

ESPACIO OSC
Para la Protección de Personas Defensoras y Periodistas



JOINT SUBMISSION FOR MEXICO'S THIRD UPR (2018) BY MEXICAN CIVIL SOCIETY ORGANIZATIONS ON THE SITUATION OF HUMAN RIGHTS DEFENDERS AND JOURNALISTS (registered as "Espacio OSC"*)

INFORME CONJUNTO PARA EL CUARTO EPU DE MÉXICO (2024) POR ORGANIZACIONES DE LA SOCIEDAD CIVIL MEXICANA SOBRE LA SITUACIÓN DE PERSONAS DEFENSORAS DE DERECHOS HUMANOS Y PERIODISTAS (registrados como "Espacio OSC"*)

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Perfil de las organizaciones redactoras - Este conjunto de organizaciones de sociedad civil nos hemos agrupado para trabajar de manera colectiva un informe que sintetice los principales problemas que aquejan a las personas defensoras de derechos humanos y periodistas, así como las propuestas que se identifican en las recomendaciones elaboradas. La mayoría de estas organizaciones realizan trabajo de base en las diferentes regiones, acciones de documentación y visibilización de agresiones, acompañamiento, monitoreo y evaluación de las políticas públicas, a favor de la defensa de derechos humanos y del ejercicio de la libertad de expresión, en conjunto desde distintas organizaciones y redes se logra cubrir la mayoría del territorio nacional en el que se encuentran las personas, comunidades en defensa de derechos humanos y las y los periodistas y medios de comunicación.

El informe elaborado es un esfuerzo extraordinario que agrupa el conjunto de capacidades de documentación, análisis, incidencia y construcción acciones de fortalecimiento para las personas defensoras y periodistas con las que se trabaja.

La situación en México de las personas defensoras de derechos humanos y periodistas no es homogénea y este ejercicio de articulación permite recoger las singularidades territoriales, campos de lucha, y diversas respuestas de las acciones gubernamentales, reconociendo los patrones estructurales que han permitido elaborar recomendaciones específicas.

4th Universal Periodic Review Mexico

Thematic report on the situation of human rights defenders and journalists (2018-2023)

a). Introduction

1. In the 2018 Universal Periodic Review (UPR), thirty-nine States made recommendations to the Mexican government on human rights defenders and journalists, which the government accepted in full.
2. Five years after the report was issued, the implementation of its recommendations shows progress, although there are also several areas of opportunity and even setbacks in reported situations that persist or have worsened.
3. In this context, the Mexican state has had an ambiguous relationship with international scrutiny of the human rights situation in the country in recent decades, on the one hand supporting the most progressive initiatives at the multilateral level, while on the other, demonstrating significant resistance implicitly or explicitly, on paper or in practice, when its actions in this area come under scrutiny.
4. The current government is no exception, and has generally maintained such ambiguity, which has given the international community a role in the human rights arena, albeit with some risks and limitations that need to be weighed.

b). Context of aggressions and violence against HRDs and journalists

5. The defence of human rights and the freedom of expression continue to face adverse conditions in Mexico following the adoption of provisions at different governmental levels, creating a negative impact on the exercise of both rights. As example of this disposition are include in extractivist policies in so-called "development" projects, the current policies to contain human mobility, security policies and the deployment of the armed forces throughout the national territory (with the authorisation to take on multiple infrastructure projects), and the excessive use of force to contain or repress demonstrations and public protests¹.
6. According to figures from the Federal Mechanism for the Protection of Human Rights Defenders and Journalists (spa. *Mecanismo Federal de Protección para Personas Defensoras y Periodistas* hereinafter only "the Mechanism"), between December 2018 and June 2022, 106 murders of human rights defenders were registered, with 67% of these aggressions concentrated in six states: Guerrero, Oaxaca, Chihuahua, Chiapas, Veracruz, and Michoacán².
7. As recorded by different human rights organisations, human rights defenders suffered various violations of their own human rights between 1 January 2019 and 31 May 2022, including 54 enforced disappearances, 1,099 arbitrary detentions and 354 human rights violations consisting of aggressions, harassment, threats, raids, criminalisation, and other related violations³. In addition, from January 2019 to December 2022, at least 79 extrajudicial killings were reported⁴. In all these cases, the attacks were associated with the exercise of the right to defend human rights.

8. In the specific situation of people and communities defending the environment, land, and territory, 82 lethal aggressions were recorded from January 2019 to January 2023. The states with the most reported incidences in these years were Chiapas (2019), Guerrero (2020), Oaxaca (2021) and again Guerrero (2022).

¹ Espacio OSC, *Situación de la defensa de derechos humanos y la libre expresión en México a partir de la pandemia por COVID-19*, <https://bit.ly/30Bgbgj>

² SEGOB, *Diálogo estatal para una Iniciativa de Ley General de Prevención y Protección ante Agravios a Personas Defensoras de Derechos humanos y periodistas*, 22 de junio de 2022.

³ Acción Urgente para Defensores de Derechos Humanos ACUDDEH, Comité Cerezo México y Campaña Nacional Contra la Desaparición Forzada, *Defender los derechos humanos en México: Entre la omisión y la simulación. Informe junio de 2021 a mayo de 2022*, <https://acuddeh.org/spip.php?article9>

⁴ Comité Cerezo México y Acción Urgente para Defensores de Derechos Humanos ACUDDEH, *INFORME: 22 Personas defensoras de Derechos Humanos ejecutadas extrajudicialmente en el 2022*, <https://www.comitecerezo.org/spip.php?article3931>

However, states such as Chihuahua and Puebla, in addition to those mentioned above, continued to appear at the top of the records during the same period, with indigenous territories being the most vulnerable to the imposition of extractive projects⁵.

9. According to the records of the Human Rights Defenders Memorial (spa. *Memorial de Personas Defensoras*, abr. HRD Memorial)⁶, 18 defenders of the rights of indigenous peoples were killed because of their work in 2022, including eight in Oaxaca, five in Guerrero and three in Chihuahua, placing indigenous rights defenders as the most at-risk group of being murdered among HRD in the country. This situation is replicated against migrant and refugee rights defenders, shelters, and care spaces. Between 2018 and 2019, 69 aggressions against them were documented, including forced disappearances, assassinations, intimidation, and surveillance⁷. Migrant human rights defenders in contexts of social protest (both in caravans and in detention centres and other spaces) face an increased risk due to the acts of violence and cruel, inhumane, or degrading treatment to which they have been subjected by public officials⁸.

10. On the other hand, the increase in violence against defenders searching for disappeared persons has long been a cause for concern and has only become more prominent in the last year. In 2022, the HRD Memorial documented the murder of eight defenders who belong to collectives in search of their disappeared family members, six of whom were women. It should also be noted that this alarming increase in the number of murders of searchers has not been accompanied by a clear and prioritised strategy from the Government to address the situation⁹.

11. As for journalists, between December 2018 and June 2022, 59 murders of journalists had been recorded, 61% of which took place in six states: Sonora, Guerrero, Veracruz, Michoacán, Estado de México, and Oaxaca. According to official figures, the murders occurred mainly against those covering political activities, law enforcement, or documenting issues related to these areas¹⁰.

12. Violence against women journalists had a staggering increase of 209% at the beginning of the current six-year term compared to the previous period, with 5 feminicides of journalists registered and the forced displacement of 14 others¹¹.

13. In addition to murder, defenders and journalists have been victims of a series of aggressions including the obstruction of their work, threats, physical and digital aggressions, espionage, surveillance, discreditation, harassment, persecution, robbery, deprivation of liberty, forced displacement and kidnapping. The main groups affected by these acts are those who defend environmental rights, indigenous rights, women's rights, LGBTTIQ+ rights, the rights of displaced persons, defenders of migrants, those who defend children's rights and finally, those who search for missing persons.

14. Among the alleged aggressors, the majority continue to be public servants (43.1%), members of organised crime groups (33.5%), the rest being of unidentified profiles (23.4%)¹².

⁵ Centro Mexicano de Derecho Ambiental (CEMDA). *Informe sobre la situación de las personas y comunidades defensoras de los derechos humanos ambientales 2022*, <https://www.cemda.org.mx/informe-2022/>

⁶ FrontlineDefender, Global Analysis 2022, can be consulted: <https://www.frontlinedefenders.org/>

⁷ Frontline Defenders, Red TDT y Programa de Asuntos Migratorios Ibero CDMX. (2019). *Defensores sin muros: personas defensoras de derechos humanos criminalizadas en Centroamérica, México y Estados Unidos*, [versión electrónica], https://www.frontlinedefenders.org/sites/default/files/frontline_defenders_mexico_spanish.pdf

⁸ Pie de página, *Organizaciones denuncian tortura a personas migrantes y refugiadas en estación de Chiapas*, published 28th June 2021, <https://acortar.link/PA5PVd>

⁹ Front Line Defenders. *Global Analysis 2022*, <https://www.frontlinedefenders.org/>

¹⁰ SEGOB, *op. cit.*

¹¹ Comunicación e Información de la Mujer A.C. *INFORME: Estigmatización y Violencia contra las mujeres periodistas en México 2019-2022*, <https://cimac.org.mx/publicaciones-2022/>

¹² SEGOB, *op. cit.*

15. The Ministry of the Interior (SEGOB) itself documented 9 murders (7 journalists and 2 defenders) of beneficiaries of protection measures by the Mechanism, between 2017 and September 2021¹³. Other 4 journalists who had protection measures from local mechanisms were also murdered¹⁴. In none of these cases has there been any progress in the administrative and criminal investigations against public officials for the omission of due diligence in their duty to protect.

b.1). Digital aggressions, surveillance, and espionage

16. As revealed on 18 July 2021 through the "Pegasus Project" research carried out by Amnesty International and Forbidden Stories, between 2016 and 2017, governments in several countries infected potentially 50.000 telephone lines with the Pegasus spying *malware* developed by NSO Group. 15.000 of them being Mexican, including at least 109 belonging to human rights defenders and 25 to journalists.

17. On 2 October 2022, civil society organisations presented the investigation "*Ejército Espía*", which revealed that the phone lines of at least two journalists and one human rights defender were tapped with the Pegasus malware between 2019 and 2021. The investigation also showed documents proving that the army acquired a "remote information monitoring system" in 2019 from the company that has exclusive rights to Pegasus¹⁵.

18. According to an investigation by CONNECTAS and E-consulta¹⁶, between 2018 and 2021 the federal government and 16 state governments invested "14.4 million dollars to acquire devices to extract data from mobile devices, monitor geolocations and intercept private communications". And while their acquisition was justified on the grounds that such tools would contribute to strategies to reduce violence, the scope of the use of these cyber tools is unclear, due to a lack of official information on the matter. The investigation showed that Jalisco was the state that spent the most on spyware tools: its government acknowledged that in 2014 it acquired a spying system called "Galileo" from the company Hacking Team, whose licences were extended until 2018. It is unknown whether this system is still operating, and what it was previously used for¹⁷.

19. Even though the Attorney General's Office (FGR) opened an investigation into this matter more than four years ago, the absence of guarantees of an independent investigation and of significant advances in the clarification of acts of espionage against human rights defenders and journalists continues. Moreover, this practice persists to this day.

20. In addition, organisations have documented the ongoing harassment faced by journalists through social media and instant messaging applications. The main aggressions are threats, intimidating messages, creation of fake sites or accounts that seek to impersonate their identity, as well as smear campaigns. The documented attacks are linked to unknown individuals, organised crime groups and even local authorities. According to multiple testimonies, digital violence against journalists has increased since the 2018 presidential elections and is predicted to rise during the next elections in 2024¹⁸.

21. Digital aggressions have also been associated with the exercise of the right to protest and hold demonstrations, particularly regarding the protection and promotion of the digital environment as crucial for

¹³ SEGOB, *Ibid*.

¹⁴ Pedro Tamayo, Gúmaro Pérez, Jorge Celestino Ruíz, María Elena Ferral fueron periodistas asesinados en Veracruz del año 2016 al 2020 y contaban con medidas de protección por parte de la Comisión Estatal para la Atención y Protección de Periodistas.

¹⁵ R3D, *Ejército Espía*, <https://ejercitoespia.r3d.mx/>

¹⁶ CONNECTAS y E-consulta. *Gobiernos Mexicanos gastan millones en espionaje pero obtienen escasos resultados*, <https://www.connectas.org/especiales/mexico-si-espia/>

¹⁷ Reporte Índigo. *Sin rastro del uso del software Galileo para espionaje*, <https://www.reporteindigo.com/reporte/sin-rastro-del-uso-del-software-galileo-para-espionaje/>

¹⁸ Article 19, Incremento de agresiones digitales contra periodistas en Iguala, Guerrero, 2 de julio de 2021, <https://bit.ly/3lZbrJB>

the "dissemination, convening and publicity of physical meetings and associations"¹⁹. Collectives, organisations, and women defenders in different parts of the country have denounced physical harassment and online harassment by third parties²⁰, who threaten them with physical and sexual aggression and even death²¹.

b.2). Stigmatisation and criminalisation

22. Stigmatisation, delegitimisation and smear campaigns against the press have become a constant under the current government. From official bodies, the aggressions begin with a discourse that discredits and justifies attacking the press. This stigmatising practice dates to 2018 and has been consolidated particularly during the last two years²².

23. In June 2021, the head of the Federal Executive introduced a new segment within his morning lectures called "Who's who in the lies"²³. The purpose of this segment is to "expose the lies spread by the media", although it functions in practice as a "Court of Truth" that has repeatedly exposed, attacked, and stigmatised the critical press²⁴.

24. Following the stigmatisation of the press from "Who's Who in the Lies", a similar practice has spread and taken hold among public servants at all three levels of government throughout the country²⁵.

25. In this context, the problem is not whether the press and human rights organisations are challenged. Citizens can and should subject the work of the press to intense scrutiny to strengthen public debate. But the fact that it is the head of the executive branch, federal or state level, who determines the criteria under which the press "lies or not", or who determines which human rights work is legitimate, contributes to creating an environment that promotes prior censorship, inhibits the work of journalists and human rights defenders, and intimidates the exercise of human rights.

26. This situation, added to the generalised stigmatisation of journalistic work, creates an atmosphere in which human rights violations against women are carried out in a differentiated manner, in other words, the aggressions against their freedom of expression carry a misogynistic and sexist charge²⁶.

27. Similarly, the criminalisation of women defenders is a matter of great concern. Women human rights defenders have continually been subjected to a series of selective arrests and criminal proceedings, which are

¹⁹ CIDH. *Protesta y derechos humanos*. OEA/Ser.L/V/II CIDH/RELE/INF.22/19 septiembre 2019, <https://oas.org/es/cidh/expresion/publicaciones/ProtestayDerechosHumanos.pdf>, read at § 295.

²⁰ 24 horas. *Amenazan en redes sociales a feministas por marcha del 8-M*, published 4th March 2020, <https://bit.ly/3pn7lwU>, "These aggressions usually occur on the occasion of rallies commemorating some of the most important dates for the defence of women's rights such as 8 March, 28 September or 25 November", in some cases going on to physical aggressions".

Milenio, *Amenazan a muerte a feministas que se manifestaron en palacio de Tampico*, published 27th September 2020, <https://bit.ly/3DZotNm> ;

Informador MX. *Bajan cuentas de Facebook por amenazas contra marcha de mujeres*. published 6th March 2020, <https://bit.ly/3B35vDx> ;

CIMAC Noticias. *Denuncian acoso y las amenazan de Muerte*, published 02nd July 2020, <https://bit.ly/3ppEWXe> ;

IM-Defensoras. [Alerta Defensoras] MÉXICO. *Intimidán, amenazan con atropellar e incitan a la violencia contra participantes en "Marcha de las Catrinas" el pasado 31 de octubre en San Cristóbal de las Casas*, published 24th november 2020, <https://bit.ly/3nwM5m3>.

²¹ IM-Defensoras. [Alerta Defensoras] MÉXICO. *Persecución, amenazas, agresiones físicas, virtuales y patrimoniales contra activistas feministas del Estado de Sonora*. published 16th November 2020, <https://bit.ly/2Ze84G5>

²² Article 19. *Disonancia: Voces en disputa*, published 26th May 2020), <https://bit.ly/2ZgGCaI>

²³ IberoPuebla, *Cimac denuncia estigmatización y violencia contra mujeres periodistas*, 22nd May 2023, <https://acortar.link/W88aWR>

²⁴ The strategy of division and stigmatisation turned the public officials' conferences into the key arena for dividing the supposedly only reliable source of information, the government, and adversaries, as well as the critical press. It is also intended to divert public attention from pressing issues for society such as violence, impunity, corruption, and the lack of effectiveness in solving them. In other words, the message is nullified by attacking the messenger.

²⁵ ARTICLE 19. *Disonancia: Voces en disputa*, 26th May 2020), <https://bit.ly/2ZgGCaI>.

²⁶ CIMAC. *Estigmatización y Violencia contra las mujeres periodistas en México 2019-2022*, <https://cimac.org.mx/publicaciones-2022/>.

related to the obstruction and discreditation of their social protest actions. In this context, and since the declaration of a health emergency in 2020, at least three women human rights defenders have been detained and criminalised²⁷.

28. On the other hand, smear campaigns persist against human rights defenders, organisations, and the media, who are accused of receiving funding from international foundations with the aim of generating opposition towards the current government's projects, arguing that this work in defence of human rights "obeys foreign interests".

29. Aggressions like these have occurred repeatedly on various occasions in "Who's who in the lies", where the terms "conservatives", "opponents" and "pseudo-environmentalists" have been used to discredit or stigmatise the aforementioned actors²⁸. They have even directly targeted community defenders, who already face a high risk for opposing projects promoted by the Federal Executive and who have been accused of "sabotaging progress", "inciting turmoil" or "seeking to disrupt public peace"²⁹.

30. As can be seen, using such a forum to propagate this narrative not only hinders the recognition of the importance of advocacy work, but generates several negative effects for HRD: it increases the risk and exposure to violence for individuals and collectives, leading them to restrict, or even abandon activities that make them "visible", such as peaceful statements and demonstrations.

b.3. Impunity and lack of access to justice

31. One factor that impairs the work of human rights defenders and journalists and aggravates their current situation is the persistent impunity in Mexico, particularly for crimes committed against HRDs. In the vast majority of cases, the perpetrators of aggressions are not found and, above all, no formal investigations that could lead to the identification of the perpetrators and masterminds of these crimes are initiated³⁰.

32. As civil society organisations have proven, the first obstacles in accessing justice are in ministerial investigation processes, mainly due to the fact that important procedures are omitted, and that the line of investigation focusing on the defence work or journalistic activity of the victims is rarely prioritised or even taken into account. This omission leads to a general underestimation of and disregard for the work of HRDs, and fosters a stigmatising narrative that, often erroneously, link the attacks to personal motives as causes of the crime, be it crimes of passion, domestic disputes, or aggressions related to drug abuse³¹.

33. In the case of journalists, the Special Prosecutor's Office for Attention to Crimes Committed against Freedom of Expression (spa. *Fiscalía Especial para la Atención de Delitos Cometidos contra la Libertad de Expresión*, abr. FEADLE), as a branch of the Attorney General's Office, was created in 2010. According to the statistics of this institution, since its accusatory system came into force in 2016 and until December 2022, 773 investigation files have been opened, of which only 178 have been prosecuted while in 190 the non-prosecution of criminal proceedings was decreed³².

34. During the period from 2018 to December 2022, FEADLE exercised its power of attraction in 73 cases, of which 10 correspond to murders, 14 to abuses of authority and 28 to threats. While it can be said that

²⁷ Such as the case of Kenia Hernández, an Amuzga indigenous woman, lawyer and human rights defender, who has been deprived of her liberty since 18 October 2020. Or that of Susana Prieto Terrazas, a labour rights lawyer arrested on 08 June 2020 and that of Claudia Hernández in San Luis Potosí arrested, tortured and criminalised on 05 June 2020 during a demonstration.

²⁸ Gobierno de México. *Conferencia de prensa del presidente Andrés Manuel López Obrador del 03 de septiembre de 2020 (versión estenográfica)*, <https://acortar.link/19FGdB>

²⁹ Gobierno de México. *Conferencia de prensa del presidente Andrés Manuel López Obrador del 21 de marzo de 2023 (versión estenográfica)*, <https://acortar.link/19FGdB>

³⁰ SEGOB. *Press Conference of 5th October 2021*, <https://www.youtube.com/watch?v=p4D0tWkxGAw>.

³¹ Article 19. *Protocolo de la impunidad en delitos contra periodistas*, 25th February 2019, <https://articulo19.org/informeimpunidad/>.

³² Fiscalía Especial para la Atención de Delitos cometidos contra la Libertad de Expresión. *Informe estadístico*, December 2022, <https://bit.ly/3FLhMSu>.

FEADLE does not have the capacity to take on the large percentage of cases involving crimes committed against journalists, it is essential that - given the lack of resources and investigative capacities at the state level and considering the fact that public or private state officials with political power are the main aggressors -, the institution incorporates guidelines to take on cases and to strengthen coordination with local prosecutors to implement a strategy to reduce impunity and reinforce a policy of zero tolerance towards the repression of freedom of expression in Mexico.

35. Based on information from the Mechanism, of the 47 murders of journalists reported between December 2018 and September 2022, sentences had been issued in only 5 cases (10.63%)³³, which in turn implies an impunity rate of 89.37% in these first three years of government for such attacks. Most cases are still in the preliminary investigation phase and to the date only 7 cases advanced to judicial proceedings³⁴.

36. On the other hand, impunity for crimes committed against human rights defenders is even greater. Despite the fact that the Organic Law of the Attorney General's Office mentions the existence of a Specialised Human Rights Prosecutor's Office, no Unit or Prosecutor's Office specialised in this area has been created to date, nor is there a regulatory framework that supports the attraction or follow-up of cases from the Attorney General's Office. Unlike FEADLE, the Attorney General's Office does not have the jurisdiction to take on crimes against human rights defenders, nor does it have a specialised protocol for mandatory investigation at the national level. In addition, most of the crimes are committed at the local level, where there is an even greater deficiency in terms of carrying impartial investigations with due diligence.

37. All these factors demonstrate the profound challenges in the fight against impunity, a situation that is exasperated by the lack of initiative and proactivity on the part of the Attorney General's Office and local prosecutors' offices in terms of accountability towards the victims of crime, as well as in establishing a policy of effective criminal prosecution of crimes committed against these populations.

38. An investigation conducted with due diligence in cases of threats, break-ins, or damage to property - to name but a few examples - could act as a deterrent and help prevent more serious assaults from occurring.

39. Nonetheless, criminal investigation has so far not been a tool to help ensure a safe environment for defence work.

b.4). Psychosocial impacts

40. The socio-political violence in Mexico generates damage with high socio-affective costs for human rights defenders and journalists. These damages derive from several interrelated factors (for example, working in a context of violence, accompanying victims of human rights violations, facing a high risk when carrying out this work and therefore being subjected to aggressions, etc.) and have consequences not only at a personal level, but also at a collective, family, and social level.

41. The impacts of socio-political violence include fear, guilt, stress, impotence, hopelessness, and chronic restlessness³⁵, the breaking of social ties, to the detriment of their physical and emotional health, and the effects on their political and life projects. Listening to, knowing, and accompanying the suffering is installed in the body and psyche of the defenders. It is the emotional toll that those who work daily with human suffering, fragility and vulnerability develop, known as "vicarious" impact (spa. *impacto vicario*)³⁶.

42. Although socio-political violence is directed towards human rights defenders and journalists regardless of their gender identity, when it is perpetrated against women it takes on a different nature. For a woman, defending human rights or engaging in critical journalism means challenging cultural norms, policies and

³³ SEGOB. *Press Conference of 5th October 2021*, <https://www.youtube.com/watch?v=p4D0tWkxGAw>

³⁴ SEGOB, *op. cit.*

³⁵ Espacio OSC, *op. cit.*, pág. 40.

³⁶ *Voces que caminan, Narrativas de las organizaciones defensoras de las personas en movilidad en México, Éxodos, Política y Pandemia*, <https://acortar.link/dThRnE>

stereotypes; facing conditions of inequality that lead to a lack of social recognition of her work, which is also impacted by age, appearance, gender or sexual preference as factors that are linked to her capacity for action; combining activism with an overload of domestic and care work; surviving discrimination and violence, among other factors that violate her freedom and inhibit her participation in public life. In addition, aggressions against women defenders have a gender component and are often manifested through the sexualisation of violence, such as threats of rape, aggressions that violate their bodies such as physical and sexual harassment, misogyny while carrying out activities relating to the defence of human rights, surveillance and stalking in private life and digital aggressions. This same violence often extends to the children of women defenders, who are also subjected to threats and aggression³⁷.

c). Situation of the Federal Mechanism for the Protection of HRD and journalists

43. According to figures presented by the Mechanism³⁸, as of January 2023 there were 2,059 people registered in the programme, including 581 journalists (152 women and 428 men), 1,099 HRDs (609 women and 490 men) and 379 indirect beneficiaries (214 women and 165 men)³⁹.

44. While the Mechanism has served to protect the lives of these people as a result of the momentum and work of civil society organisations, many significant challenges remain which are exacerbated in the context of the current violence and health emergency, as many of them are at increased risk and vulnerability⁴⁰.

45. According to the assessments of the organisations in *Espacio OSC*⁴¹ that monitor the functioning of the Mechanism's Law and accompany cases before this body, the admission and follow-up procedures for the re-evaluation of the protection plans of beneficiaries continue take place outside the terms stipulated by the Law, with prolonged periods of time even before the Covid-19 health emergency, which worsened the situation due to the lack of priority actions to address the current context.

46. In parallel, although there has been an increase in staff to operate the Mechanism, there is still deficient or non-existent staff training, constant staff turnover and a lack of coordination between the units and institutions that make up the Mechanism and the Governing Board, resulting in an inability to guarantee due attention, analysis, implementation and follow-up of protection measures and plans.

47. In the period under review, a political weakening of the Mechanism has been perceived, which is reflected in the lack of action in the discussion and implementation of the protection plans by the institutions that form and participate in the Governing Board, in particular the Attorney General's Office, the National Human Rights Commission (spa. *Comisión Nacional de Derechos Humanos*, abr. CNDH) and the Executive Commission for Attention to Victims (spa. *Comisión Ejecutiva de Atención a Víctimas*, abr. CEAV)⁴². These bodies continue to fail to report on the actions carried out within the protection plans and lack information on the progress of investigations or criminal proceedings. Both circumstances weaken the coordination and proactivity of the institutions, which in turn debilitates the implementation of protection plans, contributes to maintaining a reactive logic and fails to address the structural causes of risks (and on the contrary it re-

³⁷ Aluna, *¿Cómo enfrentamos el miedo en el contexto actual las defensoras?*, published 18th Dec. 2019, <https://acortar.link/1wa7Tl>

³⁸ The context of violence against human rights defenders and journalists in Mexico led to the generation of the first efforts in this area driven by civil society organisations to build state capacities in prevention and protection actions. This led to the approval in April 2012 of the Federal Law for the Protection of Human Rights Defenders and Journalists, as well as its subsequent creation and implementation through the Federal Protection Mechanism, which is made up of various government institutions, in which civil society participates and is headed by the Ministry of the Interior. Although there has been progress almost ten years after the creation of the Law, these measures are still insufficient and have not achieved their main objective: to reduce violence and generate guarantees for the defence of human rights in the country.

³⁹ SEGOB. *Press Conference of 5th October 2021*, <https://www.youtube.com/watch?v=p4D0tWkxGAw>.

⁴⁰ 54% of journalists are concentrated in 6 states: CDMX (76), Guerrero (56), Tamaulipas (46), Quintana Roo (41), Sonora (26) and Veracruz (26). In the case of human rights defenders, 57% (583) are concentrated in 6 states: CDMX (126), Oaxaca (123), Chiapas (93), Michoacán (92), Jalisco (79) and Estado de México (70).

⁴¹ For more information on the activities carried out by Espacio_OSC, please visit here: <https://espacio.osc.mx/sobre-espacio-osc/>

⁴² Although the CEAV is not part of the Governing Board by law, it was an agreement and a constant practice during the years prior to the pandemic that it would attend these meetings to assist the Mechanism in the implementation of psychosocial, social, medical, and legal measures. However, since 2020 they have stopped attending.

victimises).

48. Regarding the functioning of the National Executive Coordination (spa. *Coordinación Ejecutiva Nacional*, abr. CEN) of the Mechanism, there is an effort to strengthen processes on internal operations and coordination, and a new risk analysis methodology (spa. *análisis de riesgo*, abr. ADR) has been approved in 2019. Since September 2022, a Working Group has been set up to generate routes and evaluate compliance with the 104 recommendations issued in the diagnosis carried out by the Office of the High Commissioner for Human Rights in Mexico in 2019, which were accepted by the Mexican State.

49. The Working Group is made up of the bodies that comprise the Governing Board of the Mechanism, the Advisory Council, OHCHR and the *Espacio OSC*. In 6 monthly working groups, 69 recommendations have been prioritised, 16 routes for their implementation have been approved and 53 drafts have been prepared by the CSO Space. Each of these routes has its own indicators, means of verification and bodies responsible for their fulfilment⁴³.

50. However, despite the outlining of routes and recommendations in the implementation of protection plans, government bodies continue to fail to identify the specific vulnerabilities and recognise the differentiated causes that have given rise to the conflict and the social, economic and health effects and impacts on beneficiaries, their families, and their communities. Even in the case of displaced human rights defenders and journalists, no risk factors are considered in the area they have been expelled to or regarding the adverse conditions they face because of forced displacement.

51. This approach of “securitisation of risk” (as in they understand the risk from a security/law-enforcement perspective) leads to an incomplete risk analysis and, consequently, to deficient protection measures and plans that do not allow HRDs to return to their home communities or to resume their life projects. Nor is there recognition of their status as victims or that their displacement is a consequence of attacks against their defence work or journalistic exercise, implying a double violation.

52. In contrast, the Mechanism's reactive - rather than preventive - logic persists, which in turn lacks a gender perspective, an intersectional and intercultural approach, and adequate victim care services. In other words, the Mechanism does not respond in an efficient and adapted manner to the risks faced by collective subjects and communities in resistance.

53. Paradoxically, the main perpetrators of these attacks are public officials employed by government law enforcement institutions, which increases the risk for defenders and journalists. There have even been cases of leaks of information about beneficiaries, and there is a lack of knowledge of protocols for handling sensitive information within the Mechanism, as well as within the private company that operates the protection measures, in this case “*RCU Sistemas*”⁴⁴. Despite the reports, the Mechanism has not done what is necessary to investigate the omissions of its team or the company and improve its response protocols.

54. As for the political measures promoted by human rights organisations, such as recognition actions, working groups, the opening of investigation files or training courses, these have not been followed up on adequately, nor have they been monitored to measure their effectiveness. Moreover, they have not managed to reduce the risk for human rights defenders and journalists⁴⁵.

55. These conditions are compounded by the lack of sufficient financial resources, which is aggravated by the absence of transparency and accountability mechanisms to monitor the optimal use of the available

⁴³ Espacio OSC. *Avances y objetivos del Grupo de Trabajo para el fortalecimiento del Mecanismo de Protección*, 19th April 2023, <https://acortar.link/RtSzze>.

⁴⁴ For more information please see here: <http://www.rcu.com.mx/>.

⁴⁵ For example, in the case of the dialogue roundtables promoted in Guerrero, in the municipality of Iguala#, or in Quintana Roo#, between institutions from the three levels of government and affected populations, these dialogues have not been transformed into concrete actions to reverse the violence and punish those responsible.

resources, as a result of the elimination of the trust fund⁴⁶ and the lack of clear rules for the operation of the new fund and administration mechanisms to guarantee protection measures.

56. Although the budget for protection measures has increased in recent years, from 415.6 million Mexican pesos in 2021 to 388 million pesos in 2022 and around 586 million pesos in 2023⁴⁷, it is still insufficient, especially given the number of beneficiaries, which has also increased during the current six-year term of government.

57. Finally, it is worth noting the lack of effective coordination strategies between the different levels of government to implement the recommended protection measures, despite the existence of more than 17 state protection regulations. In order to strengthen coordination between the Federation and the states, the Ministry of the Interior promoted during 2022 a series of state dialogues with government agencies, defenders, and journalists to discuss the proposal to reform the current Federal Protection Law into a general law. In this regard, doubts persist as to whether state and municipal authorities are responsible for protection, given that they are the first source of aggression against their work, and about the real need for a new regulatory framework, when neither the current Federal Law nor the current state laws have been fully implemented. To date, neither SEGOB's proposed law, nor its presentation route is known.

d). State regulations limiting the work of human rights defenders and journalists

58. Despite certain significant advances, such as the repeal of the *Ley de Imprenta* and of offences previously in force such as defamation, slander, and libel⁴⁸, there still exist offences and regulations in Mexico that do not allow or guarantee the exercise of freedom of expression or the defence of human rights.

59. The organisation *Propuesta Cívica* has identified the existence of at least thirty-three crimes that put the practice of journalism at risk in Mexico⁴⁹, many of which go against international standards. For example, many local criminal codes in the country include the crime of insulting law enforcement, which does not contain a clear or precise definition of what is meant by "insult". Among other implications, the persistence of such typification's leads journalists to self-censorship and inhibits the exercise of the right to defend rights.

60. Much of Mexico's civil legislation does not guarantee the right to freedom of speech when relating to matters of public interest, which has an intimidating effect on the exercise of freedom of expression⁵⁰. The lack harmonisation of the legislative has allowed lawsuits against journalists, defenders, and the media to be admitted, initiating trials that last approximately 3 to 4 years and whose objective is to stop the publication of new journalistic investigations, opinion columns or press notes. To date, only three states comply with a differentiated approach to freedom of expression: Mexico City, the State of Mexico and Hidalgo, of which only Mexico City complies with international parameters in this area.

61. The states of Nuevo León, Yucatán, Zacatecas, Campeche, Sonora, and Michoacán maintain the so-called crimes against honour (insults, slander, or defamation), despite the fact that these have been classified as non-compliant with international standards on freedom of expression. It is also of concern that in recent cases of *amparo* suits brought by journalists or defenders, it has been documented that the authorities involved argue that the signatures on the *amparo suit* or the notes of the person filing the suit are false, thus leading to the prosecutor's office interfering the investigation of the cases.

⁴⁶ Article 19. *La eliminación de los fideicomisos pone en riesgo la vida de personas defensoras de derechos humanos, periodistas y víctimas*, 21st October 2020, <https://bit.ly/30DATw0>

⁴⁷ SEGOB, *Se fortalece Mecanismo de protección con cumplimiento de resoluciones*, 14th December 2022, <https://acortar.link/GJpDac>

⁴⁸ Senado de la República. *Por unanimidad, aprueban proyecto que abroga Ley sobre Delitos de imprenta*, 15th March 2023, <https://acortar.link/kNoCFt>

⁴⁹ Propuesta Cívica. *Libertad de prensa ¿Cómo se regula en México?*, May 2022, <https://propuestacivica.org.mx/proyecto/libertad-de-prensa-como-se-regula-en-mexico>.

⁵⁰ Según el informe de Propuesta Cívica denominado *Libertad de prensa ¿Cómo se regula en México?*, 29 de los 32 Estados de la República propician autocensura por la falta de protección explícita a periodistas.

62. Furthermore, the perpetration of certain types of federal crimes that limit the exercise of the right to protest has been observed, such as the addition of Article 533 of the Law on General Roads of Communication and Article 185 of the Federal Criminal Code on Opposition to the Execution of a Public Work or Project, which have been invoked to restrict the right to freedom of assembly and association.

e). Recommendations - Against this background, we recommend that the following demands be issued before the Mexican State:

63. To adopt measures for the protection of human rights defenders and journalists, implementing 80% of the recommendations of the diagnosis of the Federal Protection Mechanism issued by the Office of the United Nations High Commissioner for Human Rights in Mexico.

64. To adopt a national plan alongside state plans in collaboration with human rights organisations, human rights defenders, and journalists, aimed at generating a comprehensive public protection policy that incorporates specific actions in terms of prevention, protection, investigation, and reparation, from an intersectional, differential and gender perspective.

65. To promote, within two years, through the National Conference of Justice Prosecutors (spa. *Conferencia Nacional de Procuración de Justicia*), the creation of guidelines for the implementation of a criminal prosecution plan for the investigation of crimes committed against human rights defenders and journalists, guaranteeing a focus on gender and the participation of human rights organisations and defenders in the creation of the guidelines.

66. To investigate and sanction those responsible for acts of illegal espionage against defenders and journalists in an independent, diligent and exhaustive manner, as well as to publish complete and verifiable information on the surveillance software currently used by the State, specifying the institutions that use it and under what internal and external controls, in order to corroborate that it is used only with judicial authorisation and in strict compliance with national and international standards.

67. To repeal, within a maximum period of 3 years, the offences of defamation, slander, and libel at state level, as well as Articles 533 of the General Communications Law and Article 185 of the Federal Criminal Code, so that they do not disproportionately restrict freedom of expression.

68. To adopt, within the same 3-year period, a national strategy for the recognition of the work of human rights defenders and journalists, through which public servants are urged to respect, prevent and act against acts of stigmatisation, judicial harassment, and criminalisation of both sectors.

69. Guarantee the participation and the taking into account of technical advice of HRDs, journalists, and human rights organisations in all legislative processes at national and state level, aimed at: drafting, reforming and approving regulations on the protection of human rights defenders and journalists.

70. Signatory **organisations:** Acción Urgente para los Defensores de los Derechos Humanos (ACUDDEH), Aluna Acompañamiento Psicosocial, Article 19, Brigadas Internacionales de Paz (PBI), Centro de Justicia para la Paz y el Desarrollo (CEPAD), Centro de Derechos Humanos Fray Bartolomé de las Casas (Frayba), Centro Mexicano de Derecho Ambiental (CEMDA), Centro Derechos Humanos Fray Matías, Código DH, Comité Cerezo México, Comunicación e Información de la Mujer (CIMAC), Espacio OSC para la

protección de personas defensoras y periodistas (Espacio OSC)⁵¹, Fundación para la Justicia y el Estado Democrático de Derecho, Front Line Defenders, Organización Mundial Contra la Tortura (OMCT), Plataforma por la Paz y la Justicia en Guanajuato, Propuesta Cívica, Red Nacional de Organismos Civiles de Derechos Humanos «Todos los Derechos para Todas y Todos (Red Tdt), Servicios y Asesorías para la Paz (Serapaz), Scalabrinianas Misión con Migrantes y Refugiados (SMR). Programa de Asuntos Migratorios - Universidad Iberoamericana Ciudad de México, Espacio de Coordinación de Organizaciones Civiles sobre Derechos Económicos, Sociales, Culturales y Ambientales (Espacio DESCAs), Iniciativa Ciudadana y Desarrollo Social, INCIDE Social, A. C., Espacio Creativo Bajo Tierra (Museo del Agua) A.C., Foodfirst Information and Action Network (FIAN Internacional, sección México, Coalición de Organizaciones Mexicanas por el Derecho al Agua (COMDA), Alianza mexicana contra el fracking (AMCF), Red Nacional Escazú México, Escazú Ahora México, Asociación Ecológica Santo Tomás, A.C, Eco Maxei A.C, Veredas A.C, Trikini, Iniciativa Ecofeminaria:mujeres defensoras por Escazú, Engenera A.C, Comunicación y Educación Ambiental S.C., Oxfam México, Chantiik Taj Tajinkutik A.C., Asistencia Legal por los Derechos Humanos A.C. (ASILEGAL), Asociación por la Paz y los Derechos Humanos Taula per Mèxic

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⁵¹Las organizaciones que integran el Espacio OSC son: ARTICLE 19; Casa del Migrante Saltillo; Centro de Derechos Humanos de la Montaña Tlachinollan; Centro de Derechos Humanos Zeferino Ladrillero (CDHZL); Centro Mexicano de Derecho Ambiental (CEMDA); Centro Nacional de Comunicación Social (Cencos); Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, (CMDPDH); Comunicación e Información de la Mujer A.C. (CIMAC); Consorcio para el Diálogo Parlamentarios y la Equidad Oaxaca (Consorcio Oaxaca); Instituto de Derecho Ambiental (IDEA), Red Nacional de Organismos Civiles de Derechos Humanos Todos los Derechos para Todas y Todos (RedTDT); SMR: Scalabrinianas, Misión con Migrantes y Refugiados; Servicios y Asesoría para la Paz (Serapaz). El Espacio OSC está acompañado por Brigadas Internacionales de Paz (PBI) - Proyecto México.