



## **Submission to the UN Committee on Economic, Social and Cultural Rights in advance of the review of Mexico**

**By ARTICLE 19 Mexico and Central America**

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### **Introduction**

1. ARTICLE 19 welcomes this opportunity to contribute to the review of Mexico by the UN Committee on Economic, Social and Cultural Rights (“the Committee”).
2. Our submission responds to three of the listed issues put to Mexico by the Committee during the 60th pre-Sessional Working Group, covering:
  - Access to information and freedom of expression as an essential means for promoting participation in cultural and social life, in particular to guarantee the security of journalists and the free exercise of their profession (issue 31);
  - Accessibility and availability of sexual and reproductive health services and information for all women and adolescents (issue 25);
  - Accessibility, availability and quality of health services (issue 24).
3. In relation to each issue, ARTICLE 19 provides information that we believe is relevant to the Committee’s determination of Mexico’s compliance with its obligations under the International Covenant on Economic Social and Cultural Rights (ICESCR).

### **About ARTICLE 19**

4. ARTICLE 19 is an international human rights organisation in consultative status with the Economic and Social Council since 1991. Founded in 1987 and headquartered in London, it also has offices in New York and Washington DC, as well as regional offices in Brazil, Mexico, Senegal, Kenya, Tunisia, Bangladesh and Myanmar. ARTICLE 19 takes its name from the corresponding article of the Universal Declaration of Human Rights, and advocates for freedom of expression and access to information as a fundamental human right.
5. Campaña Global por la Libertad de Expresión A19, A.C. (ARTICLE 19 Mexico and Central America) was established under Mexican law in 2008 to promote and defend freedom of expression and the right to information, so that people in the region can express themselves, access information and enjoy freedom of the media. The three programmatic areas of focus are: the right to information program; the digital program, and the protection and defence program.

### **International standards on freedom of expression and the right to information**

6. This submission bases its analysis on international standards on the rights to freedom of expression and to access information, drawn from the Convention itself and the guidance the Committee has previously provided to States, as well as other sources of international human rights law.
7. The right to information has been recognised by the Committee as a necessary component of the rights to water, health, and education,<sup>i</sup> facilitating public participation in decision-making that affects their rights and/or empowering individuals and communities to realise their rights.
8. In relation to the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Committee (HR Committee) has recognised freedom of expression and access to information, as protected under Article 19(2), as “a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.”<sup>ii</sup>
9. The HR Committee specifies in relation to the right of access to information under Article 19(2) of the ICCPR the following:

*To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information. States parties should also enact the necessary procedures, whereby one may gain access to information, such as by means of freedom of information legislation. The procedures should provide for the timely processing of requests for information according to clear rules that are compatible with the Covenant. Fees for requests for information should not be such as to constitute an unreasonable impediment to access to information. Authorities should provide reasons for any refusal to provide access to information.*

*Arrangements should be put in place for appeals from refusals to provide access to information as well as in cases of failure to respond to requests.<sup>iii</sup>*

10. The importance of the right to information as emphasised in both covenants is reflected in the recently adopted 2030 Agenda for Sustainable Development (SDGs), in particular Goal 16,<sup>iv</sup> and its corresponding targets and indicators.<sup>v</sup>
11. Promoting peaceful and inclusive societies for sustainable development requires, *inter alia*, the need to “develop effective, accountable and transparent institutions at all levels”; “ensure responsive, inclusive, participatory and representative decision-making at all levels”, and to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.”<sup>vi</sup>
12. Achieving Goal 16 as part of sustainable development requires not only a legal and regulatory framework to ensure access to information,<sup>vii</sup> but also the holistic protection of freedom of expression more broadly. This necessarily includes ensuring the media’s freedom to report on development-related issues, and the corresponding right of the public to receive that information, together making a dual contribution to the realisation of economic, social and cultural rights. Killings and threats against journalists are not only a violation of the right to life and the right to freedom of expression, but also undermine economic, social and cultural rights. For this reason, the SDG indicators for measuring the implementation of Goal 16 use as one metric the number of journalists killed, kidnapped and forcibly disappeared, arbitrarily detained and tortured.<sup>viii</sup>
13. The UN Plan of Action on the safety of journalists and the issue of impunity, and UN Human Rights Council resolution 33/2 on the safety of journalists, similarly tie safety of journalists and impunity to the realisation of economic, social and cultural rights as guaranteed by the Covenant, and set out concrete actions that States should take in line with their human rights obligations.<sup>ix</sup>

#### **Constitutional safeguards for freedom of expression and the right to information**

14. Article I of Mexico’s Federal Constitution gives great prominence to international human rights law and international treaties signed and ratified by the state party.
15. For the purposes of the issues ARTICLE 19 responds to in this brief, it is worth noting that Mexico’s Federal Constitution protects both the right to freedom of expression and access to information in Articles VI and VII, and the positive correlation between these rights and the realisation of other rights has been recognised by national courts. At the same time, we recognise judicial decisions that have advanced the recognition of national standards in relation to economic, social and cultural rights in national courts.<sup>x</sup>

#### **Access to information and safety of journalists**

16. In issue 31, the Working Group made the following request to the government of Mexico in relation to promoting participation in cultural and social life (Article 12):

***Please provide information on measures taken to ensure access to information and freedom of expression as essential means for promoting participation in cultural and social life, in particular to guarantee the security of journalists and the free exercise of their profession. Please provide information on the progress of investigations into cases of murdered journalists in the last five years and their outcomes***

17. ARTICLE 19 has comments both on the legal framework for ensuring access to information, as well as information regarding the status of investigations into cases of murdered journalists over the last five years.

#### *Access to information legal and policy framework*

18. The Transparency and Access to Information Law in Mexico is considered to be world-leading in the legal protections it establishes,<sup>xi</sup> however, there remain serious shortcomings in the implementation of the law and the ability of individuals to exercise the rights that the law theoretically provides. This is particularly the case for individuals from marginalised communities and groups.
19. The National Transparency System (NTS) is a notable development, and has shown some positive results. Proactive transparency, whereby government bodies actively disseminate important information rather than wait for individuals to request it, has proven effective in increasing information available to individuals and ensuring broader input to decision-making on various problems the public face. However, at the local level, the principle of proactive transparency has not been fully embraced, and the guidance of the NTS has not been implemented.
20. It is notable that many public servants, especially at the local level, show open resistance to providing information in response to requests, as well as to the practice of proactive disclosure. They continue to act under the logic of opacity that reigned in Mexico until the so-called “era of transparency”.

21. Since this resistance is most apparent at local level, it further contributes to geographic disparities in the country when it comes to enjoyment of the right to access information, and consequently the enjoyment of economic, social and cultural rights more broadly.
22. In particular, rural and indigenous communities face many obstacles – structural and institutional – to access information of any nature, including information that is held by the government. The “digital divide”, discrimination based on social class, gender, capacities, ethnicity or area of residence, are determining factors over who is able to exercise the right of access to information. These inequalities are exacerbated by the NTS, which does not foresee the obstacles that differently situated individuals and communities face in exercising their rights. The NTS privileges those who are digitally connected, urban and educated, and relegates those without such privilege to a position where exercising the right of access to information is difficult. When responding to information requests, there is no technical assistance or mechanism provided to individuals seeking information who may need help in properly formulating such requests and correctly directing them to the appropriate bodies.
23. For example, the NTS focus on digital strategies for providing access to information relies on individuals having access to the internet and the communications media. The significant “digital divide” in Mexico therefore means that the rights of the poorest and most remotely located communities are neglected. Only 57.4% of the population has Internet access and 44.9% of families have a usable computer at home. In some communities Internet access is much lower: in Chiapas only 23.1% of families have a computer, and only 13.1% of families have computers with Internet access. There is a need to identify the obstacles these communities face, and to be more creative in developing strategies and policies that effectively address their needs.
24. According to the results of the *National Index of Institutions that Guarantee the Right to Access to Information* (INOGDAI),<sup>xii</sup> the exercise of the right of access to information is limited to certain sectors of the population. 82.3% of those requesting public information have postgraduate qualifications, whereas nationally, over 15 year olds have on average just 9.1 years of schooling, which equates to having completed little more than secondary school education.<sup>xiii</sup> These figures show that communities with lower levels of formal education do not exercise their right to access information. Based on ARTICLE 19’s programmatic experience within these communities, we consider that this is most likely to be because they are unaware of their right to access information or how to exercise it. This is demonstrative of the government’s failure to effectively promote this awareness among the population.
25. ARTICLE 19 considers that without an effectively implemented legal framework for the right of access to information for all people in the country, individuals are not able to enjoy their rights under the Covenant. This includes the right to take part in cultural life (Article 15), as identified in Issue 31, but also other important rights, such as the right to health (Article 12), where information is essential to empowering individuals to secure their enjoyment.

#### **Recommendations on access to information:**

- Invest more resources to increase awareness of individuals’ access to information rights, while also developing the capacity of guarantor bodies at the national and local levels to be more creative in identifying various populations’ information needs, and more proactive in disclosing important information in targeted ways to populations at needs, as well as making guarantor bodies more responsive to individuals’ requests. In particular:
  - Train public servants at all levels of government to correctly apply the regulatory framework of transparency;
  - Develop and roll out educational programs for the promotion of the right of access to information, coordinated by the guarantoring bodies;
  - Develop assistance mechanisms to assist individuals to make information requests;
  - Ensure the right of access to information is promoted in targeted and appropriate ways to marginalised groups, in particular for indigenous peoples and rural populations, and in particular women in those communities;
  - Employ alternative mechanisms to identify information needs of the whole population, with targeted strategies to reach individuals in marginalised and remote communities, considering the barriers posed by the “digital divide”, and to ensure the proactive disclosure of this information is in accessible formats;
  - Include within the national curriculum on civics education the promotion of the right of access to information.

#### *Safety of journalists and the issue of impunity*

26. ARTICLE 19 is part of *Espacio OSC*, a coalition of more than twenty Mexican civil society organisations that have denounced the pervasive impunity for attacks against journalists and human rights defenders in Mexico, as it sustains a cycle of violence against this population and denies the entire country access to information on important issues, including those relating to the enjoyment of rights guaranteed by the Covenant.<sup>xiv</sup>
27. The Federal Government has created two mechanisms with the purpose of advancing the safety of journalists and addressing the issue of impunity. The Special Prosecutor for Crimes Against Freedom of Expression (FEADLE, by its Spanish acronym) was established in 2010 at the Office of the Attorney General of the Republic (PGR). The Federal Mechanism for the Protection of Journalists and Human Rights Defenders (the “Protection Mechanism”) was

established in 2012. However, the ongoing prevalence of killings and attacks against journalists, as well as impunity for those cases, demonstrates that these reactive institutional responses have been insufficient and require urgent remedy.

28. From the year 2000 to date, ARTICLE 19 has documented a total of 109 murders of persons thought to have been targeted because of their journalistic activity; 41 of these killings have been perpetrated since 2012, the five year period under the Committee's present consideration.<sup>xv</sup> According to the UNESCO Director General's 2016 report into the safety of journalists, of 58 recorded killings between 2006 – 2015, no cases have been resolved, with the Government of Mexico admitting that they have not resolved 51 of those (88%) and failing to provide information on 7 (12%).<sup>xvi</sup>
29. FEADLE was established in 2010 to investigate cases of attacks against journalists, in accordance with Article 73 of the Federal Constitution, as well as the National Code of Criminal Procedure. Between July 2010 and November 2015, it carried out only 31 homicide investigations. According to FEADLE's own figures, of the 799 investigations conducted since 2010, only three have led to an individual being prosecuted and sentenced. This translates to a rate of impunity for the cases taken on by FEADLE of more than 99%.
30. Factors contributing to continued impunity in the majority of these cases are not limited to the effectiveness of FEADLE's office. A variety of factors, beyond the limitations of FEADLE's office, are relevant, including: the failure of public officials to condemn attacks, and what appear to be purposeful strategies by public officials to discredit victims' journalistic work; inadequate investigative standards and protocols, which do not comply with the guidance set out in the Minnesota protocol on the investigation of potentially unlawful death (the Minnesota Protocol);<sup>xvii</sup> and the failure of law enforcement to pursue, and exhaust, relevant lines of inquiry (in particular, those relevant to the victims' journalistic work); and violations of due process guarantees.
31. Human rights organisations, and the victims and survivors they work with to end impunity, face numerous obstacles. A lack of open justice at the prosecutorial stage, and a lack of disclosure of information at the investigative stages, makes monitoring progress on investigations and prosecutions very difficult. The absence of accurate and timely information in relation to these cases also constitutes a violation of the right to truth for victims and survivors and their families.
32. The government has too often reacted to attacks on journalists by discrediting their work and stigmatising them, which legitimises such violence. Although there have been some official public acts involving top-level authorities addressing violence against journalists,<sup>xviii</sup> these have framed "organised crime" as the principal perpetrators, failing to acknowledge that in many cases public officials are either implicated as perpetrators or are closely associated with them. More than half of the 426 assaults against journalists documented by ARTICLE 19 in 2016 involved state agents as the alleged perpetrators, including two extrajudicial executions<sup>xix</sup>.
33. ARTICLE 19 has issued formal information requests to the Protection Mechanism. The responses contained official Ministry of Interior documents with previously undisclosed information, which contradicts official public explanations on the government's response to concerns regarding the safety of journalists. These official documents,<sup>xx</sup> reveal that during 2016, both members of the police and the military were implicated in attacks on journalists in receipt of protective measures from the abovementioned protection mechanism.
34. Ongoing attacks against journalists, including killings, illustrate the shortcomings of the Protection Mechanism. However, assessing how it could be improved has proven difficult. The Mexican Government has not been transparent with the risk analysis methodologies used by the Protection Mechanism, and has not proactively disclosed disaggregated information for statistical analysis by external stakeholders.<sup>xxi</sup> This information is essential for the proper scrutiny of the Protection Mechanism's effectiveness, and additionally facilitate informed public participation in policy development to enhance the Protection Mechanism and further reduce the risk and recurrence of violence against journalists.
35. ARTICLE 19 highlights in this submission four paradigmatic cases of impunity for killings of journalists in the period under the Committee's consideration (2012 – 2015) which are illustrative of broader trends. In addition, we provide one recent case example from 2017 to illustrate ongoing shortcomings in approaches to investigations and the experiences of victims' families in seeking the truth of what happened. The insights provided through these individual cases make very clear the inadequacy of the mechanisms so far instituted by the Government of Mexico to ensure the safety of journalists.

#### *Case 1: Regina Martínez*

36. On 28 April 2012, Regina Martínez, a correspondent for *Proceso* magazine covering human rights and politics in the State of Veracruz, was murdered. Though one person was eventually convicted for this crime, ARTICLE 19 considers that serious shortcomings in the investigation, including its lack of a scientific basis, and a wholly inadequate prosecution, raise concerns regarding the safety of this conviction and suggest that the actual perpetrators are still at large.



37. The investigation and subsequent prosecution was marked by irregularities. In the immediate aftermath of the attack, the State Prosecutor of Veracruz, who was in charge) Gradually, move towards the translation of transparency obligations into indigenous languages or identify information of public interest of indigenous populations and publish in language of the investigation, discredited Regina Martínez and her work during press conferences. In so doing, the Prosecutor seemingly intended to divert attention away from Regina Martínez's journalism and the identification of the true perpetrators, by instead directing the media to salacious and sexist rumours focused on the victim's alleged behaviour.
38. The version of events promoted by public officials maintained that the motive for the crime was robbery, with characteristics of a "crime of passion". On the basis of patently gendered stereotypes and startlingly shallow logic, government experts relied on the existence of new cosmetics and perfumes in Martínez's home as conclusive proof that she was in a new relationship with an alleged co-perpetrator of the individual who was prosecuted. The co-perpetrator's identity and whereabouts remain unknown. No serious attempt was made to consider whether Martínez had been targeted due to her work as a journalist, while the prosecution of one alleged co-perpetrator was successfully pursued on the flimsiest of evidence. This case demonstrates how women journalists' gender is exploited by authorities, who focus on their vulnerability 'as women', rather than on the risks encountered due to their work, in order to justify, or conceal, their failure to secure justice.
39. ARTICLE 19 notes that Beatriz Rivera Hernández, the judge who sentenced one of the alleged co-perpetrators, was promoted and now serves as a judge of the Superior Court of Justice of the State of Veracruz.

*Case 2: Gregorio Jiménez de la Cruz*

40. Gregorio Jiménez de la Cruz, reporter for *Notisur* and *El Liberal del Sur*, was abducted on 5 February 2014 in the municipality of Coatzacoalcos, Veracruz, and subsequently found murdered. Again, whilst a conviction was secured, deficiencies in the investigation and prosecution indicate that justice was not done.
41. Jiménez reported on the police and, in the days before his death, he covered criminal acts in the Villa Allende area, including kidnappings. According to various testimonies, members of organised criminal gangs had threatened media personnel a few months earlier, prohibiting them from speaking about these crimes. Jiménez was therefore clearly identifiable as a person at risk and in need of protection.
42. According to various sources, Jiménez was intercepted and abducted by armed commandos who broke into his home on the morning of 5 February 2014, when he returned home after dropping off his children at school. The assailants moved in a grey pickup truck without number plates.<sup>xxii</sup>
43. On Tuesday, February 11, 2014, the journalist's body was found in a clandestine grave in the municipality of Las Choapas, Veracruz, according to information given at a press conference by Felipe Amadeo Flores Espinosa, the State Attorney for Justice. According to the authorities, who based their conclusions on a statement made by the alleged perpetrators,<sup>xxiii</sup> the motive for the crime was "personal differences" with another journalist. They alleged that a Mrs. María Teresa "N" was the mastermind behind the killing and hired an assassin "after a series of personal problems with the journalist".<sup>xxiv</sup> However, the individual from whom this evidence was extracted subsequently alleged that this declaration was coerced, and he plead not guilty and requested his statement be obtained in writing.<sup>xxv</sup>
44. Again, this case illustrates how instead of systematically and robustly investigating, at the earliest stages, whether a potential motivation for an attack on a journalist was their journalistic work, more outlandish, unsubstantiated, lines of inquiry are pursued.<sup>xxvi</sup>

*Case 3: José Moisés Sánchez Cerezo*

45. José Moisés Sánchez Cerezo was kidnapped from his home on 2 January 2015 in Medellín de Bravo, Veracruz, and subsequently found murdered. To date, the investigations have not secured access to truth regarding what happened to him between his disappearance and his murder. The investigation into this crime has similarly been plagued with omissions, irregularities and inefficiencies on the part of the state and federal authorities. To date, neither access to justice, nor to remedies, has been secured for the journalist and his family.
46. Moisés Sánchez owned the newspaper *La Unión*, and used a website and social networks to disseminate his own journalism. His reporting on issues related to organised crime, insecurity, corruption of local authorities, and the lack or deficiency of public services were one of the few independent sources of local information for the inhabitants of Medellín. From the point of his kidnapping, the rapid response protocols for disappeared people were not effectively activated. From the time when Sánchez's enforced disappearance was made public, the former Governor of Veracruz, Javier Duarte de Ochoa, publicly discredited his work, claiming that he was not a journalist, but a taxi driver.<sup>xxvii</sup>
47. After Sánchez's body was found, the judicial investigation into the murder proceeded on flimsy evidence, with prosecutors basing their case primarily on the arrest and confession of one alleged perpetrator, despite evidence of participation of more than one individual and the likelihood that a mastermind was likely behind the murder.

48. FEADLE has been negligent in taking over and investigating this case. Formally, FEADLE was requested on 8 January 2015 to exercise its legal powers, established in the Article 73 of the Federal Constitution, as well as in the National Code of Criminal Procedure, to take over the investigation. However, for 20 months, two parallel investigations were carried out, one by the State Prosecutor's Office and another by the Federal Prosecutor's Office. It was not until 2016 that the Fifth District Court of Amparo in Criminal Matters in Mexico City granted a judicial decision in favour of the journalist's family, obliging FEADLE to investigate.<sup>xxviii</sup>
49. This process of judicial appeal was pursued by the victims with the assistance of ARTICLE 19 to force FEADLE to comply with its mandate and investigate the facts of the crime in relation to Sánchez's journalistic activity. ARTICLE 19 is therefore listed as an auxiliary of the Public Prosecutor's office, and is therefore in a unique position to identify the following problems in the investigation:
- Both the FEADLE investigation, and the previous investigation by the Veracruz Public Prosecutor's Office investigation, have failed to identify the perpetrators of Sánchez's murder;
  - FEADLE has focused its investigation on the assumption that the murder was committed by an organised criminal group and has failed to examine the possible involvement of public officials, notwithstanding the extensive reporting by Sánchez into the corruption of public officials in the months prior to his death, and the known connections between public officials and organised crime in the municipality of Medellín and the State of Veracruz more broadly;
  - An inordinately large number of telephone records were requested by FEADLE in the course of the investigation, and there has been no proper technical analysis of this information, in part due to a lack of technical capacity.
50. More than two years after the enforced disappearance and murder of journalist Moisés Sánchez, impunity persists. There has been no progress in the investigation to identify the responsible persons and ensure accountability for this crime.

#### *Case 4: Rubén Espinosa*

51. Rubén Espinosa, a photo journalist, and collaborator of the weekly *Proceso* in Veracruz, and of *AVC Noticias* and *Cuartoscuro*, was murdered along with activist and cultural promoter Nadia Vera, Mile Virginia Martín, Yesenia Quiroz and Alejandra Negrete, on 31 July 2015 in an apartment in Colonia Narvarte, Mexico City. Of the four women murdered alongside Espinosa, two showed signs that they were victims of sexual violence. The case is notable as Mexico City had previously been considered a relatively safe location in the country for journalists seeking protection from violence.
52. On 10 June 2015, Rubén Espinosa had noticed a person outside his house in Xalapa, and was later followed by two separate persons who photographed him and made aggressive gestures towards him. He left the city of Veracruz on 15 June 2015 for his safety and after speaking with ARTICLE 19.
53. After the crime, statements given by public officials in response to the murder primarily sought to discredit the work of Rubén Espinoza as a journalist and Nadia Vera as an activist, in particular in relation to their criticism of the government of then Governor Javier Duarte.
54. Images of the victims' bodies, as well as confidential parts of the file of preliminary investigation, were leaked to the media. Only the personnel of the Attorney General of the City of Mexico had access to these materials. The timing and content of the leaks seemed engineered to smear the reputations of the deceased, with sensationalist suggestions of drug use and prostitution.<sup>xxix</sup> This diverted the public's attention from the issues that should have mattered most, and which should also have been central to the investigation: the work of the victims as a journalist and human rights defender respectively. As in Veracruz, the clear intent on the part of the authorities, rather than to end impunity, has been to manipulate public discourse.<sup>xxx</sup>
55. On 21 June 2017, the Human Rights Commission of the Federal District (CDHDF), the local ombudsman's office for human rights violations for Mexico City, issued recommendation 4/2017 to the Office of the Attorney General of Mexico City and its Superior Court of Justice for the violations of the rights of victims of this case. Though this complaint is ongoing and the recommendation is yet to be fulfilled by the government, the most prominent alleged violations are:
- The right to due process and due diligence, in relation to the right to defend human rights and the right to freedom of expression;
  - The right to truth and the right of access to justice;
  - The right to personal integrity in relationship with the right to memory of deceased persons and the right to honor and dignity; and,
  - In relation to murder of the four women, and the signs of sexual violence against two of them, their right to a life free of violence.
56. Furthermore, access to justice and the right to information relating to the investigations has been blocked by the intentional actions of the ministerial and judicial authorities.

#### *Case 5: Salvador Adame*

57. Salvador Adame, director of *Chanel 6tv*, a local outlet of Michoacán State, was abducted on 18 May 2017. According to witnesses, he was abducted by several unidentified individuals with heavily armed weaponry in Nueva Italia, Michoacán State.<sup>xxxii</sup> Adame became the 24<sup>th</sup> journalist forcibly disappeared in Mexico and documented by ARTICLE 19 since 2003;<sup>xxxiii</sup> though the authorities have subsequently claimed that his body has been found, this is contested.
58. This was not the first attack against Salvador Adame as a journalist. Together with journalist and TV channel owner Frida Urtiz, and following their coverage of a protest in Michoacán, he was previously arbitrarily detained for several hours, his equipment confiscated, and beaten by the local State Police. There was never any justice for these crimes.<sup>xxxiii</sup> After this incident, Adame informed ARTICLE 19 that his coverage was intended to be critical of the government on political issues; he investigated corruption and local authorities' poor performance. Due to his journalistic work, Adame also faced many smear campaigns against him in social media, including fake publications released in his name to stigmatise him and discredit his journalistic work.
59. In 2017, following the first 72 hours since Adame's enforced disappearance and the judicial denouncement of the situation by the Adame family, members of the Adame family were harassed by local authorities with the intention of isolating them from receiving external legal assistance. Furthermore, the authorities tried to portray the case publicly as a kidnapping for ransom rather than as an enforced disappearance of a journalist for their reporting. The Adame family's precarious financial situation made clear that the disappearance was not economically motivated, however, presenting it as a kidnapping for ransom was less controversial for authorities.
60. During the subsequent investigation, personnel from the Public Prosecutors' Office of Michoacán State reportedly advised the relatives of the victim to not speak with media in order to allow the police to conduct their investigations.<sup>xxxiv</sup> Counselling services provided by the government were also seemingly oriented towards the aim of controlling publicity around the case.<sup>xxxv</sup>
61. On 21 June 2017, a suspect was detained, though proper investigations or due diligence standards were not followed. Again, the main lines of investigations were related to Salvador's alleged personal relationships, rather than connected to his work as a journalist. This was notwithstanding that during the abduction his personal portfolio containing essential journalistic work was taken.
62. According to the authorities, Adame was allegedly in a dispute with organised crime members over an affair with a woman who, though unidentified, the authorities nevertheless assert is a gang member. The family deny this account, and have also repeatedly been refused access to information on the investigation as it has progressed, learning only of the discovery of Adame's body through media reports on 27 June.
63. On 29 June 2017, the Adame family held a press conference to demand an independent forensic analysis of the recovered body, including DNA examinations to verify the authorities' claimed identification. It is well known that in several cases of disappearances and grave human rights violations, the Mexican government has not followed the chain of custody, delivered incorrect information, or used spurious analyses to either purposefully or negligently misidentify individuals' remains.<sup>xxxvi</sup> No independent forensic analysis has yet been announced.
64. Harassment and surveillance against the Adame family has been reported to ARTICLE 19 that was ongoing at the time of making this submission. For reasons of security, we are not able to provide further information publicly on these facts but can provide further information privately.

#### **Recommendations on the safety of journalists and the issue of impunity:**

65. ARTICLE 19 has made extensive recommendations to the Government of Mexico in relation to addressing the safety of journalists and ending impunity, and provides a summary of key recommendations here for the consideration of the Committee.

#### **To the Executive Branch:**

- Submit, in consultation with civil society, a clear plan with specific goals and indicators to implement the "Actions for Freedom of Expression and for the Protection of Journalists and Defenders" announced by the President on 17 May 2017, targeted at ending impunity through comprehensive implementation of effective prevention and protection mechanisms;
- Establish, through the Ministry of Foreign Affairs, an Advisory Council against Impunity, as recommended by the UN High Commissioner for Human Rights, composed of experts to recommend reforms and strategies to end impunity, and in particular to address the shortcomings of the Special Prosecutor's Office for Crimes Against Freedom of Expression (FEADLE);
- Institute a national awareness and recognition campaign on the work of journalists and human rights defenders in Mexico, from the level of the President and through all respective agencies and at all levels of government, to ensure any attacks on journalists are swiftly condemned and the positive contributions of journalists to society are acknowledged;

- Publish, in an open data format and in collaboration with relevant State and Federal agencies, statistics on current investigations, including disaggregated data, about judicial decisions related to investigations regarding condemnatory and absolutive decisions on cases of crimes against journalists;
- Publicly acknowledge the problem of public officials' involvement with threats to the safety of journalists, including through their collusion with organised criminal gangs, and commit to ensure protection from such attacks and to work with relevant mechanisms to ensure accountability where they occur.

**To FEADLE:**

- Initiate *ex officio* criminal investigations into all crimes against journalists, in accordance with Article 73 of the Federal Constitution, as well as in the National Code of Criminal Procedure;

**To State and Federal Prosecutors' Offices:**

- Investigate cases in a scientific manner and with due diligence, ensuring that both intellectual and material perpetrators (i.e. both "foot soldiers" and masterminds behind attacks) are brought to justice, in order to provide guarantees of non-repetition;
- Proactive and publicly disclose updates on ongoing investigations, to ensure that the public and families remain informed of their status;
- Provide training to prosecutors assigned to crimes against freedom of expression in order to guarantee technical capacities to investigate crimes in relation to journalistic activities, as well as increase awareness of their duty to avoid any misrepresentation of confidential information to the public with the purpose of stigmatising journalists, re-victimising them or their families;
- Ensure transparent and consistent communication between authorities and victims and/or families of victims regarding the status of the investigation and access to information;

**To the Federal Mechanism for the Protection of Journalists and Human Rights Defenders and the Ministry of the Interior (SEGOB):**

- Develop comprehensive protection measures, set out clearly in accessible protocols, that allow individually tailored responses to journalists and human rights defenders facing threats to their safety, taking into account each individual's personal circumstances and preferences;
- Ensure proactive disclosure of the protection mechanisms' methodologies for analysing risk, and the criteria used in determining whether to assign or withdraw protection;
- Publish public information on the status of the implementation of protection measures, driven by the Protection Mechanism with the Human Rights Defense Unit, and disseminate it among relevant local and state authorities as well as beneficiaries of the mechanism and civil society.

**Accessibility and availability of sexual and reproductive health services and information for all women and adolescents**

66. In issue 25, the Working Group made the following request to the Government of Mexico in relation to its compliance with the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Article 12):

***Please report on the steps taken by the State party to ensure the accessibility and availability of sexual and reproductive health services and information for all women and adolescents in all states. Please provide information on the steps taken by the State party to investigate complaints of mistreatment and medical negligence affecting women in the course of the provision of obstetric health services.***

67. ARTICLE 19 has information pertaining to the first part of this issue, having worked with women in communities to secure information relating to sexual and reproductive health services.

**Case Study: North Zone Chiapas**

68. In June 2015, women from different communities in the North Zone of the State of Chiapas formally requested information from the government agency 'Holistic Development of the Family' (DIF by its Spanish acronym) about the results of a July 2014 mammography campaign which had not been made public to the community. According to the "Obstetric Violence" research carried out by the Committee of the Center for Studies on the Advancement of Women and Gender Equality (Coceameg),<sup>xxxvii</sup> in Mexico there has been an increase in complaints about inhuman treatment and obstetric violence, mainly affecting indigenous women.

69. Responding to this information request (Reference HAMC/UAIPM/092/2015) in June 2015, the Holistic Development of the Family (DIF), affirms that they did not have this information because the Ministry of Health of Chiapas was the responsible for safekeeping and processing the results: "[...] the information requested concerning the results of the mammography campaign that was carried out as part of the community campaign "DIF in your community", has been requested from the Ministry of Health of Chiapas twice in the last year without any response. Because it is a highly sensitive issue, we have requested the information again in this year."



70. A follow-up letter sent by the community of Lázaro Cárdenas in 2015 did not prompt the information to be released. This constitutes an ongoing violation of the right to information, and also breaches data protection rights (derived from the right to privacy), given that individuals should be granted access to health information that is personal to them. The case also exemplifies how failure to provide information potentially contributes to violations of Article 12 of the Covenant, since those who received mammograms and may require follow-up healthcare remain in the dark regarding their health.
71. It is a priority for women living in indigenous and rural contexts to have access to more information on their sexual and reproductive rights and on the various manifestations of obstetric violence, so that they have the necessary resources to demand proper attention and to be informed about the procedures and treatments that will be performed on them.

#### **Recommendations on accessibility and availability of sexual and reproductive health information:**

- Ensure the proactive disclosure of information relating to sexual and reproductive health, including at the Federal and State level, in an accessible format and with culturally appropriate content, in particular for indigenous communities;
- Ensure that specific requests for information relating to sexual and reproductive health information are provided in a timely manner, with respect to individuals' rights of access to information and principles of data protection to ensure individuals' right to privacy, removing barriers that individuals and groups from indigenous communities may face in this regard.

#### **Accessibility, availability and quality of health services**

72. In issue 24, the Working Group made the following request to the government of Mexico in relation to its compliance with the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Article 12):

***Please provide information, including statistical data, on how measures taken have helped ensure the accessibility, availability and quality of health services in the State party, especially in rural and remote areas and for the most disadvantaged and marginalized groups, including persons on a low income and older persons.***

73. ARTICLE 19, through its Mexico and Central America office, works to strengthen the role and performance of guarantor bodies (i.e. public bodies under an obligation to comply with requests for access to information) to promote transparency and the right of access to information. We also work with Mexican civil society organisations and human rights defenders to equip them with the necessary tools to make use of their right to information, often to enable them to demand other rights.
74. Examples of this work include our projects working with indigenous communities from the tropical forests of North Chiapas and swamp areas of Tabasco. In the context of empowering individuals to employ access to information tools, we have documented numerous examples of corruption that severely hamper the realisation of the right to health, in particular for disadvantaged and marginalised groups in rural and remote areas, and especially for women.

#### ***Case 1: Lázaro Cárdenas-Chiapas***

75. In the community of Lázaro Cárdenas, municipality of Palenque, Chiapas, access to health services has been a priority for the local population. During a workshop for women on the right to information, it was identified that the health centre lacked a general physician: there was only one nurse offering services and a lack of medications.
76. Lázaro Cárdenas Community Health Centre was supposed to be offering health services to six communities with a total population of 1275 inhabitants. However, it was poorly equipped, with a lack of basic medical supplies such as vaccines, antibiotics and other general and more specialised medicines.
77. In 2015, after ARTICLE 19 and partners held right to information workshops in the community, an information request was made to the local Secretariat of Health regarding the resources allocated to the population. In the response given by the government, the community discovered that a general practitioner had been assigned to the health centre receiving a monthly salary of 28,105.00 MXN, and a monthly budget for resources and medications of 15,778.00 MXN, working on a Monday to Friday schedule from 8:00 a.m. to 3:30 p.m. This information revealed that allocated resources weren't reaching their intended beneficiaries.
78. The information provided led to the communities of Lázaro Cárdenas and Nuevo Egipto mobilising to take action: they submitted complaints, on the basis of their rights in law, demanding the proper budgetary designation to effectively provide healthcare services to the communities. These were sent to the local Secretariat of Health, the mayor of Palenque, the Commission of Human Rights, and the VI Selva Health Care Jurisdiction. These authorities responded by assigning a general practitioner to the health centre at the end of September 2015, and the Centre began providing regular health care services to all the communities.

79. Consequently, the Lázaro Cárdenas community created a committee that supervises the health centre in order to supervise the role of the physician and the Ministry of Health; this initiative will strengthen the defense of other human rights.

*Case 2: San Miguel Canxanil-Chiapas*

80. The main problem facing the San Miguel Canxanil-Chiapas community is access to adequate healthcare. The response to an information request made by ARTICLE 19, regarding the budget allocated in 2015 and the beginning of 2016 for community visits of a doctor from El Clavo Health Centre, revealed a budget allocated to cover a monthly visit by a doctor to the community. However, no such visit had occurred in the previous ten years, violating the right to health of those in the community.

81. The community is trying to promote an autonomous health service and considers that to demand health services from the government is contrary to their objectives as a community. Nevertheless, following this information request, groups of women from similarly situated communities have used the example to demand resources towards healthcare in their communities. Unfortunately, the response of the authority has not been as favourable as in the case of the the Lázaro Cárdenas Health Centre.

82. Barriers to accessing information for persons in rural and remote areas is a particular problem in ensuring that persons are able to assert their rights to access quality health services in Mexico. The case studies above demonstrate that by equipping communities with the skills to make use of access to information legislation, obstacles to the enjoyment of the right to health can be identified and in some cases remedied.

83. However, the government engages in insufficient outreach to marginalised communities to ensure that they know about their right to information and how to exercise this right.

**Recommendations on accessibility, availability and quality of health services:**

84. Ensure, through targeted outreach campaigns and the provision of information and services in appropriate languages and formats, that all individuals, in particular those in marginalised communities and rural areas, are aware of their legal rights to access to information from government bodies that are responsible for providing essential services to them in furtherance of their economic, social and cultural rights;

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<sup>i</sup> See: General Comment No. 15 on the right to water (2002); General Comment No. 14 on the right to the highest attainable standard of health (2000); General Comment No.13 on the right to education (1999).

<sup>ii</sup> General Comment No. 34, HR Committee, CCPR/C/GC/34, 12 September 2011; at para. 3

<sup>iii</sup> *Ibid.* At para. 19.

<sup>iv</sup> General Assembly resolution 70/1 on "[Transforming our world: the 2030 Agenda for Sustainable Development](#)", A/RES/70/1, 25 September 2015

<sup>v</sup> The global indicator framework, developed by the Inter-Agency and Expert Group on SDG Indicators, agreed to at the 47<sup>th</sup> session of the UN Statistical Commission, March 2016

<sup>vi</sup> Target 16.6; Target 16.7; Target 16.10.

<sup>vii</sup> Indicator 16.10.2

<sup>viii</sup> Indicator 16.10.1

<sup>ix</sup> UN Human Rights Council Resolution 33/2 on the safety of journalists, A/HRC/RES/33/2, 6 October 2016; preambular paragraph 10.

<sup>x</sup> Tribunal Colegiado de Circuito, Décima Época, Tesis I.1o.A.99 A (10a.) April 2015; Décima Época, Tesis 2a. XXIX/2016 (10a.); Primer Tribunal Colegiado en Materia Administrativa del Primer Circuito, Amparo en revisión 378/2104, January 2015; Tribunal Colegiado de Circuito, Décima Época, Tesis Aislada, I.4o.A.86 A (10a.), October 2013; Cuarto Tribunal Colegiado en Materia Administrativa del Primer Circuito, Amparo en revisión 19/2013, May 2013.

<sup>xi</sup> This ranking is carried out by the international non-governmental organisations Centre for Law and Democracy and Access Info Europe. The Mexican legislation scored 136 points out of an available 150. See, Milenio "Ley de transparencia, la mejor de 112 países", 2 October 2016; [available](#) (in Spanish).

<sup>xii</sup> [Available](#) (in Spanish).

<sup>xiii</sup> INEGI, Encuesta Intercensal 2015; [available](#) (in Spanish).

<sup>xiv</sup> ARTICLE 19 Office for Mexico and Central America, "Acciones anunciadas por gobierno mexicano para proteger a periodistas deben traducirse en políticas públicas efectivas", 17 March 2017, [available](#) (in Spanish).

<sup>xv</sup> ARTICLE 19 Office for Mexico and Central America, "Periodistas asesinados en México", 9 August 2017; [available](#) (in Spanish).

<sup>xvi</sup> [UNESCO Director General Report on the Safety of Journalists and the Danger of Impunity](#), 17 November 2016.

<sup>xvii</sup> OHCHR, [The Minnesota Protocol on the investigation of potentially unlawful death](#), 2016.

<sup>xviii</sup> See, for example, by Presidential Speech of Enrique Peña Nieto, "Actions to promote freedom of expression and the protection of journalists and human rights defenders", 17 May 2017.

<sup>xix</sup> ARTICLE 19 Office for Mexico and Central America, "Libertades en Resistencia", Informe anual de actividades 2016, available at: <https://articulo19.org/wp-content/uploads/2017/04/Libertades-en-Resistencia-Informe-2016-A19.pdf>

<sup>xx</sup> Mexican Ministry of the Interior Oficio USPA/004/2017.

<sup>xxi</sup> Federal Government of Mexico, "Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas", 21 August 2017; [available](#) (in Spanish).

- xxii ARTICLE 19 Office for Mexico and Central America, "#Alerta: Privan de la libertad a periodista en Veracruz", 5 February 2014; [available](#) (in Spanish).
- xxiii Since ARTICLE 19 does not know the procedural status of the file in relation to the probable perpetrators and in order not to violate the principle of presumption of innocence, it was decided not to publish the identification data of the suspects involved with the crime committed against Gregorio Jiménez.
- xxiv Animal Político, "Encuentran muerto al periodista veracruzano Gregorio Jimenez", 11 February 2014; [available](#) (in Spanish); See, also, a document in which part of the Press Conference made by the then State Prosecutor of the State of Veracruz is reproduced: [available](#) (in Spanish).
- xxv Animal Político "Detenidos acusan que fueron obligados a implicarse en asesinato de Gregorio Jiménez", 14 February 2014; [available](#) (in Spanish).
- xxvi Document in which part of the Press Conference made by the then State Prosecutor of the State of Veracruz is reproduced; [available](#) (in Spanish); Animal Político "Detenidos acusan que fueron obligados a implicarse en asesinato de Gregorio Jiménez", 14 February 2014; [available](#) (in Spanish).
- xxvii Proceso "Subestima Duarte labor de reportero levantado: "Es conductor de taxi y activista vecinal, dice", 3 January 2015; [available](#) (in Spanish).
- xxviii ARTICLE 19 Office for Mexico and Central America, "Periodistas asesinados en México", 25 September 2016; [available](#) (in Spanish).
- xxix Mundo Ejecutivo Express, "Fui por sexo pagado: detenido por caso Narvarte", 21 August 2015; [available](#) (in Spanish).
- xxx ARTICLE 19 Office for Mexico and Central America, "Autoridades obligadas a localizar con vida a Salvador Adame, periodista desaparecido en Michoacán", 26 May 2017; [available](#) (in Spanish).
- xxxi ARTICLE 19 Office for Mexico and Central America, "Periodistas Desaparecidos en México", 26 May 2017; [available](#) (in Spanish).
- xxxii ARTICLE 19 Office for Mexico and Central America, "Periodistas son golpeados y detenidos arbitrariamente por policías de Michoacán durante una protesta", 9 March 2016; [available](#) (in Spanish).
- xxxiii ARTICLE 19 Office for Mexico and Central America, "Gobierno de Michoacán no da certeza en la investigación de la desaparición de Salvador Adame y revictimiza a sus familiares", 27 June 2017; [available](#) (in Spanish).
- xxxiv ARTICLE 19 Office for Mexico and Central America, "[Gobierno de Michoacán no da certeza en la investigación de la desaparición de Salvador Adame y revictimiza a sus familiares](#)", 27 June 2017; available at: <https://articulo19.org/gobierno-de-michoacan-no-da-certeza-en-la-investigacion-de-la-desaparicion-de-salvador-adame-y-revictimiza-a-sus-familiares/>
- xxxv *Idem.*
- xxxvi Interdisciplinary Group of Independent Experts, IACHR, "Ayotzinapa Report II", Ch. 6; [available](#). See, also E-Veracruz, "Padres exigen juzgar a Duarte por desapariciones ante corte internacional", 16 April 2017, [available](#) (in Spanish).
- xxxvii Cámara de Diputados, LXIII Legislatura "México ocupa primeros lugares en violencia obstétrica", Boletín N° 2575; [available](#).