they had been forced to incriminate themselves, and that as far as the state Public Prosecutor's Office was concerned the investigation was closed.³⁰³ Meanwhile, in a written reply received November 12, 2010, the State indicated that the FEADLE had been charged with the task of documenting cases of homicides and disappearances of journalists that had occurred since the year 2000, and that, once this first stage was complete, it would proceed with the task of documenting those cases which occurred prior to 2000, including the murder of Víctor Manuel Oropeza.³⁰⁴

164. The Office of the Special Rapporteur expresses its extreme concern about the fact that the recommendations of the IACHR in the case of Víctor Manuel Oropeza remain pending 11 years after the publication of the decision in the case, and urges the Mexican State to reactivate the investigations into the murder of the journalist in order to comply with these recommendations.

b. Disappearance

María Esther Aguilar Cansimbe

²⁹⁸ "Terms of Reference: Working Group for the Revision of the Case Files on Héctor Félix Miranda and Víctor Manuel Oropeza", March 13, 2004, on file with the IACHR.

²⁹⁹ Agreement of the Working Group for Joint Revision of the Oropeza Case, February 9-10, 2005, on file with the IACHR.

³⁰⁰ Agreement of the Working Group for Joint Revision of the Oropeza Case, February 9-10, 2005, on file with the IACHR.

³⁰¹ Agreement of the Working Group for Joint Revision of the Oropeza Case, February 9-10, 2005, on file with the IACHR.

³⁰² Working Meeting on the Case of Víctor Manuel Oropeza, September 27-28, 2005, on file with the IACHR.

³⁰³ Meeting between the Office of the Special Rapporteur and authorities from the Chihuahua State executive during the on-site visit, August 16, 2010.

³⁰⁴ Mexican State, "Reply to the Information Request made by the Special Rapporteurs for Freedom of Expression of the OAS and the UN, in Follow-up to their Official Visit to Mexico between August 9-24, 2010" and PGR, Memo 0000144/FEADLE/2010, Annexes to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

165. On November 11, 2009, in the city of Zamora, state of Michoacán, the journalist María Esther Aguilar Cansimbe was seen for the last time. Aguilar was a reporter at the local newspaper *El Diario de Zamora* and correspondent for the regional newspaper *Cambio de Michoacán*. According to the information received, on the morning of November 11 Aguilar left her house to cover a disaster training simulation at a kindergarten, but after leaving this place she was never seen again. Her family made fruitless attempts to contact her by telephone during the day of November 11. Since then there has been no contact with her, and her whereabouts remain unknown.³⁰⁵

166. Aguilar, a reporter specializing in issues of security and justice, had ten years' experience at several regional media outlets. Her most recent articles before her disappearance, none of which were signed by her for fear of reprisals, covered issues of local corruption and organized crime. On October 22, 2009, she covered a military operation where at least three individuals, including the son of a local politician, were arrested on suspicion of involvement in organized crime groups.³⁰⁶ On October 27, 2009, she published an article about police abuses, following which a high-ranking officer in the local police force was obliged to resign.³⁰⁷ On October 30, 2009, she reported on the arrest of a suspected leader of the drugs cartel known as *La Familia Michoacana*.³⁰⁸ Further, according to *Cambio de Michoacán*, at the time of her disappearance she was in the middle of three investigations into similar issues. The first concerned legal action taken and complaints made against agents from the federal police and the army regarding property and personal searches made without a warrant. The second dealt with the resources and strategies of the local police in the highest-crime areas of the municipality of Zamora. The third was a joint preparation for an interview with the mayor of Ecuandureo, Michoacán on issues such as the handling of public finances, the completion of public works, the effects of the financial crisis, migration and public security.³⁰⁹

167. One month after the disappearance of Aguilar, the organization Reporters Without Borders expressed its fear that the "investigation seemed to be going nowhere."³¹⁰ According to the RSF report, though the Public Prosecutor's Office of the state of Michoacán claimed at the time to have carried out 19 procedural steps, "the official investigation has not progressed."³¹¹ In November, 2010, a year after the disappearance of the journalist, RSF once again lamented the lack of progress in the investigation.³¹²

168. RSF has stated that "there are reasons for thinking her disappearance was linked to her reporting and that drug traffickers were involved." Along with the absence of a ransom

³⁰⁵ Committee to Protect Journalists (CPJ)/IFEX. November 20, 2009. *Crime reporter vanishes in western Michoacán*. Available at: http://www.ifex.org/mexico/2009/11/20/reporter_vanishes. *Cambio de Michoacán*. November 29, 2009. *María Esther Aguilar, tres semanas desaparecida*. Available at: <http://www.cambiodemichoacan.com.mx/vernota.php?id=113726>

³⁰⁶ Committee to Protect Journalists (CPJ)/IFEX. November 20, 2009. *Crime reporter vanishes in western Michoacán*. Available at: http://www.ifex.org/mexico/2009/11/20/reporter_vanishes/

³⁰⁷ Committee to Protect Journalists (CPJ)/IFEX. November 20, 2009. *Crime reporter vanishes in western Michoacán*. Available at: http://www.ifex.org/mexico/2009/11/20/reporter_vanishes/

³⁰⁸ Committee to Protect Journalists (CPJ)/IFEX. November 20, 2009. *Crime reporter vanishes in western Michoacán*. Available at: http://www.ifex.org/mexico/2009/11/20/reporter_vanishes/

³⁰⁹ *Cambio de Michoacán*. November 29, 2009. *María Esther Aguilar, tres semanas desaparecida*. Available at: <http://www.cambiodemichoacan.com.mx/vernota.php?id=113726>

³¹⁰ Reporters without Borders. December 11, 2009. *One month after journalist's disappearance, investigation seems to go nowhere*. Available at: <http://en.rsf.org/mexico-one-month-after-journalist-s-11-12-2009.35318.html>

³¹¹ Reporters without Borders. December 11, 2009. *One month after journalist's disappearance, investigation seems to go nowhere*. Available at: <http://en.rsf.org/mexico-one-month-after-journalist-s-11-12-2009.35318.html>

³¹² Reporters without Borders. November 19, 2009. *Disappearances of four journalists in Michoacán state all still unsolved*. Available at: <http://en.rsf.org/mexico-disappearances-of-four-journalists-19-11-2010.38853.html>

request,³¹³ and the delicate issues Aguilar reported on prior to and right up to the time of her disappearance, a report by the Woodrow Wilson International Center for Scholars reveals that Aguilar had refused to accept bribes from drug traffickers.³¹⁴ According to an editor from Michoacán, speaking to the Center, Aguilar had told him before her disappearance of a meeting with other reporters from Zamora at which a reporter who represented one of the cartels told those present how much money each of them would receive in exchange for slanting their coverage in favor of the cartel.³¹⁵ Aguilar had refused to accept this and had tried to leave the meeting, but the other reporters obliged her to stay. Even so, Aguilar had not accepted the money.³¹⁶

169. Within the framework of its visit, the Office of the Special Rapporteur requested detailed information from the Mexican State about the case of María Esther Aguilar Cansimbe.³¹⁷ In a reply received on November 12, 2010, the State indicated that the PGR had opened a criminal investigation for the offense of illegal deprivation of liberty, and that the investigation is currently in the hands of the FEADLE.³¹⁸

c. Detention and Aggression

Lydia Cacho Ribeiro

170. As detailed in another section of this report (see paragraph 257, *infra*), the journalist Lydia Cacho was criminally prosecuted under defamation laws after having published an article on child pornography that, along with other claims, implicated a textiles businessman and leading politicians.³¹⁹ In the context of these legal proceedings, on October 12, 2005, a judge issued a warrant for the arrest of the journalist. On December 16, 2005, agents of the judicial police of the states of Puebla and Quintana Roo detained Cacho in fulfillment of this arrest warrant, with the aim of taking her to the offices of the Public Prosecutor's Office of the state of Quintana Roo and, subsequently, to the city of Puebla, state of Puebla, where she was confined to the local penitentiary on December 17, 2005.³²⁰

171. Examining the circumstances of the detention and transfer of the journalist Lydia Cacho on December 16 and 17, 2005, the CNDH concluded that "the journalist was subject to physical and psychological suffering of a highly traumatic nature, equivalent to torture."³²¹ The CNDH verified that the journalist was "subjected to a journey of approximately 1,472 kilometers (915 miles) by land, lasting around 20 hours", and that "the lack of warm clothing and medicine,

³¹³ RSF. December 11, 2009. *One month after journalist's disappearance, investigation seems to go nowhere*. Available at: <http://en.rsf.org/mexico-one-month-after-journalist-s-11-12-2009.35318.html>

³¹⁴ Dolia Estévez, *Protecting Press Freedom in an Environment of Impunity* (Woodrow Wilson International Center for Scholars Mexico Institute and University of San Diego Trans-Border Institute, May, 2010), p. 15. Available at: <http://wilsoncenter.org/topics/pubs/Protecting%20Press%20Freedom.%20Estevez.pdf>

³¹⁵ Dolia Estévez, *Protecting Press Freedom in an Environment of Impunity* (Woodrow Wilson International Center for Scholars Mexico Institute and University of San Diego Trans-Border Institute, May, 2010), p. 15. Available at: <http://wilsoncenter.org/topics/pubs/Protecting%20Press%20Freedom.%20Estevez.pdf>

³¹⁶ Dolia Estévez, *Protecting Press Freedom in an Environment of Impunity* (Woodrow Wilson International Center for Scholars Mexico Institute and University of San Diego Trans-Border Institute, May, 2010), p. 15. Available at: <http://wilsoncenter.org/topics/pubs/Protecting%20Press%20Freedom.%20Estevez.pdf>

³¹⁷ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

³¹⁸ PGR, Memo No. SJA/CAIA/DGCI/2816/2010 of July 20, 2010 and Memo 0000144/FEADLE/2010, Annexes to Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

³¹⁹ *La Jornada*. January 3, 2007. *Pierde Kamel Nacif demanda contra Lydia Cacho*. Available at: <http://www.jornada.unam.mx/2007/01/03/index.php?section=politica&article=005n2pol>

³²⁰ CNDH, Recommendation 16, March 6, 2009. Available at: <http://www.cndh.org.mx/recomen/2009/016.pdf>

³²¹ CNDH, Recommendation 16, March 6, 2009. Available at: <http://www.cndh.org.mx/recomen/2009/016.pdf>

the presence of unknown male personnel, the solitary confinement she was held in for over four hours, the absence of food or water, the cramped space, the lack of time and place necessary for bodily needs, the insinuations, malevolent hints and the humiliation which she was directly or indirectly subject to during this transfer by the agents who were in charge of her transfer caused her uncertainty and led her to fear for her life, her physical and psychological safety and integrity.”³²²

172. With regard to these events, on February 5, 2008, the PGR decided to open a case against the officers from the Public Prosecutor’s Office of the state of Puebla who detained and transferred Lydia Cacho, on suspicion of torture. On May 6, 2008, the second criminal judge of the first instance of the court in Cancun, Quintana Roo refused to issue an arrest warrant, a decision confirmed on January 8, 2009 by the Criminal Division of the High Court of Justice of the state of Quintana Roo.³²³

173. Meanwhile, the Supreme Court, exercising its investigative faculties set out in article 97 of the Constitution,³²⁴ opened proceedings on April 18, 2006, in order to determine if there had been serious violations of individual rights against the journalist Lydia Cacho.³²⁵ On November 29, 2009, the Supreme Court determined that: “The existence of serious violations of the individual rights of the journalist, in the terms of the second paragraph of article 97 of the Political Constitution of the United Mexican States, is not proven.”³²⁶ In reaching this conclusion, the Supreme Court did not take into account a recording that was widely circulated in the media that implicates the governor of the state of Puebla in the arrest of Cacho, as it considered that the recording had been made illegally.³²⁷ However, the Supreme Court clarified that “the outcome of the present investigation in no way impedes or may be understood as an obstacle to the competent authorities acting in exercise of the faculties that have been conferred upon them constitutionally or legally, whether these be of a political, administrative or legal nature, and whether of state or federal jurisdiction.”³²⁸ In his individual dissenting vote, Supreme Court Justice José Ramón Cossío Díaz stated: “As was concluded in the preliminary report, there was a conspiracy on the part of authorities from the governments of the states of Puebla and Quintana Roo to violate the fundamental rights of Lydia María Cacho Ribeiro, and there is no doubt that their agents engaged in a strategy to achieve this, thus violating the principles of the division of the branches of government and of federalism.”³²⁹

³²² CNDH, Recommendation 16, March 6, 2009. Available at: <http://www.cndh.org.mx/recomen/2009/016.pdf>

³²³ CNDH, Recommendation 16, March 6, 2009. Available at: <http://www.cndh.org.mx/recomen/2009/016.pdf>

³²⁴ Article 97 of the Mexican Constitution establishes that, “The Supreme Court of the Nation may appoint one or more of its members, when deemed advisable, or if the federal Executive, one of the chambers of Congress, or the governor of a state so requests, solely to investigate the conduct of any federal judge or magistrate or any act or acts which may constitute a violation of any individual guarantee”.

³²⁵ Supreme Court, *Dictamen relativo a la investigación constitucional cuyos trabajos concluyeron con el Informe preliminar rendido por la Comisión designada por el Pleno de la Suprema Corte de Justicia de la Nación en el expediente 2/2006*, November 29, 2007, p. 5. Available at: <http://www2.scjn.gob.mx/juridica/engroses/cerrados/publico/06000020.023.doc>

³²⁶ Supreme Court, *Dictamen relativo a la investigación constitucional cuyos trabajos concluyeron con el Informe preliminar rendido por la Comisión designada por el Pleno de la Suprema Corte de Justicia de la Nación en el expediente 2/2006*, November 29, 2007, p. 262. Available at: <http://www2.scjn.gob.mx/juridica/engroses/cerrados/publico/06000020.023.doc>

³²⁷ Supreme Court, *Dictamen relativo a la investigación constitucional cuyos trabajos concluyeron con el Informe preliminar rendido por la Comisión designada por el Pleno de la Suprema Corte de Justicia de la Nación en el expediente 2/2006*, November 29, 2007, pp. 159-60. Available at: <http://www2.scjn.gob.mx/juridica/engroses/cerrados/publico/06000020.023.doc>

³²⁸ Supreme Court, *Dictamen relativo a la investigación constitucional cuyos trabajos concluyeron con el Informe preliminar rendido por la Comisión designada por el Pleno de la Suprema Corte de Justicia de la Nación en el expediente 2/2006*, November 29, 2007, p. 261. Available at: <http://www2.scjn.gob.mx/juridica/engroses/cerrados/publico/06000020.023.doc>

³²⁹ Supreme Court, *Dictamen relativo a la investigación constitucional cuyos trabajos concluyeron con el Informe preliminar rendido por la Comisión designada por el Pleno de la Suprema Corte de Justicia de la Nación en el*

174. As of the date on which this report was completed, no person has been prosecuted or sentenced for the treatment suffered by the journalist Lydia Cacho while she was in the custody of state agents between December 16 and 17, 2005. According to the information received by the legal representatives of Ms. Cacho, the PGR reopened the criminal investigation relating to these events in February, 2010.³³⁰ Within the framework of its visit, the Office of the Special Rapporteur asked the State for full information on the case of Lydia Cacho,³³¹ but received no reply to this request. According to information made known to the Office of the Special Rapporteur, the journalist has continued to be subject to threats and intimidation, despite benefiting from precautionary measures issued by the IACHR.

4. “What do you want from us?” Violence, intimidation and self-censorship

175. As the Office of the Special Rapporteur has stated on previous occasions, acts of violence and intimidation against journalists, particularly the murders and physical attacks detailed in the previous sections, limit freedom of expression and produce a chilling effect on the free flow of information.³³²

176. According to the information received by the Office of the Special Rapporteur, there are now areas of Mexico in which journalists are subject to serious intimidation originating principally from criminal groups who seek to suppress certain information in the media and promote the dissemination of that which furthers their criminal interests. In this high-risk situation, it is extremely difficult for journalists to carry out research and publish material on issues such as organized crime, corruption, public security and similar matters. Self-censorship or the impossibility of undertaking investigative journalism in these areas affects all of Mexican society, which remains in the dark about what goes on in these places, and reduces the ability of the authorities and indeed of society to take action, as they are deprived of information essential to combating criminal activity such as corruption or organized crime. According to the information received from numerous sources, in some states where there is a major organized crime presence such as Chihuahua, Coahuila, Durango, Guerrero, Michoacán, Nuevo León, Sinaloa, and Tamaulipas, self-censorship has reached such serious levels that the local press has been reduced to silence, and does not report on events of extreme violence that occur in their locality, which, if they are reported at all, appear in the national or international press.

177. While it is difficult, owing to its very nature, to measure the level of self-censorship that prevails in Mexico, indicators do exist of the seriousness of the silencing phenomenon in areas where there is a major presence of organized crime. During 2010, U.S. newspapers the *Dallas Morning News*, the *Los Angeles Times*, the *New York Times* and the *Washington Post* reported acts of violence occurring in the cities of Nuevo Laredo and Reynosa, both in the border state of Tamaulipas, which, they indicated, were not reported in the local press due to the fear of organized crime.³³³ In March, 2010, for example, the *Dallas Morning News*

expediente 2/2006, November 29, 2007, Individual vote of Justice José Ramón Cossío Díaz, p. 72. Available at: <http://www2.scjn.gob.mx/juridica/engroses/cerrados/publico/06000020.023.doc>

³³⁰ Information provided to the Office of the Special Rapporteur by Article 19 during the on-site visit.

³³¹ Information request by the Office of the Special Rapporteur to the Mexican State, September 2, 2010.

³³² See IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right to Access to Information*. OAS/Ser.L/V/II CIDH/RELE/INF. 2/09 December 30, 2009, par. 179. Available at: http://www.cidh.org/pdf_files/Inter_American_Legal_Framework_english.pdf

³³³ Dallas Morning News. March 8, 2010. *Cartels use intimidation campaign to stifle news coverage in Mexico*. Available at: http://www.dallasnews.com/sharedcontent/dws/news/world/stories/DN-blackout_08int.ART.State.Edition2.4b84845.html. New York Times. March 13, 2010. *Fearing Drug Cartels, Reporters in Mexico Retreat*. Available at: <http://www.nytimes.com/2010/03/14/world/americas/14mexico.html?emc=eta1>. Washington Post. August 2, 2010. *In Mexico's Nuevo Laredo, drug cartels dictate media coverage*. Available at: <http://www.washingtonpost.com/wp-dyn/content/article/2010/08/01/AR2010080103481.html>. Los Angeles Times. August 16, 2010. *Under threat from Mexican drug cartels, reporters go silent*. Available at: <http://articles.latimes.com/2010/aug/16/world/la-fg-mexico-narco-censorship-20100816>

reported that at least eight Mexican journalists had been kidnapped in Reynosa, a fact that was not reported in the local press.³³⁴ Similarly, the *Washington Post* reported that at the end of July, 2010, the Mexican authorities confronted drug traffickers in the streets of Nuevo Laredo in an armed battle that lasted five hours and which left at least twelve people dead; the incident was not reported on local television, radio or in the print media.³³⁵ The *Los Angeles Times* reported a similar case in Reynosa a few weeks later.³³⁶

178. Declarations made by journalists and editors confirm the silencing effect of the explicit or implicit threats made by criminal organizations. According to a *New York Times* report, a journalist from Reynosa interviewed by the newspaper said, “I censure myself, there is no other way of saying it, but everyone does the same.”³³⁷ Ciro Gómez Leyva, editor of the national newspaper *Milenio*, declared with respect to this city that, “journalism is dead in Reynosa.”³³⁸ An international mission to document attacks against journalists and media outlets undertaken in 2008 documented the use of self-censorship as a means of self-protection by the media in the north of Mexico.³³⁹ The deputy editor of Michoacán’s *La Opinión*, for example, declared to the mission that “we engage in self-censorship, it is a chronic survival strategy.”³⁴⁰ Perhaps the most dramatic example of this phenomenon occurred in September, 2010, when *El Diario* of Ciudad Juárez, Chihuahua, responded to the murder of its photographer Luis Carlos Santiago Orozco with an editorial entitled, “What do you want from us?”, aimed at the organized crime groups operating in this city.³⁴¹ In this editorial, the newspaper asked, “as information workers we want you to explain what you want from us, what you want us to publish or not to publish, so we know what line to take.”³⁴²

179. In some particularly extreme cases, the information received by the Office of the Special Rapporteur, including in interviews with journalists, indicates that drug trafficking organizations have tried to actively influence media output.³⁴³ On the other hand, the Office of the Special Rapporteur noted the armed attack on the newspaper *Noroeste* in Mazatlán, state of Sinaloa, on September 1, 2010, presumably in reprisal for refusing to publish certain information

³³⁴ Dallas Morning News. March 8, 2010. *Cartels use intimidation campaign to stifle news coverage in Mexico*. Available at: http://www.dallasnews.com/sharedcontent/dws/news/world/stories/DN-blackout_08int.ART.State.Edition2.4b84845.html. See also Committee to Protect Journalists (CPJ), “Silence or Death in Mexico’s Press”, (New York: CPJ, 2010), chapter 2, “A nation in crisis”, available at: http://cpj.org/reports/cpj_mexico_english.pdf

³³⁵ Washington Post. August 2, 2010. *In Mexico’s Nuevo Laredo, drug cartels dictate media coverage*. Available at: <http://www.washingtonpost.com/wp-dyn/content/article/2010/08/01/AR2010080103481.html>

³³⁶ Los Angeles Times. August 16, 2010. *Under threat from Mexican drug cartels, reporters go silent*. Available at: <http://articles.latimes.com/2010/aug/16/world/la-fg-mexico-narco-censorship-20100816>. See also Committee to Protect Journalists (CPJ), *Silence or Death in Mexico’s Press*, (New York: CPJ, 2010), chapter 4 “Cartel city”, Available at: http://cpj.org/reports/cpj_mexico_english.pdf

³³⁷ New York Times. March 13, 2010. *Fearing Drug Cartels, Reporters in Mexico Retreat*. Available at: <http://www.nytimes.com/2010/03/14/world/americas/14mexico.html?emc=eta1>

³³⁸ Milenio. March 4, 2010. *Dos periodistas de Milenio: el día que el periodismo murió*. Available at: <http://impreso.milenio.com/node/8729203>

³³⁹ Misión internacional de documentación sobre ataques en contra de periodistas y medios de comunicación, August 2008, *Libertad de Prensa en México: La Sombra de la Impunidad y la Violencia*, pp. 20-22, Available at: http://www.i-m-s.dk/files/publications/1340%20Mexico%20E_NEW.pdf

³⁴⁰ Misión internacional de documentación sobre ataques en contra de periodistas y medios de comunicación, August 2008, *Libertad de Prensa en México: La Sombra de la Impunidad y la Violencia*, pp. 20-22, Available at: http://www.i-m-s.dk/files/publications/1340%20Mexico%20E_NEW.pdf

³⁴¹ El Diario. September 19, 2010. *¿Qué quieren de nosotros?* Available at: <http://www.diario.com.mx/notas.php?f=2010%2F09%2F19&id=ce557112f34b187454d7b6d117a76cb5>

³⁴² El Diario. September 19, 2010. *¿Qué quieren de nosotros?* Available at: <http://www.diario.com.mx/notas.php?f=2010%2F09%2F19&id=ce557112f34b187454d7b6d117a76cb5>

³⁴³ See e.g. Washington Post. August 2, 2010. *In Mexico’s Nuevo Laredo, drug cartels dictate media coverage*. Available at: <http://www.washingtonpost.com/wp-dyn/content/article/2010/08/01/AR2010080103481.html>

demanded by the criminal organization known as “La Línea.”³⁴⁴ On September 2, *Noroeste* once again received threatening calls, and the same day, in two separate incidents, journalists from the newspaper were intimidated in the street with firearms and death threats.³⁴⁵ In response to the attacks, on September 2 *Noroeste* published an editorial entitled “We won’t give in!” reassuring state residents of their right to be informed and demanding that the state and federal authorities investigate the acts of violence and combat organized crime “to the core.”³⁴⁶

180. Finally, the magazine *Proceso* and the organization *Periodistas de a Pie* reported in December, 2010, that in recent years seven Mexican journalists had had to take the extreme step of seeking refuge in other countries out of fear for their lives or those of their families. According to the report, these journalists, some of whose cases are detailed in the previous section, were: Horacio Nájera, correspondent for *Reforma* in Ciudad Juárez, Chihuahua; Jorge Luis Aguirre, editor of *lapolaka.com*; Alejandro Hernández Pacheco, *Televisa* cameraman in Durango; Emilio Gutiérrez Solo, of *El Diario* in Ascensión, Chihuahua; Ricardo Chavez Aldana, of *Radio Cañon* in Ciudad Juárez, Chihuahua; and two photographers from Ciudad Juárez whose names were not made public.³⁴⁷

181. These serious trends, which previously only affected local media in locations with a strong organized crime presence, are now beginning to affect national media. To mention just two examples detailed above, in March, 2010, two journalists from the national broadcaster *Multimedios Milenio* were temporarily kidnapped in Reynosa, Tamaulipas and later forced to leave the city, and in July, 2010, journalists from the national broadcaster *Televisa* were kidnapped by an organized crime group in the state of Durango.

B. The Mexican State’s Response

182. The right to express one’s own opinion, to disseminate available information and to be able to debate issues of concern to all openly and without inhibition is a basic condition for the consolidation, adequate functioning and preservation of democratic governments and the rule of law.³⁴⁸ For this reason, the Office of the Special Rapporteur has urgently called upon the Mexican State to implement, as soon as possible, a comprehensive policy of prevention, protection and prosecution in response to the critical situation of violence facing journalists in the country. In formulating and implementing public policies in this area, it is essential to have the active participation of all relevant sectors, including journalists and social organizations that defend human rights and freedom of expression. In the Federal District, for example, a Multisectoral Working Group on the Right to Freedom of Expression has been set up to coordinate the implementation of public policies focused on guaranteeing the right to freedom of expression in Mexico City.³⁴⁹ Participants in this Working Group include government authorities,

³⁴⁴ *Noroeste*. September 1, 2010. *Atacan a Noroeste*. Available at: http://www.noroeste.com.mx/publicaciones.php?id=615000&id_seccion. *La Jornada*. September 2, 2010. *Ataque a Noroeste de Mazatlán, por negarse a publicar “cierta información”*. Available at: <http://www.jornada.unam.mx/2010/09/02/index.php?section=politica&article=016n2pol>

³⁴⁵ *Noroeste*. September 3, 2010. *Recibe Noroeste nuevas amenazas*. Available at: <http://www.noroeste.com.mx/publicaciones.php?id=615568>

³⁴⁶ *Noroeste*. September 2, 2010. *Editorial: ¡No vamos a ceder!* Available at: <http://www.noroeste.com.mx/publicaciones.php?id=615243>

³⁴⁷ *Proceso*. December 15, 2010. *Periodistas en el olvido*. Available at: <http://www.proceso.com.mx/rv/modHome/detalleExclusiva/86410>. *Periodistas de a Pie*. December 15, 2010. *Colecta navideña para apoyar a nuestros colegas en el exilio*. Available at: <http://periodistasdeapie.wordpress.com/2010/12/>

³⁴⁸ See IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right to Access to Information*. OAS/Ser.L/V/II CIDH/RELE/INF. 2/09 December 30, 2009, par. 8. Available at: <http://www.cidh.org/pdf/files/Inter American Legal Framework english.pdf>

³⁴⁹ See Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, “Government of Mexico’s Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights,” received on February 3, 2011.

journalists, civil society organizations, academics, and the Federal District Human Rights Commission. The Office of the Special Rapporteur believes that the proper implementation of this Working Group, once its effectiveness and continuity is assured, could serve as a model at the federal level and in the other states.

183. The following section details some of the measures adopted by the Mexican State as well as the challenges that persist with regard to prevention, protection and criminal prosecution, recalling that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that: "The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

1. Prevention and protection

184. During its on-site visit the Office of the Special Rapporteur received information about discussions between the federal government and civil society organizations relating to the creation of a mechanism for the protection of journalists and human rights workers. In particular, the Office of the Special Rapporteur had the opportunity to observe a meeting to discuss this issue between the Sub-committee for Civil and Political Rights of the Governmental Policy Commission on Human Rights and freedom of expression and human rights organizations. According to the information received, in the context of these discussions a number of proposals were put forward by freedom of expression and human rights organizations, and by the CNDH and the FEADLE. In addition, in its observations on the preliminary version of this report, the Mexican State recalled that the promotion of institutional and interinstitutional mechanisms to ensure journalists' safety responds to one of the lines of action under the 2008-2012 National Human Rights Program.³⁵⁰ At the end of its visit, the Office of the Special Rapporteur highlighted the "the urgent need to make this process a reality and put [the] protection mechanism into operation as soon as possible. In particular, the Rapporteurs consider it essential that [the] mechanism be implemented through a high-level official and inter-institutional committee; be led by a federal authority with the ability to coordinate among different government organizations and authorities; have its own, sufficient resources; and guarantee the participation of journalists and civil society organizations in its design, operation and evaluation."³⁵¹

185. During its visit the Office of the Special Rapporteur also received information about the efforts made by some states to adopt measures of protection for journalists at risk. The government of the Federal District, for example, has provided funding for the creation of a *Casa de los Derechos de los Periodistas* ("Journalists' Rights House") which, with the participation of journalists, will among other things provide a place of refuge for journalists from different states who are in high-risk situations.³⁵² The Office of the Special Rapporteur applauds this effort and hopes that the project will begin operating in the near future. In addition, in the state of Chihuahua, the Office of the Special Rapporteur was informed of the adoption, beginning in

³⁵⁰ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

³⁵¹ Office of the Special Rapporteur for Freedom of Expression - IACHR, United Nations Office of the Rapporteurship on Freedom of Opinion and Expression, "Joint Official Visit to Mexico, Preliminary Report", August 24, 2010. An Executive Summary is available in English at: <http://www.cidh.org/Comunicados/Spanish/2010/RELEMexicoEng.pdf>

³⁵² Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

August, 2010, of a “Security Protocol for Journalists in High-Risk Situations.” The product of discussions between state authorities and journalists and promoted by the State Commission on Human Rights, the Protocol includes recommendations for journalists to protect themselves as well as a proposal for creating a formal mechanism with the ability to evaluate the risks faced by journalists and authorize the necessary protective measures.³⁵³ In its observations on the preliminary version of this report, the Mexican State reported that on September 8, 2009, the “Implementation Agreement for the Comprehensive Security System to Protect Journalists in the State of Chihuahua” was published in the state of Chihuahua’s Official Gazette.³⁵⁴ The Office of the Special Rapporteur notes that this agreement obligates the state of Chihuahua to create a “Precautionary Protection Procedure for Journalists in Situations of Risk”³⁵⁵; however, the Office of the Special Rapporteur does not have any information regarding the effective implementation of this procedure.

186. Following the on-site visit, the Office of the Special Rapporteur learned that on November 3, 2010, a “Coordination agreement for the implementation of preventive and protective actions for journalists”³⁵⁶ was signed by the Ministry of the Interior, the Foreign Ministry, the Public Security Ministry, the PGR, and the CNDH. On November 11, 2010, the Office of the Special Rapporteur received a communication from the Mexican State formally informing it that this Agreement had been signed, which, in the State’s view, represents “the first step towards establishing a mechanism for the protection of journalists and media workers” and “complies with one of the recommendations made by the Special Rapporteurs...in their joint official visit made between August 9 and 24, 2010.”³⁵⁷

187. The Coordination agreement for the implementation of preventative and protective actions for journalists creates two bodies with responsibilities relating to the protection of journalists. First, an Advisory Committee was created, with responsibility for receiving requests for protection, determining and monitoring preventive and protective measures for journalists, and facilitating the implementation of these measures at a federal and local level. Second, an Evaluation Sub-committee was created and charged with analyzing requests for protection and making the corresponding recommendations to the Advisory Committee. The agreement establishes a limit of 30 days for the setting up of the Advisory Committee and a limit of a further 30 days for this Committee to set out its Operational and Implementation Guidelines to define, among other issues, “the criteria for the adoption, implementation, preservation, modification or termination of preventive and protective measures for journalists.”³⁵⁸ According to the information received, the Advisory Committee was in fact set up on December 3, 2010.³⁵⁹

³⁵³ State of Chihuahua, “Protocol de Seguridad para Periodistas”, Available at: http://www.cedhchihuahua.org.mx/index.php?option=com_content&task=view&id=57&Itemid=57

³⁵⁴ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, “Government of Mexico’s Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights,” received on February 3, 2011.

³⁵⁵ Implementation Agreement for the Comprehensive Security System to Protect Journalists in the State of Chihuahua, p. 12, available at: <http://www.cedhchihuahua.org.mx/Periodistas/Periodico-oficial.pdf>

³⁵⁶ Coordination agreement for the implementation of preventative and protective actions for journalists, Available at: <http://www.cencos.org/documentos/021110ConvenioPeriodistas.pdf>

³⁵⁷ Communication OEA-02547 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 11, 2010.

³⁵⁸ Coordination agreement for the implementation of preventative and protective actions for journalists, Available at: <http://www.cencos.org/documentos/021110ConvenioPeriodistas.pdf>

³⁵⁹ Ministry of the Interior. December 3, 2010. *Boletín 602: Instalación del Comité Consultivo para la Implementación de Acciones de Prevención y Protección a Periodistas*. Available at: http://www.segob.gob.mx/es/SEGOB/Sintesis_Informativa?uri=http%3A%2F%2Fwww.SEGOB.swb%23swbpress_Content%3A2572&cat=http%3A%2F%2Fwww.SEGOB.swb%23swbpress_Category%3A1

188. On November 10, 2010, the Office of the Special Rapporteur wrote to the Mexican State to express its satisfaction with the signing of the coordination agreement for the implementation of preventive and protective actions for journalists. On this occasion, the Office of the Special Rapporteur set out a series of recommendations for the implementation of the Agreement and the development of the Operational and Implementation Guidelines. These recommendations related to five points: 1) the need to guarantee the necessary financial and personnel resources for the effective implementation of the mechanism; 2) the need to guarantee an effective coordination between the bodies responsible for the implementation of preventive and protective measures; 3) the need to adequately define the protective measures contemplated by the mechanism and the procedures for their adoption; 4) the need to guarantee the full participation of journalists, civil society and its beneficiaries in the implementation and functioning of the mechanism; and 5) the expediency of seeking the support of the international community in terms of the implementation of the mechanism.³⁶⁰ In its observations regarding the preliminary version of this report, the Mexican State provided information about the steps taken with regard to each of the recommendations provided.³⁶¹ The Office of the Special Rapporteur expresses its satisfaction over the State's attention to its recommendations and will closely follow the development of the Operational and Implementation Guidelines as well as the practical implementation of the agreement.

189. Finally, the Office of the Special Rapporteur observes that a simple but highly effective protective measure consists in the highest authorities of the Mexican State recognizing in a constant, clear, public and firm manner the legitimacy and value of the journalistic profession, even when the information disseminated may prove critical of, inconvenient to or inopportune for the interests of the government. Similarly, it is essential that the authorities vigorously condemn the attacks committed against media workers and encourage the competent authorities to act with due diligence and speed to investigate the facts and punish those responsible.

2. Criminal prosecution

a. General considerations: impunity and its consequences

190. During its visit, the Office of the Special Rapporteur did not receive enough concrete information about legal and administrative sanctions in cases of violence against journalists. As such, it calls attention once more to the absence of systematic information about criminal prosecution and administrative proceedings relating to these acts.

191. The principal source of information about sentencing in cases of violence against journalists comes from the CNDH. In its General Recommendation 17 of 2009, titled "On the cases of attacks on journalists and the prevailing impunity," the CNDH reported that of 65 cases of homicides, forced disappearances and attacks with explosives on media offices between 2000 and the date of its report, only in nine cases (13%) had a conviction been handed down.³⁶² The Office of the Special Rapporteur requested additional information about these cases, but did not receive a response that provided details about the convictions.³⁶³ The Office of the Special Rapporteur was able to identify only five of the cases mentioned by the CNDH and observed that

³⁶⁰ Communication from the Office of the Special Rapporteur to the Mexican State with reference to the "creation of a mechanism for the protection of journalists," November 10, 2010.

³⁶¹ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

³⁶² CNDH, General Recommendation 17, August 19, 2009.

³⁶³ Meeting held with the CNDH on August 11, 2010, and written communication from the CNDH to the Office of the Special Rapporteur, August 18, 2010.

in several of these case the motives for the crimes and the identity of those who planned the crimes remains unknown.³⁶⁴

192. Despite the absence of systematic information, the interviews held and the information gathered make it possible to affirm that there exists a climate of generalized impunity with regard to the cases of violence against journalists, even when it comes to the most serious acts such as murders, disappearances and kidnappings. The Office of the Special Rapporteur is certain that, just as the Inter-American Court for Human Rights has stated, impunity fosters the chronic repetition of human right violations and the total defenselessness of victims and their relatives.³⁶⁵ Moreover, the murder of a journalist and the absence of investigation and legal punishment of those responsible by the State has major repercussions both on other journalists and on the rest of society, as it generates a fear of reporting violations, abuses and illicit acts of all kinds. This effect can only be avoided through decisive action by the State to punish those responsible.³⁶⁶

b. Observations on the legal prosecution of crimes against journalists

193. The Office of the Special Rapporteur considers of great concern the impunity which exists in the great majority of cases of violence against journalists in Mexico. As the CNDH is right to note, the State's failures with regard to its obligations to carry out effective and complete investigations into the attacks against media workers creates impunity, discourages crime reporting, generates a climate of fear and anxiety, encourages self-censorship and leads to a decline in the quality of democratic life.³⁶⁷

194. The CNDH has identified various factors which contribute to the lack of results in these cases. These include: the failure to exhaust relevant lines of inquiry, including that relating to the possibility that the attack was motivated by the victim's exercise of freedom of expression; the failure to apply effective police investigation techniques; judicial agents' failure to collect witness statements, locate witnesses, emit summons or search warrants, and to carry out other relevant procedures; lengthy periods of inactivity in the investigation; the failure to seek the participation of forensic experts; the delays that occur when the agents or attorneys from the Public Prosecutor's office who began the investigation are replaced; and the confusion and delay generated when a controversy arises over whether the case corresponds to federal or state jurisdiction.³⁶⁸ The CNDH has called particular attention to what it considers a "general tendency to disregard *a priori* that the motive for the attacks on media workers is connected to their

³⁶⁴ The five cases mentioned are the murders of: 1) Humberto Méndez Rendón. See *El Siglo de Durango*. December 13, 2008. *Pasará 19 años en la prisión el presunto homicida de periodista*. Available at: <http://www.elsiglodedurango.com.mx/noticia/193431.pasara-19-anos-en-la-prision-el-presunto-homi.html>. 2) Roberto Javier Mora García. See International Freedom of Expression Exchange (IFEX). June 8, 2009. *Journalist's alleged assassin sentenced following judicial process plagued with irregularities*. Available at: http://www.ifex.org/mexico/2009/06/08/alleged_murderer_sentenced/. 3) Gregorio Rodríguez Hernández. See Crimes Against Journalists Impunity Project. Case: *Gregorio Rodríguez Hernández*. Available at: <http://www.impunidad.com/index.php?procesos=61&idioma=us>. 4) Adolfo Sánchez Guzmán. See *Contralínea*. May 16, 2010. *Adolfo Sánchez, asesinato impunidad*. Available at: <http://www.estudiod3.com/alianza/index.php/home/3091-televisa-desconoce-a-reportero-suyo-asesinado>. 5) Amado Ramírez Dillanes. See *Noticieros Televisa*. March 24, 2009. *Dan 38 años de prisión a homicida de Amado Ramírez*. Available at: <http://www2.esmas.com/noticierostelevisa/mexico/estados/051088/dan-38-anos-prision-homicida-amado-ramirez>. See also information from the Committee to Protect Journalists (CPJ), Available at: <http://cpj.org/reports/2010/09/silence-death-mexico-press-appendix-1.php>

³⁶⁵ See IACHR. *Case Bámaca Velásquez Vs. Guatemala*. Verdict of November 25, 2000. Series C No. 70, par. 211.

³⁶⁶ See IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right to Access to Information*. OEA/Ser.L/V/II IACHR/RELE/INF. 2/09. December 30, 2009, par. 190. Available at: http://www.cidh.org/pdf_files/Inter_American_Legal_Framework_english.pdf

³⁶⁷ See CNDH, General Recommendation 17, August 19, 2009.

³⁶⁸ See CNDH, General Recommendation 17, August 19, 2009.

journalistic activities.”³⁶⁹ In a number of the meetings held by the Office of the Special Rapporteur with state judicial bodies, this tendency was evident.

195. The Office of the Special Rapporteur recognizes that the Mexican Federation has reacted to the situation of general impunity that holds sway with regard to crimes against journalists with the creation of a Special Prosecutor’s Office within the structure of the PGR.³⁷⁰ The Mexican government, through an agreement with the Prosecutor General of the Republic,³⁷¹ dated February 15, 2006, created the Special Prosecutor’s Office for Crimes against Journalists (FEADP), as an administrative body of Office of the Prosecutor General of the Republic’s specialized in dealing with matters relating to criminal acts committed against journalists.³⁷²

196. The FEADP was subsequently modified in a new agreement of July 5, 2010, becoming the Special Prosecutor’s Office for Crimes against Freedom of Expression (FEADLE).³⁷³ In the agreement that established the FEADLE, the Prosecutor General stated that “the federal government has shown signs of political will and undertaken steps to deal adequately with the issue of attacks on journalists. However, there remains a persistent and deeply-felt demand on the part of society as a whole with regard to the improvement and reinforcement of government actions which guarantee the physical and moral integrity of those engaging in journalistic or informative activities in Mexico, in order that these may carry out this essential function.”³⁷⁴

197. The FEADLE is empowered to prosecute crimes committed against those who engage in journalistic activities if and when: the victim of the crime is a practicing journalist; the crime in question was committed as a result of the exercise of the right to information or of press freedom or was motivated by either of these; the crime is of federal or common law jurisdiction, when the acts are connected to federal crimes; and when the crime concerned is punishable by a prison sentence.³⁷⁵ Although the agreement that created the FEADLE introduced for the first time a definition of “journalistic activities” for jurisdictional purposes, it does not significantly modify the jurisdictional scope that the previous agreement had assigned to the FEADP.³⁷⁶ Similarly, the FEADLE agreement establishes, as did the FEADP agreement, that when in the course of an investigation there are indications that the perpetrators of the crime are members of criminal organizations, the criminal investigation “must” be referred to SIEDO, and this entity will take charge of the inquiry.³⁷⁷

198. Over the course of the on-site visit the Office of the Special Rapporteur twice had the opportunity to meet with the current head of the FEADLE to hear about and discuss the Office’s working plan as well as the resources currently assigned to the special prosecutor. According to the information received, the FEADLE is currently making progress in a number of areas, including the investigation and criminal prosecution of crimes falling under its jurisdiction,

³⁶⁹ See CNDH, General Recommendation 17, August 19, 2009.

³⁷⁰ It is currently known as the Special Prosecutor for Crimes against Freedom of Expression.

³⁷¹ Agreement A/ 031/06 of the PGR, February 15, 2006, Available at: <http://www.pgr.gob.mx/Combate%20a%20la%20Delincuencia/Delitos%20Federales/FPeriodistas/Quienes%20Somos.asp#>

³⁷² Document provided to the Inter-American Commission for Human Rights by the Special Prosecutor for Crimes against Journalists on March 22, 2010.

³⁷³ Agreement A/145/10 of the PGR, July 5, 2010, Available at: http://dof.gob.mx/nota_detalle.php?codigo=5150640&fecha=05/07/2010

³⁷⁴ Agreement A/145/10 of the PGR, July 5, 2010, considering #3.

³⁷⁵ Agreement A/145/10 of the PGR, July 5, 2010, arts. 2 and 5.

³⁷⁶ Agreement A/145/10 of the PGR, July 5, 2010, art. 5.

³⁷⁷ Agreement A/145/10 of the PGR, July 5, 2010, art. 6. Cf. Agreement A/031/06 of the PGR, February 15, 2006, art. 4.

collaboration with the state Public Prosecutor's Offices in the investigation of attacks on journalists, the creation of a centralized archive of criminal investigations into homicides and disappearances of journalists, the development of security protocols, and the holding of meetings with public bodies and civil society organizations.³⁷⁸

199. Nevertheless, the Office of the Special Rapporteur observes that to date the office has not made any impact on reducing the generalized impunity that holds sway in cases of violence against journalists, if we consider that according to information provided in the course of the on-site visit, since its creation in 2006 the FEADLE had not achieved a single conviction, and had brought only four cases to trial.³⁷⁹ Its tendency to decline responsibility for cases referred to its jurisdiction also reveals a lack of political will that went uncorrected until the designation in 2010 of a new Special Prosecutor who has shown the will to assume the pertinent cases. In its observations on the preliminary version of this report, the Mexican State reported that from February 15 to December 31, 2010, the FEADLE brought to trial seven preliminary investigations involving 17 potentially responsible individuals.³⁸⁰ This information is encouraging, inasmuch as it indicates that the will observed by the Office of the Special Rapporteur during its visit is beginning to be reflected in significant progress in legal proceedings, even though convictions of those responsible have not yet taken place.

200. The Office of the Special Rapporteur considers that the meager results obtained by the Special Prosecutor's Office are attributable, in part, to a lack of will on the part of the previous prosecutors to deal with cases and to implement an appropriate working program, but also to a lack of autonomy and resources, and the inadequate definition of its jurisdiction. As such, it urgently calls upon the Mexican State to strengthen the Special Prosecutor's Office, granting it greater autonomy and its own budget, and making the necessary reforms to allow the federal jurisdiction to exercise competence over crimes against freedom of expression. To this effect, the Office of the Special Rapporteur considers that the working plan shown to it by the Special Prosecutor during the on-site visit reveals, for the first time, a seriousness consistent with the gravity and urgency of the situation it confronts. The Office of the Special Rapporteur hopes that this working plan will translate into concrete results in the near future.

201. Even so, resolution of the existing ambiguity with regard to jurisdiction over crimes against freedom of expression remains an urgent matter, in order to permit the exercise of federal jurisdiction over the crimes against freedom of expression when circumstances so demand. In particular, state-level authorities may not have the capacity to adequately resolve crimes in which powerful local actors with the ability to intimidate or infiltrate the judicial system are implicated. For the same reasons, the Office of the Special Rapporteur considers it to be of greatest importance that the necessary reforms be advanced to allow federal judges jurisdiction over these kinds of crimes.

202. It is worth recalling in this regard that as a federal State—a form of government explicitly contemplated by the American Convention³⁸¹—in Mexico there exist two kinds of legal jurisdiction applicable to crimes: on one hand, state jurisdiction or "*fuero común*" which deals with all crimes that fall under the jurisdiction of each state and which are detailed in the state criminal codes; and on the other hand, federal jurisdiction or "*fuero federal*" which covers crimes included

³⁷⁸ See the information delivered to the Office of the Special Rapporteur by the Special Prosecutor for Crimes against Freedom of Expression during the on-site visit.

³⁷⁹ Special Prosecutor for Crimes Against Journalists, 2009 Report; interview with the Special Prosecutor for Crimes against Freedom of Expression, August 12, 2010.

³⁸⁰ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights" and Annex I, received on February 3, 2011.

³⁸¹ American Convention on Human Rights, art. 28.

in the Federal Criminal Code given that they are seen to affect or damage legally-protected interests of the community or the nation. Article 73, subparagraph XXI of the Political Constitution of Mexico assigns to Congress the faculty of setting out crimes and offenses against the Federation, as well as legislating with regard to kidnapping and organized crime. Felonies falling under the federal jurisdiction are detailed in article 50 of the Organic Law of the Federal Judiciary.³⁸²

203. Meanwhile, crimes falling under state jurisdiction are defined in an exclusive manner with regard to federal crimes, that is to say, all those crimes not explicitly included within federal jurisdiction automatically fall under state jurisdiction. The 1994 federal penal procedure reform incorporated the model of “ancillary *jurisdiction*” (“competencia por conexidad”), established in article 10 of the Federal Code of Criminal Procedure (hereinafter “CFPP”)³⁸³ and later, in 1996, elevated to constitutional level by article 73, subparagraph XXI.³⁸⁴ Thus, the CFPP indicates that “in the case of offenses treated jointly, the Public Prosecutor’s Office will have the competence to prosecute crimes falling under state jurisdiction which are connected to federal crimes, and federal judges will have competence to judge them.”

204. In principle, the fact that a crime has been committed to silence a journalist, or owing to his or her exercise of freedom of expression, has no relevance to the definition of jurisdiction. In consequence, in principle, the homicides, kidnappings and other attacks committed against journalists are judged under state jurisdiction, save when one of the abovementioned factors is present. In other words, with regard to crimes committed against journalists, jurisdiction in principle corresponds to state law as expressly established in the governing legal regime. However, there have been attempts—by way of so-called *federalization*—to establish federal jurisdiction to investigate and punish all crimes committed against journalists as a result of the exercise of their profession.

205. Indeed, there have been a number of initiatives in Mexico aimed at federalizing crimes committed against freedom of expression, seeking to grant jurisdiction to the PGR and federal criminal judges to investigate and judge these crimes, through modifications to the Federal Criminal Code, the Federal Code of Criminal Procedure and the Organic Law of the Federal Judiciary.³⁸⁵

³⁸² These crimes correspond in a general manner to those provided for in federal laws and international treaties, crimes committed abroad by a Mexican citizen, diplomatic employee, consul or staff member, those committed in embassies or offices abroad, those committed against a public servant or federal employee in the course of their work, those related to the duties of a federal public servant or when the federation is the injured party. See Constitutional Law of the Federal Judiciary, art. 50.

³⁸³ Federal Code of Criminal Procedures, art. 10: Any court is competent to hear recurring or permanent offences when they have produced effects in its territorial jurisdiction or been planned there. In the case of offenses treated jointly, the Federal Public Prosecutor’s Office will have the competence to indict crimes falling under state jurisdiction when connected to federal crimes, and federal judges will have competence to judge them.

³⁸⁴ Article 73 XXI of the Mexican Constitution establishes that: “federal authorities may also hear crimes falling under state jurisdictions, when they are connected to federal crimes”. See also Luís Raúl González Pérez. “Federalización de los delitos contra periodistas”, *Revista Mexicana de Comunicación*, November 2007. Available at: http://www.mexicanadecomunicacion.com.mx/rmc107_8.htm

³⁸⁵ According to an initiative presented in the Chamber of Deputies on November 28, 2008, for example, article 430 of the Federal Penal Code would state the following: “Between one and five years of prison and between 100 and 500 days minimum daily wage equivalent fine would be imposed on the one who, with the aim of restricting a person’s right to free expression and circulation of his thoughts, ideas, opinions or information, commits against him any act defined as an offense in this code”; article 116 of the Federal Code of Criminal Procedures indicates the following: “When they are offenses mentioned in article 430 of the Federal Penal Code that probably involve attacks on freedom of speech, the authority hearing the matter shall immediately make it known to the Ministry of the Interior”; and article 50 of the Constitutional Law of the Federal Judiciary indicates the following: “Crimes of a federal order [...] are all those mentioned in article 430 of the Penal Code”. The initiative is available at: <http://gaceta.diputados.gob.mx/Gaceta/60/2008/nov/20081128.html#Initiatives>

206. In April 2009³⁸⁶ the Chamber of Deputies approved a reform of the Federal Criminal Code which treats as aggravating circumstances the fact that a crime is committed “with the purpose of impeding, interfering with, limiting or attacking journalistic activity.”³⁸⁷ However, the reform of the Organic Law of the Federal Judiciary was not approved, nor was the reform of the Federal Code of Criminal Proceedings.³⁸⁸

207. Although the Chamber of Deputies approved the initiative that adds crimes against journalistic activity to the Federal Criminal Code, it remains under consideration in the Senate.³⁸⁹ In addition, some freedom of expression NGOs believe that the reform approved by the Chamber of Deputies only protects in a partial and insufficient manner the right to freedom of expression, as it does not empower the federation to investigate and punish such crimes either by way of federalization or by way of ancillary jurisdiction, because it does not take into account the appropriate procedural reforms, meaning the federal authorities can intervene only under the same circumstances already in effect today.³⁹⁰

208. Following its visit to the country, the Office of the Special Rapporteur was informed by the Mexican State that President Felipe Calderón Hinojosa “reaffirmed his commitment to the federalization of offenses committed against journalists,” at a meeting held on September 22, 2010, with the Inter-American Press Association and the Committee to Protect Journalists.³⁹¹

209. Meanwhile, and notwithstanding any possible reform that permits the federal jurisdiction to assume competence over crimes against freedom of expression, where appropriate, the Office of the Special Rapporteur considers that the struggle against impunity for

³⁸⁶ Gaceta Parlamentaria, LX Legislature, Chamber of Deputies, of April 2, 2009. Available at: <http://gaceta.diputados.gob.mx/Gaceta/Votaciones/60/tabla3or2-61.php3>

³⁸⁷ Gaceta Parlamentaria, Chamber of Deputies, no. 2728-IV, of Tuesday March 31, 2009, ruling of the Justice Commission for a proposed decree to add the Twenty-seventh Title to the Federal Criminal Code, on Crimes Committed against Freedom of Speech.

Article 430. Whoever commits an illegal act covered in the penal laws, with the purpose of impeding, interfering with, limiting or attacking journalistic activity, will be punished with between one and five years of prison and between 100 and 500 days minimum daily wage equivalent fine.

The penalty indicated in the previous paragraph may be increased by one half if the crime is committed by a public servant in the course of his or her duties or motivated by them.

The penalties considered in this article will be imposed without regard for any penalty corresponding to the commission of any other action or actions.

Article 431. For the purposes of this Title, journalistic activity shall be understood to mean the practice of seeking, gathering, photographing, investigating, summarizing, writing up, ranking, editing, printing, circulating, publishing or disseminating information, news, ideas or opinions for to the general public, by any means of communication, as well as their distribution. This activity may be carried out in a regular or sporadic manner, may be paid or unpaid, and regardless of whether a working relationship exists with a media organization. Available at: <http://gaceta.diputados.gob.mx/Gaceta/60/2009/mar/20090331-IV.html#Dicta20090331-1>

³⁸⁸ Gaceta Parlamentaria, Chamber of Deputies, no. 2728-IV, of Tuesday March 31, 2009, ruling of the Justice Commission, considerations four and six. Available at: <http://gaceta.diputados.gob.mx/Gaceta/60/2009/mar/20090331-IV.html#Dicta20090331-1>

³⁸⁹ In February, 2010, Senator Ludivina Menchaca Castellanos presented a motion for the President of the Senate to order monitoring of the work of the Justice and Legislative Studies Commissions for the ruling relating to the Penal Code reform to be resolved immediately; however, no news has been received on the progress of the mentioned reform. Gaceta del Senado no. 78 of Tuesday February 9, 2010. Available at: <http://www.senado.gob.mx/index.php?ver=sp&mn=2&sm=2&id=2046>

³⁹⁰ Article 19 and CENCOS, *Entre la violencia y la indiferencia, Report de agresiones contra la libertad de expresión en México 2009* (Mexico D.F.: CENCOS/Article 19, February, 2010), p. 40. Available at: http://www.ifex.org/mexico/2010/02/18/informe_2009_entre_la_violencia_y_la_indiferencia_article19_cencos.pdf

³⁹¹ Communication OEA-02199 from the Permanent Mission of Mexico to the OAS to the IACHR, September 24, 2010, annex, Foreign Ministry, Informative Bulletin on Human Rights: the Agenda International of Mexico, No. 199, September 24, 2010.

crimes against freedom of expression also demands an effort on the part of the individual states in order to endow their law enforcement agencies and their judges with more and better operational guarantees, including greater autonomy, resources and technical strengthening. In the absence of a legislative reform that federalizes crimes against freedom of expression, the great majority of cases of violence against journalists in Mexico continue to be processed within the state jurisdictions, that is to say, within the legal systems of the individual states. To this effect, the Office of the Special Rapporteur met with those in charge of the public prosecutor's offices and supreme courts of the states it visited in the course of the on-site visit.

210. During its visit to the country, the Office of the Special Rapporteur observed a broad consensus with respect to the need to continue strengthening the independence and technical capacity of the state legal systems. In this regard, the Office of the Special Rapporteur noted the fact that in June 2008 Mexico adopted a series of significant reforms of its judicial system, both at federal and state levels, which are to be implemented over a period of eight years, ending in 2016.³⁹² Among other elements, the reforms introduce oral trials to Mexican legal proceedings as well as an adversarial system.³⁹³ In the state of Chihuahua in particular, where it observed an oral trial in process, the Office of the Special Rapporteur was able to verify the commitment of the authorities and personnel of the legal system to the judicial reform underway.

211. The Office of the Special Rapporteur was also informed of the adoption, by the Federal District Public Prosecutor's Office, of an "Investigation Protocol for Dealing with Crimes Committed against Journalists Exercising their Profession."³⁹⁴ The Protocol awards jurisdiction over such offenses to the Specialized Agency for the Attention to Offenses Committed against Journalists in the Exercise of their Profession, establishes guidelines for the investigation of offenses against journalists that make reference to the line of inquiry relating to the journalistic activity of the victim, and considers the adoption of protective measures for victims and witnesses.³⁹⁵ In cases of violence against journalists, the Office of the Special Rapporteur considers that all public prosecutor's offices should also consider the creation of specialized investigation groups as well as special investigation protocols according to which the hypothesis that the crime was committed due to the victim's professional activities must be exhausted. In its observations regarding the preliminary version of this report, the Mexican State reported that the FEADLE has prepared a "Homicide Investigation Guide" which "awaits presentation to the state public prosecutor's offices."³⁹⁶ The Office of the Special Rapporteur believes it is essential that this guide contain the necessary elements to ensure that in cases involving violence against journalists, the hypothesis that the crime was committed due to the journalist's professional activities is exhausted.

³⁹² Diario Oficial, June 18, 2008, Available at: http://www.diputados.gob.mx/LeyesBiblio/legis/reflx/89_CPEUM_18jun08.doc

³⁹³ See Diario Oficial, June 18, 2008, Available at: http://www.diputados.gob.mx/LeyesBiblio/legis/reflx/89_CPEUM_18jun08.doc. See also, David A. Shirk, "Justice Reform in Mexico: Change and Challenges in the Judicial Sector", April, 2010, Available at: <http://wilsoncenter.org/topics/pubs/Shirk.pdf>

³⁹⁴ Gaceta Oficial del Distrito Federal, Agreement A/011/2010 of the Public Prosecutor's Office of the Federal District, May 14, 2010, Available at: <http://www.ordenjuridico.gob.mx/Documentos/Estatal/Distrito%20Federal/wo48403.pdf>

³⁹⁵ Gaceta Oficial del Distrito Federal, Agreement A/011/2010 of the Public Prosecutor's Office of the Federal District, May 14, 2010, Available at: <http://www.ordenjuridico.gob.mx/Documentos/Estatal/Distrito%20Federal/wo48403.pdf>

³⁹⁶ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights" and Annex I, received on February 3, 2011.

212. Information received by the Office of the Special Rapporteur also indicates that in some cases of violations of journalists' human rights presumably committed by the military, the investigation of the events has been carried out by the military criminal justice system.³⁹⁷

213. The Political Constitution of Mexico considers military or war jurisdiction to apply exclusively "to those offenses and faults against military discipline", that is to say, those committed by soldiers in the military sphere, whether to fulfill a mission or order received, or in carrying out operational or administrative functions they are in charge of.³⁹⁸

214. According to article 13 of the Constitution military jurisdiction should only be applied to offenses that affect military discipline, such as insubordination or desertion. By contrast, when an offense occurs that affects human rights or when faults in military discipline and violations to human rights arise from the same acts, competence over the violation to human rights should correspond to civil jurisdiction. Article 13 also establishes that military jurisdiction cannot be extended to a civilian.³⁹⁹

215. However, Article 57.II of the Military Justice Code establishes that offenses against military discipline include, among others, all those "that are committed by soldiers when in service or in the pursuit of service-related actions."

216. The Inter-American Court of Human Rights has observed in this regard that among the characteristic features of Mexican military legal jurisdiction there may be found "[a]n extensive realm of material competence, which surpasses the framework of strictly military crimes", and that "[t]hrough the figure of the crime of duty or with occasion of the service enshrined by Article 57 of the Code of Military Justice, the Mexican criminal jurisdiction has the characteristics of a personal jurisdiction linked to the defendant's condition of soldier and not to the nature of the crime."⁴⁰⁰ The Inter-American Court found that Article 57 of the Military Justice Code is incompatible with the American Convention on Human Rights, and resolved that "the State shall adopt, within a reasonable period of time, the appropriate legislative reforms in order to make the mentioned provision [Article 57] compatible with the international standards of the field."⁴⁰¹

217. In the framework of its visit, the Office of the Special Rapporteur learned of an initiative presented by the President of Mexico to Congress, which will exclude from the

³⁹⁷ In the course of its visit, for example, the Office of the Special Rapporteur received information about the case of journalist Ernesto Reyes Martínez of *Noticias Voz e Imagen* in the state of Oaxaca, who together with his wife was detained and held incommunicado, had his belongings taken, and was threatened by a group of soldiers on June 20, 2009, in the municipality of San Pablo Etla in Oaxaca. According to information received from the organization Article 19, the Oaxaca State Office of the PGR rejected its competence to investigate these events in favor of the Military Justice Attorney in May, 2010, and the Fifth District Court of the State of Oaxaca dismissed the injunction request that prevented the referral of the case to the military penal jurisdiction. The Office of the Special Rapporteur requested additional information from the State on this case. In its response, the State did not refer to the legal process but indicated that "The CNDH, in conformity with article 125 fraction VIII of its Internal Regulations, determined the complaint to be closed, there being no evidence to continue hearing the matter". Communication OEA-02567 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received November 12, 2010.

³⁹⁸ United Nations. *Report of the Working Group on the Universal Examination of Journalism: Mexico*. Addition. Opinions on the conclusions and/or recommendations, voluntary commitments and responses presented by the state examined, p. 6. Available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/MX/A_HRC_11_27_Add1_MEX_S.pdf

³⁹⁹ Montaña Tlachinollan Human Rights Center, Miguel Agustín Pro Juárez Human Rights Center, and the Center for Justice and International Law. *La impunidad militar a juicio* (Mexico: 2010), p. 26. Available at: http://cejil.org/sites/default/files/la_impunidad_militar_a_juicio_casos_0.pdf

⁴⁰⁰ I/A Court H.R., *Case of Radilla-Pacheco v. Mexico*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of 2009. Series C No. 209, par. 276.

⁴⁰¹ I/A Court H.R., *Case of Radilla-Pacheco v. Mexico*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 23, 2009. Series C No. 209, par. 342.

competence of the military penal jurisdiction the offenses of forced disappearance, torture and rape.⁴⁰² In this regard the Office in Mexico of the United Nations High Commissioner for Human Rights indicated that the initiative represents a “necessary step”, but that “the path now open for bringing the Military Justice Code into line with international standards for the protection of Human Rights presents obvious challenges, given the insufficiency—among other issues—of the very limited list of exclusions that are incorporated into the initiative.”⁴⁰³ Likewise, the Inter-American Court observed in a recent decision that “in the *Case of Radilla-Pacheco*, the Court deemed that the provision contained in the aforementioned Article 57 operates as a rule and not as an exception, the latter characteristic being essential for the military jurisdiction to meet the standards established by this Court. In this regard, the Court emphasizes that these standards are met when all human rights violations are investigated under civilian criminal jurisdiction, and thus their scope of application cannot be limited to specific violations such as torture, forced disappearance, or rape.”⁴⁰⁴

218. The Office of the Special Rapporteur reminds the State that: allegations of human rights violations, including those that refer to the right to freedom of expression, must in no case be processed under military legal jurisdiction, in accordance with the jurisprudence of the Inter-American Court of Human Rights.⁴⁰⁵ At the same time, both the military and the various police bodies must openly collaborate with investigations carried out by public human rights bodies and internal control bodies. The Office of the Special Rapporteur recognizes the State’s legitimate right to combat organized crime and its efforts to train police and military personnel in human rights issues. However, it reiterates its appeal to the State to bolster measures aimed at ensuring that the battle against organized crime be consistent with democratic principles, including active respect for the control and criticism function that is exercised through the right to freedom of expression. The Office of the Special Rapporteur considers that the press should be seen as an ally of the State and society in strengthening democracy and the rule of law.

219. Finally, the Office of the Special Rapporteur considers that the struggle against impunity for crimes against journalists demands that the Mexican State continue to reinforce complementary control mechanisms. The Office of the Special Rapporteur was informed by the CNDH that of the 19 recommendations relating to freedom of expression issued by this institution since 2005, only six have been fully complied with.⁴⁰⁶ In this regard, it considers it essential that the Chamber of Deputies give priority to approving constitutional reform in human rights to reinforce the ability of public human rights bodies to act. It also considers opportune the existing proposal for the Chamber of Deputies’ Special Commission for Monitoring Attacks on Journalists and Media Outlets to become a regular Commission, and to create an equivalent commission in the Senate and in the legislative bodies of those states where violence against journalists is most severe.

III. FREEDOM, PLURALISM AND DIVERSITY IN THE DEMOCRATIC DEBATE

⁴⁰² Ministry of the Interior, Bulletin 530, October 21, 2010, Available at: http://www.gobernacion.gob.mx/es/SEGOB/Sintesis_Informativa?uri=http%3A%2F%2Fwww.SEGOB.swb%23swbpress_Content%3A2482&cat=http%3A%2F%2Fwww.SEGOB.swb%23swbpress_Category%3A1

⁴⁰³ Office in Mexico of the United Nations High Commissioner for Human Rights, October 19, 2010, *ONU-DH señala que la iniciativa del Ejecutivo para acotar el fuero militar abre una ruta que debe ser ampliada por el Congreso*. Available at: <http://www.cinu.mx/comunicados/2010/10/onu-dh-senala-que-la-iniciativ/>

⁴⁰⁴ I/A Court H.R. *Case of Cabrera-García and Montiel-Flores v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 26, 2010. Series C No. 220, par. 206. Unofficial translation.

⁴⁰⁵ I/A Court H.R., *Case of Radilla-Pacheco v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 23, 2009. Series C No. 209, par. 342. See also United Nations Human Rights Commission, Final observations of the Human Rights Commission, Mexico, CCPR/C/MEX/CO/5, April 7, 2010, par. 18.

⁴⁰⁶ Information sent by the CNDH to the Office of the Special Rapporteur on August 18, 2010.

220. Mindful that one of the basic requirements for the right to freedom of expression is that a broad diversity of information be available, during its visit to Mexico the Office of the Special Rapporteur evaluated the degree of pluralism and diversity in broadcasting.⁴⁰⁷ Among other issues, the Office of the Special Rapporteur studied regulation of the radio and television frequency spectrum, the status of community broadcasting, and the regulation and allocation of government advertising.

A. Regulation of the broadcast frequency spectrum and implementation of provisions governing broadcasting

1. Legal framework

221. As the IACHR has noted, the regulation of broadcasting should have the goal of ensuring predictability and legal certainty to those who own or acquire a license, so that they can exercise their right to expression freely and without fear of negative consequences in reprisal for broadcasting information. Consequently, regulations must be designed in such a way that they grant sufficient guarantees against any possible arbitrary act by the State. Meeting this objective requires: (1) that the provisions establishing rights and obligations are clear and precise; (2) the inclusion of procedures that are transparent and respect due process—allowing for, among other things, judicial review of any administrative decisions; (3) granting sufficient time for the use of a frequency to allow for the development of the communication project or for recouping the investment made, plus profit; (4) ensuring that while the frequency is in use, no additional demands will be imposed beyond those established by law; and (5) ensuring that no decisions that affect the exercise of freedom of expression will be made as a consequence of editorial stance.⁴⁰⁸

222. In particular, the allocation of radio and television licenses has a definitive impact on the right to freedom of expression in its two dimensions: the right to freely express oneself and society's right to receive diverse ideas and opinions.⁴⁰⁹ Therefore, this process must serve two objectives: 1) to ensure greater security so that people can freely express themselves without fear of being punished or stigmatized, and 2) to ensure equality in the conditions of access to frequencies and greater diversity in the communications media.⁴¹⁰ The process of allocating frequencies must be strictly regulated by law, characterized by transparency and guided by objective, clear, public-spirited and democratic criteria.⁴¹¹

223. The Office of the Special Rapporteur notes that the regulatory framework governing the broadcast spectrum and the implementation of provisions covering broadcasting in

⁴⁰⁷ See IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right to Access to Information*. OEA/Ser.L/V/II CIDH/RELE/INF. 2/09 30 December 2009, paras. 225, 231. Available at: <http://www.cidh.org/pdf files/Inter American Legal Framework english.pdf>

⁴⁰⁸ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, par. 25. Available at: <http://www.cidh.org/pdf files/Standards for free and inclusive Boadcating.pdf>

⁴⁰⁹ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, par. 60. Available at: <http://www.cidh.org/pdf files/Standards for free and inclusive Boadcating.pdf>

⁴¹⁰ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, paras. 25-26 Available at: <http://www.cidh.org/pdf files/Standards for free and inclusive Boadcating.pdf>

⁴¹¹ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, par. 61. Available at: <http://www.cidh.org/pdf files/Standards for free and inclusive Boadcating.pdf>

Mexico are principally set forth in the Federal Telecommunications Law,⁴¹² and the Federal Law on Radio and Television.⁴¹³

224. The Federal Telecommunications Law states that the Ministry of Communications and Transportation shall “plan, formulate and manage policies and programs, as well as regulate the development of telecommunications.”⁴¹⁴ This law also establishes that the Federal Telecommunications Commission (hereinafter “COFETEL”) is the “Ministry of Communications and Transportation’s decentralized administrative body [...] in charge of regulating, promoting and overseeing the efficient development and broad-based public coverage of telecommunications and broadcasting in Mexico.”⁴¹⁵ Among the powers assigned to COFETEL are the power to “opine on applications for granting, modifying, renewing and terminating telecommunications-related concessions and permits” and “exclusively, the faculties in the area of radio and television granted to it by the Ministry of Communications and Transportation.”⁴¹⁶ In this regard, the Supreme Court of Justice of the Nation (hereinafter “Supreme Court”) has established that “the Federal Telecommunications Commission’s exclusive jurisdiction over radio and television does not impinge upon the powers of any other branch of government, specifically the regulatory powers of the Office of the Presidency”, since COFETEL “is subordinate to [the Ministry of Communications and Transportation] and the head of the Executive Branch.”⁴¹⁷ This notwithstanding the fact that the Supreme Court has also ruled that “the Federal Executive acts through said Commission to address matters related to broadcasting.”⁴¹⁸ The COFETEL Commissioners are appointed by the head of the Executive Branch,⁴¹⁹ the Supreme Court having struck down an amendment that empowered the Senate to challenge these appointments.⁴²⁰

225. In 2006, a set of amendments to the Federal Telecommunications Law and the Law on Radio and Television were adopted.⁴²¹ Later, in June 2007, the Supreme Court declared several of these amendments unconstitutional.⁴²² For example, the Court invalidated the automatic renewal of radio and television concessions without requiring the bidding process set forth in Federal Telecommunications Law Article 16. The Supreme Court considered that direct granting of concessions “fosters situations of concentration with regard to broadcasting concessions, instead of the free and healthy competition that allows equitable access to communications media for all those interested in using bandwidth on the broadcast spectrum.”⁴²³ The Supreme Court also struck down Article 17-G of the Federal Law on Radio and Television,

⁴¹² Ley Federal de Telecomunicaciones, published in the *Diario Oficial de la Federación* June 7, 1995, final amendment published on November 30, 2010, available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/118.pdf>

⁴¹³ Ley Federal de Radio y Televisión, published in the *Diario Oficial de la Federación* January 19, 1960, last amendment published June 19, 2009, available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/114.pdf>.

⁴¹⁴ Ley Federal de Telecomunicaciones, published in the *Diario Oficial de la Federación* June 7, 1995, last amendment published November 30, 2010, Article 7(I) available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/118.pdf>

⁴¹⁵ Ley Federal de Telecomunicaciones, published in the *Diario Oficial de la Federación* June 7, 1995, last amendment published November 30, 2010, Article 9-A available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/118.pdf>

⁴¹⁶ Ley Federal de Telecomunicaciones, published in the *Diario Oficial de la Federación* June 7, 1995, last amendment published November 30, 2010, Article 9-A(IV) and 9-A(XVI) available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/118.pdf>

⁴¹⁷ Supreme Court, *Unconstitutionality Suit 26/2006*, verdict of June 7, 2007, pp. 68-69.

⁴¹⁸ Supreme Court, *Constitutional Dispute 7/2009*, verdict of November 24, 2009, pp. 66, 68.

⁴¹⁹ Ley Federal de Telecomunicaciones, published in the *Diario Oficial de la Federación* June 7, 1995, last amendment published November 30, 2010, Art. 9-C, available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/118.pdf>

⁴²⁰ Supreme Court, *Inconstitutionality Suit 26/2006*, verdict of June 7, 2007, p. 109.

⁴²¹ Diario Oficial, April 11, 2006, Ministry of Communications and Transportation, *Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Ley Federal de Telecomunicaciones y de la Ley Federal de Radio y Televisión*, available at: http://www.diputados.gob.mx/LeyesBiblio/ref/lfrt/LFRT_ref07_11abr06.pdf

⁴²² Supreme Court, *Unconstitutionality Suit 26/2006*, verdict of June 7, 2007.

⁴²³ Supreme Court, *Unconstitutionality Suit 26/2006*, verdict of June 7, 2007, p. 167.

which established the granting of concessions by public auction, because “anything that favors economic interests in granting concessions to frequencies for providing broadcast services favors the monopolization by economically powerful groups of mass communications media, thereby impeding pluralistic participation and the entry of new agents or entities into the sector.”⁴²⁴ Finally, among many other aspects, the Supreme Court ruling declared unconstitutional several of the discretionary powers related to granting permits that Article 20 of the Federal Law on Radio and Television attributed to the Ministry of Communications and Transportation, because these placed “those applying for permits in a serious state of legal uncertainty.”⁴²⁵

226. The Office of the Special Rapporteur considered this Supreme Court ruling to be extremely important, since it invalidated various aspects of the procedures for acquiring broadcast and telecommunications concessions (licenses) and permits that the Court deemed could jeopardize freedom of expression, legal certainty and the prohibition of monopolies.⁴²⁶ However, the Office of the Special Rapporteur notes that the Mexican Congress and the Federal Executive had not created a proper regulatory framework for resolving problems the Supreme Court warned of or the gaps in the law that currently exist. Resolution of these problems and endowing the sector with a reasonable framework of legal certainty that allows broadcasters the free exercise of the right to freedom of expression are fundamental to ensuring the appropriate exercise of the freedom of expression.

227. By the same token, the Office of the Special Rapporteur believes that the State must encourage media autonomy, as well as diversity and pluralism in the media by adopting structural measures, such as setting up a regulatory body for broadcasting that is independent of the government.⁴²⁷ As previously mentioned, although COFETEL has “technical, operating, spending and management”⁴²⁸ autonomy, and exercises exclusive Executive Branch powers with regard to radio and television, the Commission is politically and administratively subject to the Federal Executive’s control, and the President of Mexico has total discretion in appointing all its members.

2. Concentration of communications media property ownership and control

228. The Office of the Special Rapporteur observes that a high degree of concentration in ownership and control continues to exist in Mexico’s communications media that are licensed to use broadcast frequencies. Data provided to the Office of the Special Rapporteur by the President of the Senate Radio, Television and Film Commission indicates that more than 90% of television licenses are in the hands of just two companies.⁴²⁹ Information provided by civil society organizations coincides in pointing to a high degree of concentration.⁴³⁰ The Chair of the Senate Radio, Television and Film Commission also informed the Office of the Special

⁴²⁴ Supreme Court, *Unconstitutionality Suit 26/2006*, verdict of June 7, 2007.

⁴²⁵ Supreme Court, *Unconstitutionality Suit 26/2006*, verdict of June 7, 2007, p. 76.

⁴²⁶ Supreme Court, *Unconstitutionality Suit 26/2006*, verdict of June 7, 2007.

⁴²⁷ See IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, paras. 50-53. Available at: http://www.cidh.org/pdf_files/Standards_for_free_and_inclusive_Broadcasting.pdf

⁴²⁸ Ley Federal de Telecomunicaciones, published in the *Diario Oficial de la Federación* June 7, 1995, last amendment published on November 30, 2010, Art. 9-A, available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/118.pdf>

⁴²⁹ Senator Carlos Sotelo García, “*Diagnóstico sobre Libertad de Expresión en México*”, document provided to the Office of the Special Rapporteur on August 12, 2010, par. 3.

⁴³⁰ See Asociación Mexicana de Derecho a la Información (AMEDI), “*Report sobre Derecho a la Información 2010: Concentración, Medios de Communicationy Obstáculos para un Nuevo marco jurídico*”, p. 1. See also Asociación Mundial de Radios Comunitarias (AMARC). *Diversidad y Pluralismo en la Radiodifusión: Informe Anual 2009 sobre la Diversidad y el Pluralismo de la Radiodifusión en ALC*, p. 44. Available at: http://legislaciones.amarc.org/Informe2009_Diversidad_y_Pluralismo.pdf

Rapporteur that 76% of the commercial radio stations in the sector are in the hands of 14 families, and that 47.8% of stations belong to four major chains.⁴³¹

229. The Office of the Special Rapporteur pointed out that the IACHR Declaration of Principles on Freedom of Expression establishes that “monopolies or oligopolies in the ownership and control of communications media must be subject to anti-trust laws to prevent them from conspiring against democracy by limiting the pluralism and diversity than ensures the full exercise of the public’s right to information.” In this regard, and it has done in the past,⁴³² the Office of the Special Rapporteur encourages the Mexican Congress and the Federal Executive to pass legislation that responds to the requirements set forth by the Supreme Court and international organizations for reducing concentration in this sector and for contributing to creating a pluralistic media environment accessible to all sectors of the population. Similarly, the State must ensure the existence of public media that are genuinely independent of the government, in order to promote diversity and guarantee that society receives certain educational and cultural services. As the Mexican Supreme Court itself has stated, “radio and television are mass communications media that have transcendent importance in people’s daily lives, such that the State, in regulating use for the public good in that activity, must ensure equality of opportunity for access and foster pluralism that safeguards for society respect for the right to information and the free expression of ideas.”⁴³³

230. Furthermore, after its visit to Mexico the Office of the Special Rapporteur was informed that on September 2, 2010, the President of Mexico issued a decree “to set forth the actions the Federal Public Administration must take to complete the transition to Digital Terrestrial Television.”⁴³⁴ Among other things, the decree moves the shut-off of analog television in favor of digital television forward from 2021 to 2015, and it creates an Inter-Ministerial Commission for the Digital Transition.⁴³⁵ According to the information provided, both chambers of the Mexican Congress have filed claims of unconstitutionality against the decree before the Supreme Court, alleging that the President overstepped the limits of his powers.⁴³⁶ In October 2010, a Supreme Court judge suspended the decree until the Court could resolve the constitutional challenge,⁴³⁷ and the Supreme Court later formally agreed to hear the case.⁴³⁸ In addition, some civil society organizations expressed their concern that without the appropriate regulatory and institutional

⁴³¹ Senator Carlos Sotelo García, “*Diagnostico sobre Libertad de Expresión en México*”, document provided to the Office of the Special Rapporteur on August 12, 2010, par. 5.

⁴³² Letter from the IACHR Chair to the Chair of the Senate’s Board of Directors regarding “*Proyecto de Ley Federal de Radio y Televisión*”, May 15, 2008.

⁴³³ *Supreme Court, Unconstitutionality Suit 26/2006*, verdict of June 7, 2007, p. 167.

⁴³⁴ *Decreto por el que se establecen las acciones que deberán llevarse a cabo por la Administración Pública Federal para concretar la transición a la Televisión Digital Terrestre*. September 2, 2010. Available at: http://dof.gob.mx/nota_detalle.php?codigo=5157568&fecha=02/09/2010

⁴³⁵ *Decreto por el que se establecen las acciones que deberán llevarse a cabo por la Administración Pública Federal para concretar la transición a la Televisión Digital Terrestre*. September 2, 2010. Available at: http://dof.gob.mx/nota_detalle.php?codigo=5157568&fecha=02/09/2010

⁴³⁶ *El Universal*. October 7, 2010. *Diputados van contra decreto de TV digital*. <http://www.eluniversal.com.mx/notas/714515.html>. Observatorio de Medios. October 21, 2010. *Raúl Trejo Delabre: Suspenden apagón analógico*. Available at: <http://culturadelalegalidad.wordpress.com/2010/10/21/21oct10-raul-trejo-delabre-suspenden-apagon-analogico/>

⁴³⁷ *CNN*. October 21, 2010. *Suprema Corte ‘apaga’ la TV digital*. Available at: <http://www.cnnexpansion.com/economia/2010/10/21/tv-digital-suspension-decreto-analogico>. Observatorio de Medios. October 21, 2010. *Raúl Trejo Delabre: Suspenden apagón analógico*. Available at: <http://culturadelalegalidad.wordpress.com/2010/10/21/21oct10-raul-trejo-delabre-suspenden-apagon-analogico/>

⁴³⁸ *CNN*. December 1, 2010. *Corte admite controversia por TV digital*. Available at: <http://www.cnnexpansion.com/economia/2010/12/01/apagon-analogico-decreto-oficial-corte>. *Diario de Palanque*. December 1, 2010. *Suprema Corte admite controversia por TV digital*. Available at: <http://www.diariodepalanque.com/nota.php?nid=23148>.

measures in place, the transition to digital television would not give rise to greater diversity and pluralism among those participating in Mexican television.⁴³⁹

231. The Office of the Special Rapporteur recalls in this regard that the technological transformation in broadcasting should be designed to ensure optimal use of the spectrum such that it guarantees the greatest pluralism and diversity possible. To achieve this, states should establish specific legal mechanisms to appropriately manage the transition to digital broadcast services. This regulation should encompass a switch-over program that takes into account the needs and capacities of the various participants involved in the process, as well as the new technologies' level of application. In particular, states should evaluate the potential use of the digital dividend, considering this technological change an opportunity to increase the diversity of voices and enable new sectors of the population to access communications media. At the same time, states should adopt measures to prevent the cost of the transition from analog to digital from limiting the communications media's capacity, given the financial costs.⁴⁴⁰

3. The status of community radio broadcasting

232. As regards community radio stations, the Office of the Special Rapporteur and the IACHR have recognized that these communications media play a fundamental role in the exercise of the freedom of expression for different sectors of society.⁴⁴¹ The right of Indigenous peoples, in particular, to establish their own communications media is enshrined in Article 2 of the Mexican Constitution.⁴⁴² Nevertheless, it is these same communities that have been frustrated in their efforts to create stations that contribute – among other things – to reflecting the ethno-cultural diversity of Indigenous peoples, and to disseminating, preserving and fostering their cultures and history.

233. The Office of the Special Rapporteur notes that the State must recognize the unique existence of community stations and provide for reserving parts of the spectrum for this type of media, as well as for maintaining equitable conditions for access to licenses that differentiate among the varied circumstances under which private non-commercial media operate.⁴⁴³ As this office has indicated, states must have a clear, pre-established, precise and reasonable legal framework that recognizes the special characteristics of community radio broadcasting and that includes simple, accessible procedures for obtaining licenses that do not impose excessive technological requirements, that allow the possibility of using advertising as a means of financing, and that do not impose discriminatory limits on their financing and reach.⁴⁴⁴ The Office of the Special Rapporteur also noted that community stations must operate within the law.

⁴³⁹ See, for example, AMEDI. September 23, 2010. *Más corporativismo electrónico, o camino a la diversidad y calidad audiovisuales*. Available at: http://www.amed.org.mx/index.php?option=com_content&view=article&id=534:television-digital-mas-corporativismo-electronico-o-camino-a-la-diversidad-y-calidad-audiovisuales&catid=59:comunicados&Itemid=105

⁴⁴⁰ See IACHR. 2009 *Annual Report*. OEA/Ser.L/V/II, December 30, 2009. Report of the Office of the Special Rapporteur for Freedom of Expression, chap. 6, par. 80. Available at: http://www.cidh.org/pdf_files/Annual_Report_2009.pdf

⁴⁴¹ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, par. 30, 97. Available at: http://www.cidh.org/pdf_files/Standards_for_free_and_inclusive_Broadcasting.pdf

⁴⁴² Article 2, section B, subsection VI of the Mexican Constitution sets forth the obligation of the federal, state and municipal governments "To establish conditions that enable Indigenous peoples and communities to acquire, operate and manage communications media under the terms of the laws on this subject set forth".

⁴⁴³ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, paras. 30, 97. Available at: http://www.cidh.org/pdf_files/Standards_for_free_and_inclusive_Broadcasting.pdf

⁴⁴⁴ See IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right to Access to Information*. OAS/Ser.L/V/II CIDH/RELE/INF. 2/09 December 30, 2009, par. 234, 235. Available at: http://www.cidh.org/pdf_files/Inter_American_Legal_Framework_english.pdf

234. The Office of the Special Rapporteur observed that Mexican law, and specifically the Federal Law on Radio and Television, does not explicitly recognize community broadcasting, although it does make reference to “cultural” stations.⁴⁴⁵ As noted above, the aforementioned ruling of the Supreme Court declared the procedure for granting permits to non-commercial radio and television stations unconstitutional owing to the discretionary powers granted to government authorities in that process.⁴⁴⁶ Nonetheless, clear, precise and equitable procedures have not been adopted since that time by which community radio stations can apply for and obtain bandwidth for operation. The information received indicates that the absence of these procedures is creating serious practical obstacles for bringing Mexico’s community radio stations into compliance with the law.

235. The Office of the Special Rapporteur points to the progress represented by COFETEL’s granting of six permits to community radio stations in January 2010.⁴⁴⁷ It is fundamental, however, to create a standard process for spectrum allocation by designing clear and simple rules that enable radio station applicants to have certainty about the procedure, requirements and the time periods in which their application will be approved or denied.

236. Furthermore, the Office of the Special Rapporteur received information on some measures that could be disproportionate owing not only to their specific content, but also because they occur in the context of the legal framework described above. Some of these situations are described in the paragraphs that follow.

237. According to the information received by the Office of the Special Rapporteur, the *Radio Diversidad* community station in the Paso del Macho municipality in Veracruz State has been closed down on two occasions, once by a COFETEL operation in December 2008, and again by an operation of the PGR on March 11, 2009.⁴⁴⁸ In relation to this second incident, arrest warrants were issued for three of *Radio Diversidad*’s staff. According to the information received, on March 26, 2010, a District Court judge handed down a formal detention order against one of them, Mr. Juan José Hernández Andrade, for the alleged crime of using, benefiting from and exploiting property belonging to the nation without a state permit or license.⁴⁴⁹

238. The Office of the Special Rapporteur also received information regarding *Radio Ñomndaa, La Palabra del Agua* in Xochistlahuaca, in the state of Guerrero, which was created in 2004 as part of an effort to promote autonomy among the Nanncue Ñomndaa (Amuzgo) people of this municipality.⁴⁵⁰ According to the information received, on different occasions in 2005 agents of the Armed Forces, the Ministry of Communications and Transportation and the PGR

⁴⁴⁵ *Ley Federal de Radio y Televisión*, published in the *Diario Oficial de la Federación* January 19, 1960, last amendment published June 19, 2009, Art. 13, available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/114.pdf>

⁴⁴⁶ Supreme Court, *Unconstitutionality Suit 26/2006*, verdict of September 7, 2007.

⁴⁴⁷ See COFETEL, Press Release No. 05/2010, January 27, 2010.

⁴⁴⁸ World Association of Community Broadcasters (AMARC in its Spanish acronym), “*Caso Radio Diversidad. Paso del Macho, Veracruz*”, document delivered during the on-site visit. Information provided by participants in *Radio Diversidad*, August 10, 2010.

⁴⁴⁸ World Association of Community Broadcasters (AMARC in its Spanish acronym), “*Caso Radio Diversidad. Paso del Macho, Veracruz*”, document delivered during the on-site visit. Information provided by participants in *Radio Diversidad*, August 10, 2010.

⁴⁴⁹ World Association of Community Broadcasters (AMARC in its Spanish acronym), “*Caso Radio Diversidad. Paso del Macho, Veracruz*”, document delivered during the on-site visit. Information provided by participants in *Radio Diversidad*, August 10, 2010.

⁴⁵⁰ Community Radio *Ñomndaa La Palabra del Agua* Board of Directors, *Montaña Tlachinollan Center for Human Rights, “La Reivindicación de los derechos del Pueblo Nanncue Ñomndaa en Xochistlahuaca: El Hostigamiento en contra de la Radio Ñomndaa”*. Received by the Office of the Special Rapporteur October 7, 2010. *Fundación para el Debido Proceso Legal, Criminalización de los defensores de derechos humanos y de la protesta social en México*, pp. 39-40. Available at: <http://www.dplf.org/uploads/1279728364.pdf>

arrived at the radio station and harassed the radio operators.⁴⁵¹ In addition, also according to the information received, on July 10, 2008, about 30 police officers arrived at the radio station and tried to dismantle it, disconnecting cables and transmission equipment.⁴⁵² Furthermore, since 2004 a criminal case charging several members of the community with kidnapping has been open. In the context of this case, as the State informed the Office of the Special Rapporteur in its observations regarding the preliminary version of this report, on September 10, 2010, the Judge of First Instance in Criminal Matters of the Abasolo Judicial District convicted Genaro Cruz Apóstol, Silverio Matías Domínguez, and David Valtierra Arango, founding members of the autonomous municipality of Suljaa' de Xochistlahuaca and members of *Radio Ñomndaa*, and sentenced them to three years in prison and payment of a fine.⁴⁵³ An appeal of the conviction has reportedly been filed and is still pending.⁴⁵⁴

239. Also, the Office of the Special Rapporteur received information about the case of Rosa Cruz, a member of the Purépecha Indigenous group in Michoacan State, who participated in the *Uékakua de Ocumicho* community radio station. According to the information received, this station had five watts of power, was the only station transmitting in Purépecha in the Ocumicho community, and had been applying for an operating permit since 2002.⁴⁵⁵ According to the information received, on January 29, 2009, dozens of Federal Investigation Agency agents burst into the station's facilities in order to seize radio equipment. Later the PGR initiated criminal proceedings against Ms. Cruz, charging her with the crime of using, benefiting from and exploiting the broadcast spectrum without COFETEL's permission, which is punishable under Article 150 of the General Law on National Goods.⁴⁵⁶

⁴⁵¹ Community Radio *Ñomndaa La Palabra del Agua* Board of Directors, *Montaña Tlachinollan* Center for Human Rights, "La Reivindicación de los derechos del Pueblo Nanncue Ñomndaa en Xochistlahuaca: El Hostigamiento en contra de la Radio Ñomndaa". Received by the Office of the Special Rapporteur October 7, 2010. *Fundación para el Debido Proceso Legal, Criminalización de los defensores de derechos humanos y de la protesta social en México*, pp. 39-40. Available at: <http://www.dplf.org/uploads/1279728364.pdf>

⁴⁵² Community Radio *Ñomndaa La Palabra del Agua* Board of Directors, *Montaña Tlachinollan* Center for Human Rights, "La Reivindicación de los derechos del Pueblo Nanncue Ñomndaa en Xochistlahuaca: El Hostigamiento en contra de la Radio Ñomndaa". Received by the Office of the Special Rapporteur October 7, 2010. *Fundación para el Debido Proceso Legal, Criminalización de los defensores de derechos humanos y de la protesta social en México*, pp. 39-40. Available at: <http://www.dplf.org/uploads/1279728364.pdf>

⁴⁵³ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights" and Annex I, received on February 3, 2011. See also Community Radio *Ñomndaa La Palabra del Agua* Board of Directors, *Montaña Tlachinollan* Center for Human Rights, "La Reivindicación de los derechos del Pueblo Nanncue Ñomndaa en Xochistlahuaca: El Hostigamiento en contra de la Radio Ñomndaa". Received by the Office of the Special Rapporteur October 7, 2010. Due Process of Law Foundation, *Criminalization of human rights workers and social protest in Mexico*, pp. 39-40. Available at: <http://www.dplf.org/uploads/1279728364.pdf>

⁴⁵⁴ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights" and Annex I, received on February 3, 2011.

⁴⁵⁵ Information delivered to the Office of the Special Rapporteur by staff at the *Uékakua de Ocumicho* radio station, August 10, 2010. See also Reporters without Borders, *México: Los entresijos de la impunidad* (Paris: RSF, September 2009), p. 5. Available at: <http://www.dplf.org/uploads/1279728364.pdf>. http://files.reporterossinfronteras.webnode.es/200000142-a5a9ca6a3f/RsF_Informe_Mexico_Impunidad_sept09.pdf. AMEDI. August 28, 2009. *Rosa Cruz, indígena, amenazada con cárcel por participar en una radio comunitaria*. http://www.amedi.org.mx/index.php?option=com_content&view=article&id=161:rosa-cruz-indigena-amenazada-con-carcel-por-participar-en-una-radio-comunitaria&catid=45:externas

⁴⁵⁶ See Reporters without Borders, *México: Los entresijos de la impunidad* (Paris: RSF, September 2009), p. 5. Available at: http://files.reporterossinfronteras.webnode.es/200000142-a5a9ca6a3f/RsF_Informe_Mexico_Impunidad_sept09.pdf. AMEDI. August 28, 2009. *Rosa Cruz, indígena, amenazada con cárcel por participar en una radio comunitaria*. Available at: http://www.amedi.org.mx/index.php?option=com_content&view=article&id=161:rosa-cruz-indigena-amenazada-con-carcel-por-participar-en-una-radio-comunitaria&catid=45:externas.

240. The Office of the Special Rapporteur was also informed that on October 12, 2010, a group of armed people wearing hoods who were employees of the Chiapas State Public Prosecutor's Office and the Chiapas Sectoral Police Special Forces Unit entered *Radio Proletaria* facilities in the city of Tuxtla Gutierrez, the state capital.⁴⁵⁷ According to the information received, these officers took the radio transmission equipment and an antenna and arrested six people, including a minor who was making a live broadcast of a music program.⁴⁵⁸ The Office of the Special Rapporteur was also told that *Radio Proletaria* works in favor of the community's human rights, and is an enterprise created and operated primarily by the youth of the 12 de Noviembre neighborhood in Tuxtla Gutierrez.⁴⁵⁹ In its observations regarding the preliminary version of this report, the Mexican State confirmed that "the minor child Carlos Ernesto Martínez Ruíz was arrested" in this operation and that "a seizure of assets of a precautionary nature was carried out."⁴⁶⁰ The State also reported that "the Public Prosecutor's Office of the state of Chiapas conducted the preliminary investigation...as relates to the events. That inquiry was transferred for lack of jurisdiction to the PGR on October 13, 2010, as it involved the commission of the crime of theft of electromagnetic energy established in subparagraph II of Article 368 of the Federal Criminal Code...the investigation is currently undergoing preparation and legal fine-tuning."⁴⁶¹

241. Finally, the Office of the Special Rapporteur received information indicating that Hector Camero, a staff member of the *Tierra y Libertad* community radio station was notified on November 3, 2010, that he had been sentenced to two years in prison, fined more than 15,000 pesos and his civil and political rights had been restricted for the crime of using, benefiting from and exploiting the broadcast spectrum without prior authorization.⁴⁶² According to the information received, *Tierra y Libertad* radio was started in 2001 to give voice to the residents of the *Tierra y Libertad* neighborhood of Monterrey in the state of Nuevo León, and that despite having applied for a permit to operate in 2002, they had only received it in 2009.⁴⁶³ The charges against Hector Camero, a medic and teacher training professional who supports poor communities in Monterrey, arose out of the events of June 6, 2008, when, according to what the Office of the Special

⁴⁵⁷ World Association of Community Broadcasters (AMARC in its Spanish acronym)/CENCOS/IFEX, October 14, 2010. *Community radio station in Chiapas forcibly shut down*. Available at: http://www.ifex.org/mexico/2010/10/14/radio_proletaria_raided/. Fray Bartolomé de Las Casas Center for Human Rights, communication sent to the Office of the Special Rapporteur via email, October 14, 2010.

⁴⁵⁸ World Association of Community Broadcasters (AMARC in its Spanish acronym)/CENCOS/IFEX, October 14, 2010. *Community radio station in Chiapas forcibly shut down*. Available at: http://www.ifex.org/mexico/2010/10/14/radio_proletaria_raided/. Fray Bartolomé de Las Casas Center for Human Rights, communication sent to the Office of the Special Rapporteur via email, October 14, 2010.

⁴⁵⁹ World Association of Community Broadcasters (AMARC in its Spanish acronym)/CENCOS/IFEX, October 14, 2010. *Community radio station in Chiapas forcibly shut down*. Available at: http://www.ifex.org/mexico/2010/10/14/radio_proletaria_raided/. Fray Bartolomé de Las Casas Center for Human Rights, communication sent to the Office of the Special Rapporteur via email, October 14, 2010.

⁴⁶⁰ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

⁴⁶¹ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

⁴⁶² International Freedom of Expression Exchange (IFEX). November 5, 2010. *Community radio journalist sentenced to two years in jail*. Available at: http://www.ifex.org/mexico/2010/11/05/camero_prison/. Reporters without Borders. November 8, 2010. *Prisión para un representante de una radio comunitaria; asesinan a otro periodista, el octavo en lo que va del año*. Available at: http://es.rsf.org/spip.php?page=impression&id_article=38756

⁴⁶³ International Freedom of Expression Exchange (IFEX). November 5, 2010. *Community radio journalist sentenced to two years in jail*. Available at: http://www.ifex.org/mexico/2010/11/05/camero_prison/. Reporters without Borders. November 8, 2010. *Prisión para un representante de una radio comunitaria; asesinan a otro periodista, el octavo en lo que va del año*. Available at: http://es.rsf.org/spip.php?page=impression&id_article=38756. See also *La Jornada*. August 15, 2009. *Radio comunitaria Tierra y Libertad*. Available at: <http://www.jornada.unam.mx/2009/08/15/index.php?section=opinion&article=016a1pol>

Rapporteur has been told, dozens of federal police officers entered the radio station and confiscated transmission equipment.⁴⁶⁴

242. The Office of the Special Rapporteur insists on the urgent necessity of approving legislation that responds to the Supreme Court ruling and international standards, so that community broadcasters receive authorization to operate, and so that a clear legal framework is established for their operation. The Office of the Special Rapporteur again observes that community broadcasters have the obligation to operate in a manner consistent with the laws, but insists that these laws should conform to international standards and that they should be enforced using proportionate administrative sanctions and not by resorting to criminal law.⁴⁶⁵ In its observations on the preliminary version of this report, the Mexican State noted regarding this topic that "radio and television [broadcasting] is an activity of public interest, and thus the State should protect it and watch over it to see that it duly fulfills its social function. In this regard, the [Federal Telecommunications] Commission, in accordance with its authority and jurisdiction as fully established in laws governing this area, exercises its powers in the administrative arena with respect to these types of stations, under the terms provided for in Article 104 Bis. of the Federal Radio and Television Law. That is, once a station operating at a frequency not authorized by this agency is detected, the seizure of its facilities and all assets related to its operations takes place, with the alleged violator being granted a hearing as established in our Magna Carta.... The exercise of a criminal action against these types of stations is not within the jurisdiction of the Federal Telecommunications Commission, but falls to the Office of the Prosecutor General of the Republic, who carries out such actions based on the complaints presented by broadcasting station concession holders who are affected by the operation of these stations."⁴⁶⁶

B. Government advertising

243. With regard to government advertising, the IACHR has indicated that the State must ensure that official advertising is not used as a means of punishing communications media that are independent or critical of the government, or as a disguised subsidy that directly or indirectly benefits the communications media that are sympathetic to or compliant with the authorities.⁴⁶⁷ States should decide what they will communicate and where they will communicate their messages to the public on the basis of objective criteria considering the best means of transmitting that information in the most effective way, and absolutely independently from the informative or editorial content of the media that they must contract for that purpose.⁴⁶⁸ It is essential that states have specific regulations that expressly establish the prerequisites and objectives of the official guidelines for license allocation, and that these regulations be written in a clear and precise way so that both the state's obligations and the rules for broadcasters can be seen in advance.⁴⁶⁹

⁴⁶⁴ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, par. 25, 41. Available at: <http://www.cidh.org/pdf files/Standards for free and inclusive Boadcating.pdf>

⁴⁶⁵ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, par. 25, 41. Available at: <http://www.cidh.org/pdf files/Standards for free and inclusive Boadcating.pdf>

⁴⁶⁶ Communication OEA-00262 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, received on February 11, 2011.

⁴⁶⁷ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, par. 122. Available at: <http://www.cidh.org/pdf files/Standards for free and inclusive Boadcating.pdf>

⁴⁶⁸ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, par. 128. Available at: <http://www.cidh.org/pdf files/Standards for free and inclusive Boadcating.pdf>

⁴⁶⁹ IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, par. 130. Available at: <http://www.cidh.org/pdf files/Standards for free and inclusive Boadcating.pdf>

244. The information received by the Office of the Special Rapporteur indicates that Mexican government expenditure on government advertising is high and getting higher. According to information provided by the State, in 2009 the Federal Executive spent MX\$5,371,418,470 pesos, the equivalent of US\$410,580,429⁴⁷⁰ on government advertising, an increase of more than 60% on the amount spent in 2006.⁴⁷¹ Such significant spending on government advertising makes the requirement for clear and objective rules for allocation even more important.

245. According to the information received, Mexico does not have specific legislation clearly establishing the criteria that must be used in allocating government advertising. Article 134 of the Constitution sets forth certain restrictions on the content of government advertising by prohibiting the inclusion of "names, images, voices or symbols that imply the individualized promotion of any public servant." Also, the Ministry of the Interior annually issues public guidelines designed to regulate the federal government's public communication processes for that year. The 2010 version of these guidelines includes some parameters for allocating this publicity; for example, they state that "the purchase of radio and television time should be based on criteria of quality that ensure consistency among the content of the message, the target audience and programming."⁴⁷² Furthermore, in its observations on the preliminary version of this report, the Mexican State reported that the guidelines published for 2011 included several relevant additions.⁴⁷³ Indeed, the Office of the Special Rapporteur notes that these additions include the requirement that "the selection of media outlets must be made impartially, with greater weight given to their objective characteristics."⁴⁷⁴

246. Notwithstanding the above, it is necessary to point out that the CNDH itself has noted that these guidelines do not adequately define the procedure and objective, clear, transparent and nondiscriminatory criteria for contracting government advertising.⁴⁷⁵ The guidelines apply only to the Federal Executive, and fail to address the other branches of government and autonomous bodies, or the states, where the allocation of government advertising is often even less transparent. According to the information received, this includes, for example, the fact that the state of Veracruz considers the amount spent on public communications and government publicity to be confidential information, not available to the public.⁴⁷⁶

247. In the context of this legal framework, the Office of the Special Rapporteur received information regarding cases in which government advertising had been allocated on the

⁴⁷⁰ Amount calculated using the exchange rate as of December 31, 2009.

⁴⁷¹ "*Histórico de Recursos Ejercidos por Tipo de Medio: ejercicio Fiscales 2006 a 2010*", document provided by the Ministry of the Interior during the on-site visit.

⁴⁷² *Diario Oficial*, December 28, 2009, Ministry of the Interior. Agreement establishing general guidelines for orienting, planning, authorizing, coordinating, overseeing and evaluating the strategies, programs and public communications campaigns of Federal Public Administration agencies and entities for Fiscal Year 2010, Article 4 (X).

⁴⁷³ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

⁴⁷⁴ Agreement establishing general guidelines for orienting, planning, authorizing, coordinating, overseeing and evaluating the strategies, programs and public communications campaigns of Federal Public Administration agencies and entities for Fiscal Year 2010, Art. 4, published in the *Diario Oficial* on December 30, 2010. Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, Annex III, received on February 3, 2011.

⁴⁷⁵ See CNDH, *Recommendation* 57, September 14, 2009, p. 26. Available at: <http://www.cndh.org.mx/recomen/2009/057.pdf>

⁴⁷⁶ State of Veracruz, *Dirección General de Communication Social*, Case No. DGCS/UAIP/037/2010, June 28, 2010.

basis of the communications media's news reporting. For example, the CNDH established that after *Contralinea* magazine published a series of stories critical of the state oil company, PEMEX, this public entity stopped advertising in the magazine.⁴⁷⁷ Mexico's National Human Rights Commission recommended that the Director of PEMEX "disseminate instructions to the appropriate people to equip the company with objective, clear, transparent and non-discriminatory procedures and criteria for placing and distributing government advertising."⁴⁷⁸ Information from the CNDH indicates that this recommendation was not accepted by the Director General of PEMEX.⁴⁷⁹

248. Similarly, the CNDH verified that the Guanajuato State government suppressed and cut back the government advertising that it placed in the *A.M.* and *Al Día* daily newspapers as an indirect way of limiting their freedom of expression.⁴⁸⁰ The CNDH confirmed the recommendation issued by the Human Rights Ombudsman's Office of the State of Guanajuato to the governor of the state that he "make necessary provisions so that the State Executive agencies and entities, each within its sphere of authority, establish clear, fair, objective and non-discriminatory criteria to determine the distribution of government advertising."⁴⁸¹ According to the information received, the governor did not accept this recommendation.⁴⁸²

249. Similarly, the Office of the Special Rapporteur received information indicating that *Proceso* magazine filed a complaint with the CNDH because the federal government had, for no apparent reason, stopped contracting for official advertising, despite the fact that the magazine has a broad and well-known circulation.⁴⁸³

250. The existence of a legal framework that allows the allocation of government advertising in a discretionary manner makes the approval of clear, objective, transparent and non-discriminatory rules for contracting this service at both the federal and state levels all the more urgent. Within the context of the Office of the Special Rapporteur's on-site visit, the Federal Government recognized the need to pass legislation that establishes rules for managing government advertising that are applied consistently throughout the country and at all levels and in all spheres of government.⁴⁸⁴ The Office of the Special Rapporteur was told that in recent years several bills have been introduced in the Mexican Congress to regulate government advertising, but that none have been passed into law.⁴⁸⁵ The Office of the Special Rapporteur again urges the Congress to resume work on this important task.

⁴⁷⁷ See CNDH, *Recommendation* 57, September 14, 2009, pp. 21-25. Available at: <http://www.cndh.org.mx/recomen/2009/057.pdf>

⁴⁷⁸ See CNDH, *Recommendation* 57, September 14, 2009, pp. 21-25. Available at: <http://www.cndh.org.mx/recomen/2009/057.pdf>

⁴⁷⁹ CNDH, *Report de Actividades 2009*, p. 586. Available at: http://www.cndh.org.mx/lacndh/informes/anuales/Informe2009/Informe_2009.pdf

⁴⁸⁰ See CNDH, *Recommendation* 60, September 29, 2009. Available at: <http://www.cndh.org.mx/recomen/2009/060.pdf>

⁴⁸¹ See CNDH, *Recommendation* 60, September 29, 2009. Available at: <http://www.cndh.org.mx/recomen/2009/060.pdf>. Guanajuato State Public Prosecutor's Office, Office for Human Rights, Case 280/07-O, April 17, 2008, available at: http://www.derechoshumanosgto.org.mx/images/stories/pdheg/documentos/gaceta2008_1.pdf.

⁴⁸² Meeting held with the CNDH on August 11, 2010, and information sent by the CNDH to the Office of the Special Rapporteur on August 18, 2010.

⁴⁸³ International Freedom of Expression Exchange (IFEX). May 19, 2009. *CNDH investigates anomaly in allocation of federal government advertising contracts*. Available at: http://www.ifex.org/mexico/2009/05/19/proceso_advertising_allegation/. CENCOS. May 11, 2009. *La CNDH investiga el castigo publicitario a Proceso*. Available at: <http://www.cencos.org/es/node/20747>

⁴⁸⁴ "Asignación de Publicidad Gubernamental Federal", document provided by the Ministry of the Interior during the Office of the Special Rapporteur's on-site visit.

⁴⁸⁵ See *Fundar*, "¿Cuánto cuesta la imagen del gobierno ejecutivo federal? Usos y costumbres del gasto en publicidad oficial en nuestro país", July 22, 2010.

IV. LEGAL ACTIONS RELATING TO THE EXERCISE OF FREEDOM OF EXPRESSION

A. Use of criminal law

251. The IACHR has repeatedly called on States not to criminalize the exercise of freedom of speech, especially with regard to matters of public interest.⁴⁸⁶ Principle 10 of the Declaration of Principles on Freedom of Speech establishes that “Protection of reputation should be guaranteed only through civil sanctions, in cases in which the offended person is a public official or public or private person who has voluntarily become involved in matters of public interest.”

252. On the occasion of its last official visit to Mexico in 2003, the Office of the Special Rapporteur considered that “to ensure the adequate defense of freedom of expression, the Mexican State, at both the federal and local levels, should amend its defamation laws such that only civil penalties could be applied in cases of insults to public officials related to the performance of their functions, public figures, or private figures involved voluntarily in matters of public interest.”⁴⁸⁷

253. The Office of the Special Rapporteur recognizes and applauds the fact that since 2007 the Mexican State effectively decriminalized defamation offenses.⁴⁸⁸ Similarly, the Office of the Special Rapporteur observes that a significant number of states have decriminalized these offenses in recent years, including the state of Veracruz in July 2010.⁴⁸⁹ At the same time, and notwithstanding the importance of these reforms, the Office of the Special Rapporteur observes that the Printing Offenses Law of 1917 remains in effect and provides for penalties involving imprisonment.

254. Likewise, the information received by the Office of the Special Rapporteur indicates that offenses against honor continue to be provided for in the penal codes of 16 states. These are the states of Baja California⁴⁹⁰, Baja California Sur⁴⁹¹, Campeche,⁴⁹² Colima⁴⁹³, Guanajuato⁴⁹⁴, Hidalgo⁴⁹⁵, México⁴⁹⁶, Nayarit⁴⁹⁷, Nuevo León,⁴⁹⁸ Puebla,⁴⁹⁹ Querétaro,⁵⁰⁰

⁴⁸⁶ See IACHR, Office of the Special Rapporteur for Freedom of Expression, *A Hemispheric Agenda for the Defense of Freedom of Expression*. OAS/Ser.L/V/II/IACHR/RELE/INF.4/09. February 25, 2009, par. 56. Available at: <http://www.cidh.org/pdf/files/RELEHemisphericAgenda.pdf>

⁴⁸⁷ IACHR. *Annual Report 2003*. OAS/Ser.L/V/II.118, December 29, 2003. Vol. III, *Annual Report of the Office of the Special Rapporteur for Freedom of Expression*, chap. 2, paras. 198-99. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=139&IID=1>

⁴⁸⁸ IACHR. *Annual Report 2007*. OAS/Ser.L/V/II.130, December 29, 2007. Vol. II, *Annual Report of the Office of the Special Rapporteur for Freedom of Expression*, chap. 2, par. 138. Available at: http://www.cidh.oas.org/annualrep/2007eng/Annual_Report_2007.VOL.II.ENG.pdf

⁴⁸⁹ International Freedom of Expression Exchange (IFEX). July 26, 2010. *State of Veracruz decriminalises defamation*. Available at: http://www.ifex.org/mexico/2010/07/27/defamation_decriminalised/; Penal Code of Veracruz, last amended September 8, 2010, available at: <http://www.legisver.gob.mx/leyes/LeyesPDF/PENAL080910.pdf>

⁴⁹⁰ Defamation laws are established in articles 185 and 191 of the Penal Code of Baja California, available at: http://www.congresobc.gob.mx/legislacion/Parlamentarias/TomosPDF/Leyes/TOMO_V/Codpenal_10SEP2010.pdf

⁴⁹¹ Defamation laws are established in articles 336, 338 and 342 of the Penal Code of the state of Baja California Sur, available at: http://www.cbcs.gob.mx/marco_juridico/D1525-4.doc

⁴⁹² Defamation laws are established in articles 313, 315, and 321 of the Penal Code of the state of Campeche, available at: http://www.congresocam.gob.mx/LX/index.php?option=com_jdownloads&Itemid=0&task=finish&cid=2614&catid=5

⁴⁹³ Defamation laws are established in articles 218 and 221 of the Penal Code of the state of Colima, available at: http://www.congresocol.gob.mx/leyes/codigo_penal.pdf

⁴⁹⁴ Defamation laws are established in articles 188 and 189 of the Penal Code of the state of Guanajuato, available at: <http://www.congresogto.gob.mx/legislacion/codigos/acrobat/Penal.pdf>

Sonora,⁵⁰¹ Tabasco,⁵⁰² Tlaxcala,⁵⁰³ Yucatán,⁵⁰⁴ and Zacatecas.⁵⁰⁵ The Office of the Special Rapporteur expresses its satisfaction with the decriminalization at federal level and in 16 states, and reiterates its call for all the states to follow the example of decriminalizing offenses against honor, especially with regard to matters of public interest. In this regard, the Office of the Special Rapporteur welcomes the fact that, as the Mexican State reported in its observations on the preliminary version of this report, the Chamber of Deputies' Special Commission for Monitoring Attacks on Journalists and Media Outlets hopes in 2011 to meet the objective of "having 16 states decriminalize defamation offenses, known as offenses against honor."⁵⁰⁶

255. According to the information received by the Office of the Special Rapporteur, the criminal laws for protection of the honor of public officials have permitted, in some cases, the initiation of criminal proceedings against journalists for expressing their opinion on matters of public interest. The IACHR has considered that the use of legal mechanisms to punish the discussion of matters of public interest or about public officials, candidates to public office or politicians in itself violates Article 13 of the American Convention and can also constitute a means of indirect censorship in view of its intimidatory effect, inhibiting the debate on matters of public interest.⁵⁰⁷ The simple threat of being criminally prosecuted for critical expressions on matters of public interest can give rise to self-censorship.⁵⁰⁸

⁴⁹⁵ Defamation laws are established in articles 191 and 194 of the Penal Code of the state of Hidalgo, available at: <http://www.congreso-hidalgo.gob.mx/Contenido/Leyes/08.doc>

⁴⁹⁶ Defamation laws are established in articles 275, 278, and 282 of the Penal Code of the State of Mexico, available at: <http://www.cddiputados.gob.mx/POLEMEX/POLEMEX.HTML>.

⁴⁹⁷ Defamation laws are established in articles 294, 295, and 297 of the Penal Code of the state of Nayarit, available at: <http://www.congreso-nayarit.gob.mx/files/1248925540.pdf>

⁴⁹⁸ Defamation laws are established in articles 342, 344, and 235, of the Penal Code of the state of Nuevo León, available at: http://www.congreso-nl.gob.mx/potentiaweb/portal/genera/VistasV2_1/PlantillasV2/2010.asp?Portal=17&MenuActivo=8&View=1&Origen=http://189.209.243.82/potentiaweb/portal/Genera/filtros/index.asp

⁴⁹⁹ Defamation laws are established in articles 357 and 362 of the Social Protection Code of the state of Puebla, available at: http://www.congresopuebla.gob.mx/index.php?option=com_docman&task=doc_download&gid=3&Itemid=7

⁵⁰⁰ Defamation laws are established in articles 170 and 173 of the Penal Code of the state of Querétaro, available at: <http://www.legislaturagro.gob.mx/files/codigos/02-Codigo-Penal-para-el-Estado-de-Queretaro.pdf>

⁵⁰¹ Defamation laws are established in article 284 of the Penal Code of the state of Sonora, available at: http://www.congresoson.gob.mx/Leyes_Archivos/doc_6.pdf

⁵⁰² Defamation laws are established in articles 166 and 169 of the Penal Code of the state of Tabasco, available at: http://www.congresotabasco.gob.mx/L-X/trabajo_legislativo/pdfs/codigos/Codigo_Penal_Tabasco.pdf

⁵⁰³ Defamation laws are established in articles 248, 249, and 251 of the Penal Code of the state of Tlaxcala, available at: <http://www.congresotlaxcala.gob.mx/congreso/paginas/leyes.php>

⁵⁰⁴ Defamation laws are established in articles 294, 295, and 299 of the Penal Code of the state of Yucatán, available at: http://www.congresoyucatan.gob.mx/pdf/CODIGO_PENAL.pdf

⁵⁰⁵ Defamation laws are established in articles 272 and 274 of the Penal Code of the state of Zacatecas, available at: <http://www.congresozac.gob.mx/cgi-bin/coz2/mods/secciones/index.cgi?action=todojuridico&cat=CODIGO&az=3588>

⁵⁰⁶ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

⁵⁰⁷ See IACHR, Office of the Special Rapporteur for Freedom of Expression. *Freedom of Expression Standards for Free and Inclusive Broadcasting*. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09. December 30, 2009, par. 30, 97. Available at: http://www.cidh.org/pdf_files/Standards_for_free_and_inclusive_Boadcating.pdf

⁵⁰⁸ See IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right to Access to Information*. OAS/Ser.L/V/II CIDH/RELE/INF. 2/09 30 December 2009, par. 114. Available at: http://www.cidh.org/pdf_files/Inter_American_Legal_Framework_english.pdf

256. In June 2009, the Supreme Court had to was obliged to annul a decision by the Sole Criminal Judge of the Judicial District of Acámbaro, state of Guanajuato which, on the grounds of the right to honor and to private life, sentenced to imprisonment the editor of a newspaper that had published a report on the behavior of a high-ranking public official.⁵⁰⁹ The ruling of the Supreme Court, expressly citing the highest Inter-American standards, underscored the need to prevent criminal law from being used as a mechanism to silence democratic debate on matters of public interest and state officials. Similarly, the Supreme Court considered that the defamation offenses of the Print Law of the state of Guanajuato, owing to their extreme vagueness and imprecision, were incompatible with the Constitution and with the standards of the Inter-American system regarding freedom of speech.⁵¹⁰

257. The Office of the Special Rapporteur also received information on the case of journalist Lydia Cacho (see *supra*), who was criminally charged with defamation laws in the state of Puebla after having published an investigative book on the crime of child pornography in which, among other things, she made allegations about a textile entrepreneur and leading politicians.⁵¹¹ Although subsequently, in 2007, the case was resolved in favor of Ms. Cacho, the admission of the complain initially resulted in the arrest of the journalist in irregular circumstances that, according to the CNDH, included ill-treatment and psychological torture.⁵¹²

258. Furthermore, the Office of the Special Rapporteur received information according to which two officials of the government of the state of Yucatán had on separate occasions filed legal complaints against journalists at the *Diario de Yucatán*. According to the information received from the newspaper and from an opposition member of the state legislature in this state, in February 2010 the State Secretary for Agricultural Advancement filed a complaint for defamation offenses against the journalist Hernán Casares Cámara, who had published reports on alleged irregularities in this entity.⁵¹³ Likewise, according to the information received, in August 2010 an advisor to the governor of Yucatán brought a criminal action against the reporter Hansel Vargas after he had attempted to cover a fashion show in which a clothing company participated which, according to allegations made by the newspaper, received exorbitant state support.⁵¹⁴

259. In the state of Guerrero, civil society organizations working in the state alleged that the authorities were using offenses such as “illegal deprivation of freedom”, “attacks on general communication routes”, “attacks on communication routes and means of transport”,

⁵⁰⁹ Supreme Court, *Direct Review Injunction 2044/2008*, verdict of June 17, 2009.

⁵¹⁰ Supreme Court, *Direct Review Injunction 2044/2008*, verdict of June 17, 2009. See also Office of the Special Rapporteur – IACHR. June 22, 2009. Press Release No. R38/09. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=750&IID=2>; Supreme Court of Justice of Mexico. June 17, 2009. *Injunction granted to man convicted of crime of attacks on private life*. Available at: <http://www.scjn.gob.mx/MediosPub/Noticias/2009/Paginas/17-Junio-2009.aspx>; CEPET. June 18, 2009. *Court grants injunction to journalist and sets limits on criminal complaints against media workers*. Available at: http://libex.cepet.org/index.php?option=com_content&view=article&id=616:ampara-la-corte-a-periodista-y-fija-limites-a-demandas-penales-contracomunicadores&catid=36:alertas&Itemid=55, in general, IACHR, Office of the Special Rapporteur for Freedom of Expression. The Inter-American Legal Framework Regarding the Right to Access to Information. OAS/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009, chapter on “National Incorporation of Inter-American Standards with regard to Freedom of Expression during 2009,” paras. 81-99. Available at: <http://www.cidh.org/pdf%20files/Inter%20American%20Legal%20Framework%20english.pdf>

⁵¹¹ La Jornada, January 3, 2007, *Kamel Nacif loses lawsuit against Lydia Cacho*, available at: <http://www.jornada.unam.mx/2007/01/03/index.php?section=politica&article=005n2pol>

⁵¹² CNDH, Recommendation 16 of March 6, 2009. Available at: <http://www.cndh.org.mx/recomen/2009/016.pdf>

⁵¹³ Letter from Deputy Alicia Magally Cruz Nucamendi to the Office of the Special Rapporteur, August 12, 2010. *Diario de Yucatán*. August 11, 2010. “Coordinadora de logística”. *Gabriela López admite su relación con un plan estatal*. Available at: [http://v6.yucatan.com.mx/noticia.asp?cx=11\\$0928010000\\$4362111&f=0811](http://v6.yucatan.com.mx/noticia.asp?cx=11$0928010000$4362111&f=0811)

⁵¹⁴ Email from Pablo Cicero Alonzo, assistant editor of Grupo Megamedia, to the Office of the Special Rapporteur, August 10, 2010. Letter from Deputy Alicia Magally Cruz Nucamendi to the Office of the Special Rapporteur, August 12, 2010. *Diario de Yucatán*. August 10, 2010. *Mordaza encubierta: Atenta contra la libertad de prensa una denuncia, opinan*. Available at: [http://v6.yucatan.com.mx/noticia.asp?cx=11\\$0928010000\\$4361667&f=20100810](http://v6.yucatan.com.mx/noticia.asp?cx=11$0928010000$4361667&f=20100810)

“revolt” and “sedition and sabotage” to criminally prosecute human rights workers and suppress social dissent.⁵¹⁵ The Office in Mexico of the United Nations High Commissioner for Human Rights also made reference to these types of criminal offenses by observing that “arbitrary use of the legal system has been repeatedly noted” against human rights workers in the country.⁵¹⁶

260. In Guerrero the Office of the Special Rapporteur had the opportunity to interview human rights defender Raúl Hernández, indigenous leader of the Me’phaa Indigenous People’s Organization (hereinafter “OPIM”), who was in prison in Ayutla de los Libres. The Office of the Special Rapporteur expresses its satisfaction that shortly after the visit, on August 27, 2010, the Combined Jurisdiction Court of First Instance based in Ayutla acquitted and released Mr. Hernández.⁵¹⁷ According to the information received, in April 2008 Mr. Hernández and four other members of OPIM had been accused of homicide and arrested; arrest warrants for the same offense were issued against another ten members of OPIM, including its president.⁵¹⁸ In March 2009 all those arrested were released upon obtaining a federal injunction, except for Mr. Hernández who was tried for the crime of homicide.⁵¹⁹ Among other activities, OPIM has promoted as petitioner the cases *Fernández Ortega vs. Mexico*⁵²⁰ and *Rosendo Cantú vs. Mexico*,⁵²¹ in which the Inter-American Court found the Mexican State responsible for the rapes suffered by the respective victims and the subsequent denial of justice in their cases. In its observations on the preliminary version of this report, the Mexican State reported that the acquittal of Mr. Raúl Hernández had been appealed.⁵²²

261. The Office of the Special Rapporteur recalls that social protest is important for the consolidation of democratic life and that, in general, this form of participation in public life, as an expression of freedom of speech, is of imperative social interest. Therefore, the State is subject to an even stricter framework to justify a limitation on the exercise of this right.⁵²³ In this regard, the Office of the Special Rapporteur takes note of the decision of June 30, 2010, by the First Chamber of the Supreme Court which released 12 persons held in relation to the demonstrations that took place in San Salvador Atenco, State of Mexico, in 2006. The Office of the Special Rapporteur agrees with the Supreme Court in the sense that the authorities should not act on the basis of a prejudice regarding the behavior of a person who demands, via social

⁵¹⁵ Due Process of Law Foundation, *Criminalization of human rights workers and social protest in Mexico*, chap. 2. Available at: <http://www.dplf.org/uploads/1279728364.pdf> of Montaña de Tlachinollan Human Rights Center, *Report on the Criminalization of Social Protest in the State of Guerrero*, August 2010.

⁵¹⁶ OUNHCHR. *Defending human rights: between commitment and risk. Report on the situation of human rights defenders in Mexico*. Available at: <http://www.hchr.org.mx/documentos/libros/informepdf.pdf>

⁵¹⁷ Montaña de Tlachinollan Human Rights Center. August 27, 2010. *Raúl Hernández released after being acquitted by judge*.

⁵¹⁸ Due Process of Law Foundation, *Criminalization of human rights workers and social protest in Mexico*, pp. 31-32. Available at: <http://www.dplf.org/uploads/1279728364.pdf> Montaña de Tlachinollan Human Rights Center. August 27, 2010. *Raúl Hernández released after being acquitted by judge*.

⁵¹⁹ Due Process of Law Foundation, *Criminalization of human rights workers and social protest in Mexico*, pp. 31-32. Available at: <http://www.dplf.org/uploads/1279728364.pdf> Montaña de Tlachinollan Human Rights Center. August 27, 2010. *Raúl Hernández released after being acquitted by judge*.

⁵²⁰ I/A Court H.R., *Case of Fernández Ortega et al. v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2010. Series C No. 215.

⁵²¹ I/A Court H.R., *Case of Rosendo Cantú et al. v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 31. Series C No. 216.

⁵²² Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, “Government of Mexico’s Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights,” received on February 3, 2011.

⁵²³ IACHR. *Annual Report 2002*. OEA/Ser.L/V/II.117, March 3, 2003. *Annual Report of the Office of the Special Rapporteur for Freedom of Expression*, chap. IV, par. 34. Available at: <http://www.cidh.oas.org/relatoria/docListCat.asp?catID=32&IID=1>

protest, that his interests be taken into account, and that there should be no stigmas associating protest with violence and subversion.⁵²⁴

262. Finally, the Office of the Special Rapporteur reiterates the importance of protecting the right of journalists to protect their sources of information, as pointed out by the Office of the Special Rapporteur in its 2003 report, on the occasion of its previous visit to Mexico. In this regard, the Office of the Special Rapporteur welcomes the progress registered at federal level by reason of the reform of the Federal Code of Criminal Proceedings, which includes the above-mentioned right,⁵²⁵ as well as the Law on Professional Secrecy of Journalists in the Federal District, approved in 2006,⁵²⁶ and recommends that these advances be reflected in every state.

B. Civil actions

263. The Office of the Special Rapporteur also received information on legal actions of a civil nature against journalists and media organizations. In this regard, the Office of the Special Rapporteur recalls that, as the Inter-American Court has indicated, opinions cannot be considered either true or false; therefore, opinion cannot be the object of punishment.⁵²⁷ Likewise, heightened standards should exist to assess the subsequent responsibility of those who disseminate information on matters of general interest or of political criticism, including the standard of “actual malice”, and the strict proportionality and reasonableness of sanctions.⁵²⁸ Finally, journalists who investigate cases of corruption or improper conduct should not be subject to judicial prosecution or other type of harassment in reprisal for their work.⁵²⁹ It should be recalled that, as the Inter-American Court has observed, fear of civil punishment can be equally or more intimidating and inhibiting to the exercise of freedom of expression than criminal punishment, and clearly leads to the harmful outcome of self-censorship, both for the affected party and for other potential critics.⁵³⁰

264. The Office of the Special Rapporteur welcomes the decision handed down by the Supreme Court of Justice in October 2009 which, with reference to the aforementioned Inter-American standards, acquitted the magazine *Proceso* of the charges of moral prejudice for the publication of a report about the first divorce of the wife of an ex-President of the Republic.⁵³¹ The Twelfth Civil Court of the Federal District had ruled in favor of the complainant in the first instance, a ruling partially confirmed by the First Civil Division of the High Court of Justice of the District. By adopting a decision to the contrary, the Supreme Court explained that the case involved “a public figure, who, while at the time of the contested publication did not hold public office, it is true that her personal situation and her political activities were of national and

⁵²⁴ First Division of the Supreme Court of Justice of the Nation, Direct Review Injunction 4/2010, June 30, 2010.

⁵²⁵ Federal Code of Penal proceedings, Art. 243 Bis.

⁵²⁶ *Ley del Secreto Profesional del Periodista en el Distrito Federal* [Law for the Professional Secrecy of Journalists in the Federal District], published in the *Gaceta Oficial del Distrito Federal* on June 7, 2006, available at: <http://www.aldf.gob.mx/archivo-0c29824a7c3a8aa1ae66f58dad3110cb.pdf>

⁵²⁷ I/A Court H.R., *Case of Usón Ramírez v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2009. Series C No. 207, par. 86.

⁵²⁸ IACHR. *Annual Report 2007*. OAS/Ser.L/V/II.130, December 29, 2007. Vol. II, Report of the Office of the Special Rapporteur for Freedom of Expression, chap. VII, par. 7. Available at: http://www.cidh.oas.org/annualrep/2007eng/Annual_Report_2007.VOL.II.ENG.pdf

⁵²⁹ See Joint Declaration of the Rapporteurs for Freedom of Expression of the UN, OSCE and IACHR, 2003. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=88&IID=1>

⁵³⁰ I/A Court H.R., *Case of Tristán Donoso vs. Panama* Preliminary Objection, Merits, Reparations and Costs. Judgment of January 27, 2009. Series C No. 193, par. 129.

⁵³¹ Supreme Court of Justice. Judgment of October 7, 2009. Direct injunction 6/2009. CEPET. October 9, 2009. *Weekly cleared of charges, but writer still required to pay damages*. Available at: http://www.ifex.org/mexico/2009/10/09/wornat_owes_damages/

international scope.” It mentioned that this scope was of such a degree “that it led to greater interest in and public scrutiny of her actions or behavior, and therefore to a legitimate interest on the part of society in receiving certain information about it.”⁵³² The Supreme Court, incorporating Inter-American standards, reiterated the need to apply specific rules for resolving the conflict between freedom of expression, information and honor in cases involving public officials and public figures.⁵³³

265. Furthermore, the information received by the Office of the Special Rapporteur indicates that, in some cases, the civil actions were filed for the purpose of harassing journalists and critical media. The CNDH has characterized as “harassment,”⁵³⁴ for example, the civil actions initiated against journalists from the magazines *Contralínea* and *Fortuna, Negocios y Finanzas* by individuals and companies linked to a single business group who filed at least five civil lawsuits against them in three different states.⁵³⁵ According to the information received, in one of these cases, Judge 44 of the Civil Court of the Federal District, on May 30, 2008, ruled against the editor of the magazine *Contralínea*, Agustín Miguel Badillo Cruz, the journalist Ana Lilia Pérez Mendoza, and the company to which the above-mentioned magazines belong.⁵³⁶ The verdict concludes that the articles published about the chairman of the board of directors of a business consortium of over 80 companies, which included an interview agreed to by the complainant himself as well as documents he had voluntarily handed over, constituted an “abuse of the right to information and to freedom of expression, by which the honor of the plaintiff was harmed.”⁵³⁷ The judicial decision gives no importance to “the fact that the plaintiff had granted the interviews and handed over the documents”, or “the fact that some of the information is in the public domain both in the national territory and abroad.”⁵³⁸ The verdict orders the publication of the full text of the sentence in the magazines, and the removal of the articles in question from the Internet.⁵³⁹ According to the information received, the appeal heard by the Sixth Civil Court of the High Court of Justice of the Federal District on September 23, 2008 upheld the verdict, and the direct writ for constitutional protection presented by the defendants was refused on December 11, 2008 by the Seventh Collegiate Court for Civil Matters.⁵⁴⁰ In its observations on the preliminary version of this report, the Mexican State reported that “the High Court of Justice of the Federal District underscores in the strongest terms that in this matter, as is clear from the account itself, all instances—that is, the deciding judge who ruled against the defendants in exercise of his jurisdictional functions, as well as the respective judges who upheld the decision—were in agreement regarding the ruling, and even the writ filed by the defendants was denied. So then if two higher authorities have reviewed the decision by Judge 44 and upheld his reasoning and

⁵³² Supreme Court of Justice. Judgment of October 7, 2009. Direct Injunction 6/2009. CEPET. October 9, 2009. *Court acquits weekly magazine “Proceso” for complaint from ex-first lady.* Available at: http://www.ifex.org/mexico/2009/10/09/wornat_owes_damages/

⁵³³ See, in general, IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right to Access to Information*. OAS/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009, chapter on “National Incorporation of Inter-American Standards with regard to Freedom of Expression during 2009,” paras. 100-114. Available at: <http://www.cidh.org/pdf%20files/Inter%20American%20Legal%20Framework%20English.pdf>

⁵³⁴ See CNDH, Recommendation 57 of September 14, 2009, pp. 12-14. Available at: <http://www.cndh.org.mx/recomen/2009/057.pdf>

⁵³⁵ See CNDH, Recommendation 57 of September 14, 2009, pp. 12-14. Available at: <http://www.cndh.org.mx/recomen/2009/057.pdf>

⁵³⁶ Judge 44 for Civil Matters of the Federal District, File 757/2007, verdict of May 30, 2008.

⁵³⁷ Judge 44 for Civil Matters of the Federal District, File 757/2007, verdict of May 30, 2008.

⁵³⁸ Judge 44 for Civil Matters of the Federal District, File 757/2007, verdict of May 30, 2008.

⁵³⁹ Judge 44 for Civil Matters of the Federal District, File 757/2007, verdict of May 30, 2008.

⁵⁴⁰ Information provided to the Office of the Special Rapporteur by the magazine *Contralínea* during the on-site visit.

ruling, it is pointless to engage in excessive analysis or subjective assessments, as in the case before us.”⁵⁴¹

266. The Office of the Special Rapporteur is also concerned that within the framework of the proceedings mentioned in the preceding paragraph, a civil judge issued a provisional sentence against the journalists and the company prohibiting them from referring to the plaintiffs “by way of insults” in their reports,⁵⁴² a measure equivalent to prior censorship. In addition, according to the information received by the Office of the Special Rapporteur, as part of these civil proceedings, the editor of *Contralínea* was arrested in circumstances questioned by the CNDH.⁵⁴³ Likewise, according to information from the CNDH, personnel from the Public Security Ministry of the Federal District and several civilians who, according to information provided by the magazine, declared themselves to be representatives of the plaintiffs, raided the premises of the magazine on February 11, 2009.⁵⁴⁴ The Office of the Special Rapporteur expresses its concern over these events, which indicate an attempt to use the judicial system to harass and silence journalists.⁵⁴⁵

267. In its comments regarding the preliminary version of this report, the Mexican State referred to the February 11, 2009 operation carried out by the Federal District Public Security Secretariat at the offices of *Contralínea* magazine, noting that the operation was headed by Atty. Javier Campos Cervantes, clerk of the Thirty-Ninth Civil Court of the Federal District, to carry out the request of a judicial authority as part of an action brought by Gas Licuado S.A. de C.V. against Corporativo Internacional de Medios de Comunicación, the company to which *Contralínea* magazine belongs.⁵⁴⁶ Nonetheless, Clerk Campos reportedly stated that “the visit was likely made to a mistaken location, since it was not in line with social grounds,” and thus he decided not to carry out the operation but to withdraw the personnel of the Federal District Public Security Secretariat.⁵⁴⁷ The State also reported that with respect to these events, “the National and Federal District Human Rights Commissions...decided to close their investigations.”⁵⁴⁸

268. In the state of Guerrero, the Office of the Special Rapporteur also received information about the existence of a substantial civil suit initiated in 2007 against journalists from

⁵⁴¹ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, “Government of Mexico’s Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights,” received on February 3, 2011.

⁵⁴² Civil Court 54 Secretariat “B”, File 492/09, decision of April 22, 2009.

⁵⁴³ See CNDH, Recommendation 57 of September 14, 2009, p. 16. Available at: <http://www.cndh.org.mx/recomen/2009/057.pdf>

⁵⁴⁴ CNDH, Press Release CGCP/020/09, February 12, 2009.

⁵⁴⁵ The Office of the Special Rapporteur requested information from the State about the appearance of unknown individuals on the premises of the magazine *Contralínea* which took place in February 2009, but no reply was received. Request for information from the Mexican State by the Office of the Special Rapporteur, September 2, 2010.

⁵⁴⁶ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, “Government of Mexico’s Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights,” received on February 3, 2011.

⁵⁴⁷ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, “Government of Mexico’s Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights,” received on February 3, 2011.

⁵⁴⁸ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, “Government of Mexico’s Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights,” received on February 3, 2011.

the newspaper *El Sur*, as a result of the publication of information of public interest about the awarding of state contracts.⁵⁴⁹

C. Other related information

269. Finally, the Office of the Special Rapporteur received information about other actions which, as alleged by the affected parties, illegitimately restrict freedom of expression.

270. The Office of the Special Rapporteur received information about a campaign launched by the organization Catholics for Choice, called “*Otra mirada católica del aborto*” (“A different Catholic view of abortion”).⁵⁵⁰ According to the information received, in June 2010 censure stamps were placed on the billboards that were placed in the city of Querétaro, state of Querétaro as part of this campaign. According to the information received, the City Council of the city publicly stated that the billboards did not comply with the corresponding permits.⁵⁵¹ The organization Catholics for Choice informed the Office of the Special Rapporteur, however, that it had complied with the required norms and that it had not received an official explanation of the reason for the censure; as a result, it considered that its freedom of expression had been censored.⁵⁵² The Office of the Special Rapporteur recalls that Article 13.3 of the American Convention prohibits indirect restrictions on freedom of expression, “such as abuse of government controls.”

271. The Office of the Special Rapporteur also received information about the case of journalist Jesús Lemus Barajas, editor of the newspaper *El Tiempo* in La Piedad, located on the border of the state of Michoacán with the states of Jalisco and Guanajuato. According to the information received, Mr. Lemus Barajas has been held since May 2008, accused of “organized crime” and “crimes against public health.”⁵⁵³ The journalist denounced to the Office of the Special Rapporteur that the criminal proceedings against him are the result of having reported on the new drug trafficking routes in the south of Guanajuato and the links between the drug cartels and the authorities.⁵⁵⁴ His complaint has been backed by the organization Reporters Without Borders which had access to the case file and concluded that “the evidence against him is non-existent [...] and the procedures followed reveal appalling failings.”⁵⁵⁵

272. Meanwhile, the Office of the Special Rapporteur received information about the application of the provisions of Article 41 of the Constitution and of the corresponding norms of the Federal Code of Electoral Institutions and Procedures. These norms establish a series of

⁵⁴⁹ Second Court of First Instance for Civil Matters, *Alberto Javier Torreblanca Galindo vs. Información del Sur, S.A. de C.V. and others*, File 656-3/2007.

⁵⁵⁰ Catholic Women for the Right to Decide, “Campaign ‘Another Catholic look at abortion’ Censorship of billboards in Querétaro: a violation of freedom of expression,” document provided to the Office of the Special Rapporteur during the on-site visit. IFEX. June 24, 2010. *Censorship of billboards for the campaign “A Different Catholic View of Abortion” in Querétaro*. Available at: http://www.ifex.org/mexico/2010/06/25/derecho_a_decidir_censurado/es/

⁵⁵¹ Catholic Women for the Right to Decide, “Campaign ‘A Different Catholic View of Abortion’ Censorship of billboards in Querétaro: a violation of freedom of expression,” document provided to the Office of the Special Rapporteur during the visit on-site. IFEX. June 24, 2010. *Censorship of billboards for campaign ‘Another Catholic look at abortion’ in Querétaro*. Available at: http://www.ifex.org/mexico/2010/06/25/derecho_a_decidir_censurado/es/

⁵⁵² Catholic Women for the Right to Decide, “Campaign ‘A Different Catholic View of Abortion’ Censorship of billboards in Querétaro: a violation of freedom of expression,” document provided to the Office of the Special Rapporteur within the framework of the on-site visit.

⁵⁵³ Letter from J. Jesús Lemus Barajas to the Office of the Special Rapporteur, August 2010, received during the on-site visit. See also Reporters without Borders, “México: los entresijos de la impunidad,” September 2009, p. 6.

⁵⁵⁴ Letter from J. Jesús Lemus Barajas to the Office of the Special Rapporteur, August 2010, received during the on-site visit.

⁵⁵⁵ Reporters without Borders, *México: Los entresijos de la impunidad* (Paris: RSF, September 2009), p. 6. Available at: http://files.reporterosinfronteras.webnode.es/200000142-a5a9ca6a3f/RsF_Informe_Mexico_impunidad_sept09.pdf

rules about the broadcasting of political party advertising on radio and television during electoral times. They also establish a system of allotment of broadcasting times distributed among the political parties by the Federal Electoral Institute, and prohibit political parties or individuals from buying or obtaining radio or television advertising aimed at influencing citizens' electoral preferences outside of this system. The Office of the Special Rapporteur received information according to which the existence and application of these norms resulted in the imposition of sanctions against political actors and communications media for expressing themselves on electoral matters. The Office of the Special Rapporteur recognizes that the legitimate interest of the State in promoting free, accessible and equitable elections can justify the imposition of rules on the dissemination of party-political advertising during electoral times. At the same time, it recalls that the proper development of democracy requires the greatest possible circulation of information, opinions and ideas on matters of public interest,⁵⁵⁶ and that expressions about public officials or candidates for public office should enjoy an especially strong margin of openness.⁵⁵⁷ Both the design of the norms and their application or implementation should take into account the delicate balance that should exist between the principles of equity and electoral transparency on the one hand, and the right to freedom of expression on the other. Currently various petitions regarding the application of the above-mentioned provisions are pending before the IACHR, and as such these norms and their application in the specific cases presented will be analyzed in detail within the framework of the contentious proceedings before the Commission.

V. ACCESS TO INFORMATION

A. Legal framework and effective guarantee of law

273. The right of access to information is a fundamental right protected by Article 13 of the American Convention. It is a particularly important right for the consolidation, functioning and preservation of democratic systems.⁵⁵⁸

274. With regard to access to information, the Office of the Special Rapporteur expresses its satisfaction with the notable advances achieved by the Mexican State in recent years, which have made the country a point of reference on the issue. While the right to information has been provided for in the Mexican Constitution since 1977,⁵⁵⁹ as of 2007 the Constitution enshrines the right of access to government information by establishing in Article 6, *inter alia*, that "[a]ny information in possession of any federal, state or municipal authority, entity, body or agency, is public and may only be temporarily reserved for reasons of the public interest for periods set out by law."⁵⁶⁰

275. The Office of the Special Rapporteur also recognizes the importance of the Federal Law on Transparency and Access to Public Government Information, published on June 11, 2002. In particular, this law created the Federal Institute for Access to Information and Protection of Data (hereinafter "IFAI") as the agency in charge of promoting and disseminating

⁵⁵⁶ I/A Court H.R., *Case of Kimel vs. Argentina*. Merits, Reparations and Costs. Judgment of May 2, 2008. Series C No. 177, paras. 57 and 87.

⁵⁵⁷ See IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right to Access to Information*. OAS/Ser.L/V/II CIDH/RELE/INF. 2/09 December 30, 2009, par. 40. Available at: <http://www.cidh.org/pdf%20files/Inter%20American%20Legal%20Framework%20english.pdf>

⁵⁵⁸ See IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right to Access to Information*. OAS/Ser.L/V/II CIDH/RELE/INF. 1/09 December 30, 2009, par. 1. Available at: [http://www.cidh.org/pdf%20files/Access to information.pdf](http://www.cidh.org/pdf%20files/Access%20to%20information.pdf)

⁵⁵⁹ Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, "Government of Mexico's Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights," received on February 3, 2011.

⁵⁶⁰ Political Constitution of the United Mexican States, Art. 6. See also the document "Reform of Article 6 of the Constitution" delivered to the Rapporteur by IFAI within the framework of the on-site visit.

the exercise of the right to access to information, adjudicating denials to requests for access to information and protecting personal data held by agencies and entities.⁵⁶¹ With the coming into effect of the Federal Law on Transparency and Access to Public Government Information, all federal public administration departments had to establish a liaison unit and an information committee as part of their structure. The former is in charge of receiving and processing requests for information from all persons⁵⁶² and providing the information requested.⁵⁶³ Should the information requested be classified, it is the agency's information committee that decides whether to make it public or withhold it.⁵⁶⁴ Should the information be denied, be declared nonexistent, be considered incomplete or not match the information requested, the applicant may file an appeal for review before the IFAI.⁵⁶⁵ In such a case, the IFAI issues a resolution in which it decides to provide the information requested or withhold it.⁵⁶⁶ This resolution may not be appealed by the liable party (the public administration department) but may be appealed in court by the party making the request.⁵⁶⁷

276. The Office of the Special Rapporteur considers that the IFAI has played an exemplary role in protecting the right of access to information of individuals and developing a culture of transparency in public institutions of the federal public administration. This is reflected by the fact that requests for information made to the Mexican federal public administration increased from 37,732 in 2004 to 117,597 in 2009.⁵⁶⁸ Furthermore, according to the information received, in only 2.7% of cases was delivery of the information denied in the first instance on the grounds it was withheld or secret information.⁵⁶⁹

277. The Office of the Special Rapporteur also gives special recognition to the Supreme Court of Justice and the Electoral Tribunal of the Federal Judiciary (hereinafter "Federal Electoral Tribunal") for their decisions guaranteeing the right of access to information. The Supreme Court has established that access to information is a "right founded on one of the principal characteristics of republican government, which is the public nature of acts of government and the transparency of the administration."⁵⁷⁰ The Federal Electoral Court, for its part, has applied the obligation to respect the right of access to information to political parties, since "the nature of the political parties as entities of public interest means they share in the obligation of the State to guarantee the right to timely and truthful information, and obliges them to safeguard observance of the principles of openness and transparency in their internal affairs."⁵⁷¹

⁵⁶¹ *Federal Law on Transparency and Public Government Information*, Art. 33.

⁵⁶² *Federal Law on Transparency and Public Government Information*, Article 28 subsection II. Available at <http://www.ifai.org.mx/transparencia/LFTAIPG.pdf>

⁵⁶³ *Federal Law on Transparency and Public Government Information*, Article 44. Available at <http://www.ifai.org.mx/transparencia/LFTAIPG.pdf>

⁵⁶⁴ *Federal Law on Transparency and Public Government Information*, Article 45. Available at <http://www.ifai.org.mx/transparencia/LFTAIPG.pdf>

⁵⁶⁵ *Federal Law on Transparency and Public Government Information*, Articles 49 and 50. Available at <http://www.ifai.org.mx/transparencia/LFTAIPG.pdf>

⁵⁶⁶ *Federal Law on Transparency and Public Government Information*, Article 56. Available at <http://www.ifai.org.mx/transparencia/LFTAIPG.pdf>

⁵⁶⁷ *Federal Law on Transparency and Public Government Information*, Article 59. Available at <http://www.ifai.org.mx/transparencia/LFTAIPG.pdf>

⁵⁶⁸ Information delivered to the Office of the Special Rapporteur by the IFAI during the on-site visit.

⁵⁶⁹ The statistics correspond to requests for information to the federal public administration between June 12, 2003 and July 31, 2010. Information delivered to the Office of the Special Rapporteur by the IFAI during the on-site visit.

⁵⁷⁰ Supreme Court of Justice of the Nation. Thesis on Jurisprudence P./J. 54/2008.

⁵⁷¹ Electoral Court of the Judicial Branch of the Federation, Thesis XII/2007, *Jaime Delgado Alcalde vs. National Commission on Party Justice of the Institutional Revolutionary Party*.

278. These courts also stand out thanks to their innovative transparency policies. The Supreme Court, for example, has adopted a series of measures aimed at improving the public's access to information on its activities, among them publicity regarding the public sessions of the Plenary and Chambers of the court, the supply of a significant amount of information through its Internet portal, and the creation of a diploma course in legal journalism aimed at journalists who cover the Supreme Court's activities.⁵⁷² The Office of the Special Rapporteur calls upon the other courts in the country, particularly state courts, to follow these examples of transparency and accessibility to citizens. The Office of the Special Rapporteur was informed that in some states, such as the state of Sinaloa and the Federal District, the paragraphs setting forth the legal grounds on which a judgment is based in verdicts of first instance are withheld from the public until all the judicial instances of the corresponding proceedings have been exhausted, a practice that affects the right of access to information and hinders citizen control over the performance of the judicial authorities.

279. In addition to meeting with the IFAI, the Office of the Special Rapporteur had the opportunity to interview the institutes for access to information of the states of Chihuahua, Guerrero and Sinaloa and of the Federal District, all of which provided important information for assessing the exercise of the right of access to information in these entities. The Office of the Special Rapporteur was able to verify that in general terms these agencies play an important role in implementing the respective legislation for access to information in force at state and municipal level, which were approved by each state between the years 2002 and 2007.

B. Challenges for the consolidation of the right of access to information

280. Notwithstanding the significant advances recognized above, the Office of the Special Rapporteur notes that challenges still exist with regard to the effective guarantee of the right of access to information in Mexico.

281. At the federal level, it is important to point out that the IFAI only supervises compliance with the Federal Law on Transparency and Access to Public Government Information in the federal public administration, while the judiciary and legislature, and autonomous bodies do not have an independent supervisory body.

282. At the state level, the Office of the Special Rapporteur received information from various parties, including public servants, journalists and civil society organizations, indicating that the legal and institutional framework that guarantees the effective exercise of the right of access to information before the Federal Executive does not always exist at the state and municipal levels. In this regard, there are both normative and practical challenges for the effective guarantee of the right of access to information at the local level.

283. With regard to the normative challenges, according to the information received by the Office of the Special Rapporteur during the in loco visit, nine states – Baja California, Baja California Sur, Campeche, Guerrero, Oaxaca, Puebla, Querétaro, Sonora and Zacatecas – had still not adapted their laws on access to information to the amendments made to Article 6 of the Constitution in 2007.⁵⁷³ Furthermore, the Office of the Special Rapporteur was informed of a reform of the Law on Transparency and Access to Public Information in the state of Guerrero, published in June 2010, which would entitle the government entity obliged to comply with an information request to legally contest the decisions of the Institute of Transparency and Access to

⁵⁷² "Actions of transparency, Access to Public Information, Personal Data and their Dissemination in the Supreme Court of Justice of the Nation," document delivered to the Office of the Special Rapporteur by the Supreme Court of Justice of the Nation during the on-site visit.

⁵⁷³ See Institute for Access to Public Information of the Federal District, "Access to Information and Protection of Personal Data in the Federal District," document delivered to the Office of the Special Rapporteur during the on-site visit.

Public Information of this state.⁵⁷⁴ The Office of the Special Rapporteur considers that the possibility of government entities challenging by means of ordinary appeals the resolutions of the institutes for access to information leads to a denial of the right to obtain the information requested by way of a simple, expeditious and specialized process.⁵⁷⁵

284. From a practical perspective, the Office of the Special Rapporteur first observes a major disparity in the exercise of the right of access to information among the different states. Taking as a reference point the places visited during the on-site visit, it was observed that in the Federal District one information request for every 95 persons was presented to the entity's institute for transparency during 2009,⁵⁷⁶ whereas in Chihuahua one request was presented for every 865 persons,⁵⁷⁷ in Guerrero one request was presented for every 1,014 persons,⁵⁷⁸ and in Sinaloa one request for every 412 persons was presented.⁵⁷⁹ This pattern is repeated at the federal level, where more than half of the requests for information between 2003 and 2010 come from the Federal District and the State of Mexico alone.⁵⁸⁰ These statistics point to the need to expand and standardize knowledge and real access to the right of access to information throughout Mexico. In this regard, the Office of the Special Rapporteur considers it important to continue advancing in the incorporation of all the states into the Infomex platform, which allows the electronic submission of requests for access to public information. According to information from the IFAI, 21 states entities already have the system, while ten are in the process of implementing it.⁵⁸¹ At the same time, the Office of the Special Rapporteur insists on the need to continue strengthening and extending other ways of exercising the right of access to information, bearing in mind that according to State figures only 26.4% of the Mexican population has access to the Internet.⁵⁸²

⁵⁷⁴ Law No. 374 on Transparency and Access to Public Information of the State of Guerrero, published on June 15, 2010, Art. 146.

⁵⁷⁵ See IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right to Access to Information*. OAS/Ser.L/V/II CIDH/RELE/INF. 2/09 December 30, 2009, par. 26. Available at: <http://www.cidh.org/pdf%20files/Inter%20American%20Legal%20Framework%20english.pdf>

⁵⁷⁶ In 2009 there were 93,195 requests for information out of a population of 8,841,916 persons in the Federal District. See Institute of Access to Public Information of the Federal District, "Access to Information and Protection of Personal Data in the Federal District," document delivered to the Office of the Special Rapporteur during the on-site visit. See also data on population of the National Population Council, available at: http://www.conapo.gob.mx/index.php?option=com_content&view=article&id=125&Itemid=203

⁵⁷⁷ In 2009 there were 3,919 requests for information out of a population of 3,391,617 persons in Chihuahua. See Institute of Chihuahua for Transparency and Access to Public Information "Access to Public Information and Protection of Personal Data in the State of Chihuahua," document delivered to the Rapporteur during the on-site visit. See also data on population of the National Population Council, available at: http://www.conapo.gob.mx/index.php?option=com_content&view=article&id=125&Itemid=203

⁵⁷⁸ In 2009 there were 3,097 requests for information out of a population of 3,140,529 persons in Guerrero. See Institute of Transparency and Access to Public Information of the State of Guerrero, "4 years of activities," document delivered to the Rapporteur during the on-site visit. See also data on population of the National Population Council, available at: http://www.conapo.gob.mx/index.php?option=com_content&view=article&id=125&Itemid=203

⁵⁷⁹ In 2009 there were 6,441 requests for information out of a population of 2,652,451 persons in Sinaloa. See State Commission on Access to Public Information of the State of Sinaloa, "Annual Report on Activities and Results 2009," p. 7, available at: <http://www.ceaiques.org.mx/pdf/informe2009.pdf> See also data on population of the National Population Council, available at: http://www.conapo.gob.mx/index.php?option=com_content&view=article&id=125&Itemid=203

⁵⁸⁰ According to the information delivered to the Rapporteur by IFAI during the on-site visit, between June 12, 2003 and July 31, 2010, 560,148 requests for information were presented to the federal public administration, of which 249,295 came from the Federal District and 73,353 came from the State of Mexico.

⁵⁸¹ IFAI, Press Release IFAI/133/10, October 9, 2010.

⁵⁸² According to COFETEL, 28,439,250 people had access to Internet in Mexico in 2009. See information available at: http://www.cft.gob.mx/en/Cofetel_2008/Cofe_usuarios_estimados_de_internet_en_mexico_2000 The population of Mexico in 2009 was 107,550,697. See data on population of the National Population Council, available at: http://www.conapo.gob.mx/index.php?option=com_content&view=article&id=125&Itemid=203

285. Likewise, according to the information received, many state and municipal authorities are unaware of their obligations in relation to the right of access to information, and do not have established procedures to allow people to exercise this right in a real and effective manner. Thus, for example, the Commission for Access to Public Information of the State of Guerrero informed the Office of the Special Rapporteur that the challenges it faces for effectively guaranteeing the exercise of the right of access to information in this State include, among others, the “resistance and lack of interest” of some public officials, “mainly in city councils”; the “lack of appropriate training of personnel in information management and protection of personal data”; and the “insufficient operational infrastructure in the government entities obliged to comply with the law.”⁵⁸³

286. The Office of the Special Rapporteur was also informed of the existence of lawsuits that seek to contest the definitive and unchallengeable nature of the resolutions by the IFAI⁵⁸⁴ and state transparency agencies that oblige government institutions to hand over the information in question.⁵⁸⁵ According to the information provided, while the courts had traditionally rejected attempts by public authorities to judicially challenge the resolutions of the IFAI, the Federal Court of Fiscal and Administrative Justice (hereinafter “TFJFA”) recently agreed to review two resolutions of the Institute.⁵⁸⁶ In one of those cases, according to the information received, it has already declared the partial nullity of an IFAI resolution that ordered the PGR to hand over the public versions of criminal investigations initiated against a former head of government in the Federal District.⁵⁸⁷ The other case, according to the information received, deals with a petition for nullity proceedings presented by the Tax Administration Service (hereinafter “SAT”) against the IFAI resolution that ordered the SAT to reveal the names of taxpayers (559,000 persons and companies) who benefited from the cancellation or amnesty of fiscal credits in 2007 for a total of 74 billion pesos.⁵⁸⁸

287. As of the date on which this report was completed the Supreme Court of Justice was analyzing an unconstitutionality suit against the Law of Transparency and Access to Public Information in the state of Campeche.⁵⁸⁹ This legislation allows liable public bodies to legally challenge the resolutions of the Commission on Transparency and Access to Public Information of this state.⁵⁹⁰ In this regard, the IFAI has expressed that this provision violates the Constitution,

⁵⁸³ See Institute for Transparency and Access to Public Information of the State of Guerrero, “4 years of activities,” document delivered to the Rapporteur during the on-site visit. See also Institute of Transparency and Access to Public Information of the State of Guerrero, “Annual Report on Activities and Results 2009,” p. 40.

⁵⁸⁴ The *Federal Law on Transparency and Access to Public Government Information* establishes in Article 59 that “The resolutions of the Institute shall be definitive for agencies and entities.” Individuals may challenge them before the Judicial Branch of the Federation.

⁵⁸⁵ See, in general, Litiga OLE, “the Defense of the Right to Information in Mexico,” document delivered to the Office of the Special Rapporteur during the on-site visit.

⁵⁸⁶ Fundar and Article 19. May 28, 2010. *Lack of transparency gains ground in Mexico*. Available at: <http://www.fundar.org.mx/index.html/files/ComPrensaA19yFundar28May10.pdf>

⁵⁸⁷ Fundar and Article 19. May 28, 2010. *Lack of transparency gains ground in Mexico*. Available at: <http://www.fundar.org.mx/index.html/files/ComPrensaA19yFundar28May10.pdf>

⁵⁸⁸ Fundar and Article 19. May 28, 2010. *Lack of transparency gains ground in Mexico*. Available at: <http://www.fundar.org.mx/index.html/files/ComPrensaA19yFundar28May10.pdf>

⁵⁸⁹ Information delivered to the Office of the Special Rapporteur by the IFAI during the on-site visit, including IFAI, *Report on Action of Unconstitutionality 56/2009*, Memo IFAI/SA/089/09, July 15, 2009, document delivered to the Office of the Special Rapporteur by the IFAI during the on-site visit.

⁵⁹⁰ The State of Campeche Law on Transparency and Access to Public Information establishes in its Article 74: “Resolutions issued by the Commission may be challenged by individuals before the Administrative Division of the state High Court of Justice, through nullification proceedings provided for in the State Code of Contentious-Administrative Proceedings; and by the access units before the Plenary of the High Court, in accordance with the provisions established in the aforesaid Code for processing an appeal for review. In this last case, the Commission may not require that its resolution be executed or carried out unless and until it has been confirmed by the Plenary of the Court.” Communication OEA-00198 from the Permanent Mission of Mexico to the OAS to the Office of the Special Rapporteur, “Government of Mexico’s Observations to the Preliminary Report on the Situation of Freedom of Expression in Mexico by the Office of the

since “it not only slows down proceedings, but also complicates them, for the individual who does not possess technical knowledge in juridical matters will necessarily require legal advice to duly process the litigious proceedings and thus try to obtain a verdict favorable to his interests.”⁵⁹¹

288. The Office of the Special Rapporteur expresses its concern over these developments since, as has been stated, the possibility of government entities challenging by means of ordinary appeals the resolutions of the IFAI and its equivalent state bodies risks denying the right to obtain the information requested by way of a simple, expeditious and specialized process, thus depriving the right of access to information of its purpose.⁵⁹²

289. Finally, the Office of the Special Rapporteur received information on an constitutional challenge brought by the CNDH⁵⁹³ alleging the invalidity of Article 16 of the Federal Code of Criminal Procedure,⁵⁹⁴ which regulates access to the case files of preliminary criminal investigations. Based on the amendments made to this norm in January 2009, the PGR has refused to provide public versions of preliminary investigations that are concluded or inactive beyond a reasonable term, including with regard to serious violations of human rights or crimes against humanity, such as for example the investigations into the forced disappearances of Rosendo Radilla Pacheco and other persons.⁵⁹⁵ Like the CNDH, the IFAI has considered that permanent, indiscriminate restrictions on access to preliminary investigation files violates the guarantees of access to public information contained in Article 6 of the Political Constitution.⁵⁹⁶

290. The Office of the Special Rapporteur recognizes the need to withhold open criminal investigations in order not to affect the investigation and to protect sensitive data. Nevertheless, the Office of the Special Rapporteur considers that delivery of a public version of information on investigations that have been concluded or inactive for years, with due regard for the protection of sensitive data and elements which it can be proven should be withheld to protect other legitimate interests, promotes the public nature of the proceedings and is a guarantee of appropriate inter-departmental and public oversight of the bodies of administration of justice. This is precisely the purpose of the right of access to information.

VI. CONCLUSIONS AND RECOMMENDATIONS

291. Based on the information gathered on the occasion of the on-site visit to Mexico, and in view of the situation that holds sway with regard to freedom of expression in the country, which demands urgent action, the Office of the Special Rapporteur herewith takes the opportunity to reiterate many of the conclusions and recommendations issued on the completion of its official visit to the country in August 2010. The Office of the Special Rapporteur once again places itself

Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights” and Annex VIII, received on February 3, 2011.

⁵⁹¹ IFAI, *Report on Action of Unconstitutionality 56/2009*, Memo IFAI/SA/089/09, July 15, 2009, document delivered to the Rapporteur by IFAI during the on-site visit, p. 16.

⁵⁹² See IACHR, Office of the Special Rapporteur for Freedom of Expression. *The Inter-American Legal Framework Regarding the Right of Access to Information in the*. OAS/Ser.L/V/II CIDH/RELE/INF. 1/09 December 30, 2009, par. 26. Available at: http://www.cidh.org/pdf_files/Access_to_information.pdf

⁵⁹³ Petition for unconstitutionality suit brought by the National Commission on Human Rights, AC 26/09, February 5, 2009, document delivered to the Office of the Special Rapporteur by the IFAI during the on-site visit.

⁵⁹⁴ Article 16 of the Federal Code of Criminal Procedures establishes, in the relevant part, that “For purposes of access to public government information, only a public version of the resolution of non-exercise of penal action should be provided, as long as a term equal to the prescription period of the offenses involved has elapsed, in accordance with the provisions of the Federal Criminal Code, with a minimum of three and maximum of twelve years, counted from the time the resolution was declared final.”

⁵⁹⁵ Litiga OLE, “the Defense of the Right to Information in Mexico,” document delivered to the Office of the Special Rapporteur during the on-site visit.

⁵⁹⁶ IFAI, *Report on Action of Unconstitutionality 26/2009*, Memo IFAI/ALI/069/09, March 25, 2009, document delivered to the Office of the Special Rapporteur by the IFAI during the on-site visit.

at the disposal of the Mexican State and offers its assistance in order that the recommendations may be complied with as soon as possible.

A. Violence, impunity and self-censorship

292. The Office of the Special Rapporteur finds that freedom of expression in Mexico faces grave obstacles, mainly due to the acts of violence and intimidation against journalists in the country. According to the information received, between the year 2000 and July, 2010, 64 journalists have been murdered and 11 have been disappeared, making Mexico the most dangerous country in the Americas in which to practice journalism. The security situation for journalists remains critical; in 2010 the Office of the Special Rapporteur recorded 13 murders of journalists in the country, as well as disappearances, kidnappings, armed attacks against media offices, and numerous instances of threats and harassment. The Office of the Special Rapporteur was able to verify that in recent years most of the murders, disappearances and kidnappings of journalists have occurred in states where organized crime has a strong presence, including the states of Chihuahua, Coahuila, Durango, Guerrero, Michoacán, Nuevo León, Sinaloa and Tamaulipas. In some of these states there are communities that have been completely silenced by the chilling effect of the climate of violence and impunity.

293. Incomplete investigations in most of the cases prevent an exact determination of the causes and perpetrators of these crimes. However, the information received by the Office of the Special Rapporteur makes it possible to assert that in these places organized crime is the greatest threat to the lives and physical safety of journalists, especially those who cover local affairs such as government corruption, drug trafficking, organized crime, public safety, and related subjects.

294. The Office of the Special Rapporteur is aware that the issue of violence in Mexico affects all sectors of the population. Nevertheless, it observes that the attacks against journalists and members of the media have multiplying effects that impact all other journalists and media workers, generate fear and self-censorship, deprive society in general of its right to be informed, and discourage reports or complaints, all of which increases impunity. As such it welcomes the adoption, in November, 2010, of the Coordination agreement for the implementation of preventive and protective actions for journalists, which represents the first step towards the creation of a national mechanism for the protection of journalists and media workers.

295. The Office of the Special Rapporteur is convinced that the protection of the right to freedom of expression must be a fundamental part of the citizen security agenda in Mexico. Accordingly, the Office commends the existence of a Special Prosecutor's Office to attend to crimes against freedom of expression, and the aforementioned adoption of an agreement that seeks to guarantee the protection of journalists. Nevertheless, the Office of the Special Rapporteur is seriously concerned to have verified the impunity that is typical of crimes against journalists in Mexico, a phenomenon that perversely encourages the recurrence of these types of crimes.

296. Without a comprehensive public policy aimed at guaranteeing the freedom to seek, receive and disseminate information by any means, it is impossible for Mexican society to contribute to the fight against crime and corruption, and for it to exercise active and informed oversight of the State's actions to deal with crime and protect the public.

297. Therefore, the Office of the Special Rapporteur makes the following specific recommendations:

- Recognize, at the highest levels of the State, the legitimacy and value of the work of journalists, and condemn attacks committed in reprisal for the exercise of freedom of expression.

- Compile detailed, disaggregated criminal statistics on violence against journalists and the criminal prosecution of these crimes.
- Strengthen the Office of the Special Prosecutor for Crimes against Freedom of Expression of the PGR as well as the state criminal justice systems. It is especially recommended that the necessary reforms be made to facilitate the exercise of federal jurisdiction over crimes against freedom of expression.
- Endow the Special Prosecutor's Office and the local prosecutors' offices with greater autonomy and greater resources. In particular, adopt special protocols of investigation for crimes committed against journalists, requiring the full consideration of the possibility that the crime was committed because of the victim's professional activity, and ensure that all possible violations of the right to freedom of expression are investigated by the civilian authorities.
- Strengthen the capacity of public human rights bodies to act by, among other things, approving the proposed constitutional reform on human rights that is currently pending.
- Implement the Coordination Agreement for the implementation of preventive and protective actions for journalists as a national mechanism for the protection of journalists and media workers. The application of the Agreement should take into account: 1) the need to guarantee the necessary financial and personnel resources for the effective implementation of the mechanism; 2) the need to guarantee effective coordination between the bodies responsible for the adoption of preventive and protective measures; 3) the need to adequately define the protective measures contemplated by the mechanism and the procedures for their adoption; 4) the need to guarantee the full participation of journalists, civil society and beneficiaries in the implementation and functioning of the mechanism; and 5) the expediency of seeking the support of the international community in implementing the mechanism
- Provide training to members of the security forces on the subject of freedom of expression.

B. Freedom, diversity and pluralism in democratic debate

298. With respect to the regulation of the electromagnetic spectrum and the enforcement of broadcasting provisions, the Office of the Special Rapporteur observes a high degree of concentration in the ownership and control of the communications media to which television and radio frequencies are allocated.

299. In addition, it notes that there is no independent regulatory body, and that the legal framework currently in force does not provide guarantees of certainty, pluralism and diversity. In particular, there is no legal framework that recognizes community broadcasters and establishes clear, well-founded, and equitable procedures whereby such broadcasters can apply for and obtain operating frequencies.

300. With regard to government advertising, government spending is high and increasing. The absence of a regulatory framework has allowed government advertising to be used discretionally, and it can therefore be employed to pressure, punish, reward or favor communications media according to their editorial slants.

301. Therefore, the Office of the Special Rapporteur makes the following specific recommendations:

- Adopt a legal framework that provides legal certainty, promotes the diversification of radio and television, and contributes to the creation of a media market that is pluralistic and accessible to all sectors of the population, especially community broadcasting.

- Guarantee that the allocation of radio or television licenses be fully, clearly, and transparently regulated by law, based on criteria that are objective, clear, public, and democratic.
- Establish a public body to regulate radio and television that is independent of the government.
- Establish legal mechanisms to guarantee that the transition to digital broadcast services guarantees the greatest plurality and diversity possible in the use of the spectrum.
- Establish objective, clear, transparent and nondiscriminatory criteria in the allocation of government advertising for all levels and bodies of government.

C. Legal actions relating to the exercise of freedom of expression

302. The Office of the Special Rapporteur acknowledges the progress made at the federal level and in many states with regard to the decriminalization of defamation laws libel, slander and defamation. Nevertheless, there are still criminal law provisions that allow the criminalization of the exercise of freedom of expression. The Office of the Special Rapporteur is concerned about the use of criminal provisions against journalists who cover issues of public interest, individuals who work at community radio stations, and social activists in the context of social protest.

303. The Office of the Special Rapporteur is concerned about civil legal actions against journalists and media outlets in a legal environment lacking specific standards to evaluate the subsequent liability of individuals who disseminate information on matters of public interest or public affairs. Furthermore, the Office of the Special Rapporteur received information concerning civil actions that may be meant to harass and to silence criticism, and that have been filed against journalists and media outlets.

304. Therefore, the Office of the Special Rapporteur makes the following specific recommendations:

- Repeal the criminal provisions that penalize expression, including those contained in the 1917 Press Crimes Act and in the state criminal codes, and refrain from using other criminal provisions to suppress the legitimate exercise of freedom of expression.
- Guarantee that journalists not be subjected to judicial harassment or other types of legal harassment in retaliation for their work. This entails establishing specific standards for evaluating subsequent civil liability, including the standard of actual malice and the strict proportionality and reasonableness of any subsequent sanctions.

D. Access to information

305. The Office of the Special Rapporteur acknowledges the notable progress made by the Mexican State in recent years, which has made the country a point of reference on the subject of access to information. At the same time, it observes that the institutional and legal framework to guarantee the effective exercise of the right to access to information before the federal executive branch does not always exist at the state and municipal levels. The Office of the Special Rapporteur also was informed of the existence of state legislation and legal actions which seek to reverse the final and unchallengeable nature of the decisions of the Federal Institute for Access to Information and Data Protection and of the state transparency bodies.

306. The Office of the Special Rapporteur was informed of practices that limit transparency in the justice system. Thus, for example, some state courts keep lower court judgments that have been appealed confidential until all corresponding remedies are exhausted in the case. Likewise, pretrial investigations are kept confidential until a period of time has

elapsed equal to the one provided for in the statute of limitations for the offense in question. This is based on a recent amendment to Article 16 of the Federal Code of Criminal Procedure, which is under review by the Supreme Court.

307. Therefore, the Office of the Special Rapporteur makes the following specific recommendations:

- Preserve the advances made with respect to access to information, ensuring that the transparency bodies are autonomous, have appropriate and stable budgets, and that their decisions are final and unchallengeable.
- Continue to expand real access to the right of access to public information, strengthening the institutional capacity at every level of government so as to respond appropriately and in a timely manner to requests for information and establishing simple mechanisms (which include, but are not limited to, the Internet) to make such requests.
- Deepen transparency in the justice system, guaranteeing access to the judgments of the courts and to a public version of pretrial investigations that have either concluded or have been inactive for an unreasonable period of time.

E. Final comments

308. The Office of the Special Rapporteur feels privileged to have witnessed an emerging sense of solidarity among journalists in Mexico. On August 7, 2010, the day before it arrived in the country to carry out its on-site visit, reporters, camera operators, photographers and columnists from numerous media outlets held public demonstrations in 14 cities to demand secure working conditions for the exercise of their professions and to protest against the kidnapping of four journalists in Gómez Palacio, state of Durango, by a group demanding the broadcast of videos in exchange for their freedom. The Office of the Special Rapporteur applauds these efforts and calls upon all journalists to continue and expand upon these solidarity and mutual support initiatives. It also expresses its admiration towards those journalists it met – and many it did not have the chance to meet – who exercise their profession with great dignity and dedication in spite of the difficult and perilous conditions to which they are subject. It also expresses its solidarity with those journalists who have been victims of violence, and their families.

309. In the course of its visit the Office of the Special Rapporteur received information about a number of initiatives undertaken by some communications media to improve working and security conditions for their staff. Following its visit it also received information about an initiative of the National Chamber for the Radio and Television Industry to draw up a security protocol for the protection of media workers against attacks and threats from criminal organizations.⁵⁹⁷ The Office of the Special Rapporteur invites all media company owners to provide appropriate support to journalists,⁵⁹⁸ including security protocols and the training required to minimize the risks. Similarly, journalists and their families should have access to social security benefits.

310. Further, the Office of the Special Rapporteur recognizes the fundamental importance of the work carried out by civil society organizations that monitor the state of freedom of expression in Mexico in all its aspects, including attacks on journalists. It considers it essential that these organizations continue to carry out this important work in safe conditions and urges Mexican society and the international community to continue to support their efforts.

311. Finally, the Office of the Special Rapporteur acknowledges once again the openness displayed by the Mexican State in inviting it to conduct an official visit to the country, and expresses its continued willingness to support all efforts by the State to strengthen the freedom of expression of all Mexicans. It respectfully urges the State to implement these recommendations as quickly as possible, and again offers to participate in the follow-up mechanism proposed by the State at the conclusion of the on-site visit. The urgent state of freedom of expression in Mexico requires immediate and effective actions such as those identified in this report.

⁵⁹⁷ El Universal. October 12, 2010. *Anuncian protocolo para proteger a periodistas*. Available at: <http://www.eluniversal.com.mx/notas/715725.html>

⁵⁹⁸ See Joint Declaration by the Rapporteurs for Freedom of Expression of the UN, OSCE and IACHR, 2003. Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=88&IID=1>