



**Woodrow Wilson  
International  
Center  
for Scholars**  
*Mexico Institute*



# **Protecting Press Freedom in an Environment of Violence and Impunity**

**Dolia Estévez**

Working Paper Series on U.S.-Mexico Security Cooperation

May 2010

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## **Brief Project Description**

This Working Paper is the product of a joint project on U.S.-Mexico Security Cooperation coordinated by the Mexico Institute at the Woodrow Wilson Center and the Trans-Border Institute at the University of San Diego. As part of the project, a number of research papers have been commissioned that provide background on organized crime in Mexico, the United States, and Central America, and analyze specific challenges for cooperation between the United States and Mexico, including efforts to address the consumption of narcotics, money laundering, arms trafficking, intelligence sharing, police strengthening, judicial reform, and the protection of journalists. This paper is being released in a preliminary form to inform the public about key issues in the public and policy debate about the best way to confront drug trafficking and organized crime. Together the commissioned papers will form the basis of an edited volume to be released later in 2010. All papers, along with other background information and analysis, can be accessed online at the web pages of either the [Mexico Institute](#) or the [Trans-Border Institute](#) and are copyrighted to the author.

The project was made possible by a generous grant from the Smith Richardson Foundation. The views of the author do not represent an official position of the Woodrow Wilson Center or of the University of San Diego. For questions related to the project, for media inquiries, or if you would like to contact the author please contact the project coordinator, Eric L. Olson, at 202-691-4336 or via email at [ericolson58@msn.com](mailto:ericolson58@msn.com).

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## **Protecting Press Freedom in an Environment of Violence and Impunity**

Dolia Estévez

This chapter reviews the situation of violence against the press in Mexico and what each of the different actors involved is doing, or not doing, to address a problem that in some Mexican states has reached alarming crisis levels. The essay examines the political willingness and steps taken by the federal and legislative branches of government to protect freedom of expression, through the exercise of journalism. It discusses measures taken by reporters, editors, media companies and civil society, to defend that right. Special attention is given to explain how the failure of federal and local authorities to effectively prosecute crimes against reporters has resulted in almost total impunity. Most crimes against reporters remain unsolved, authorities rarely determine who perpetrated the crime and there are no prosecutions much less convictions. The report also examines the extent to which editors and journalists, working in states overwhelmed with violence, have engaged in widespread self-censorship out of fear for their lives. The report emphasizes freedom of expression and a free press as fundamental and universal rights protected by international law. These rights are also considered an effective way to measure the strength of a democracy.

This paper has benefited from direct testimonies and first-hand accounts obtained through a series of interviews with reporters, media advocates, editors and government officials during a trip to Mexico City in December 2009. Many of these individuals have put forward concrete recommendations that if adopted, they believe, could help halt the wave of violence, intimidation and impunity against the media. Finally, this work reflects the contributions of numerous colleagues, academics and civil rights advocates who have generously shared their views over the past decade when I first became concerned with the unsafe conditions and lack of legal protections under which reporters operate in Mexico.

### **A Universal Right**

Killing and threatening journalists with impunity has negative consequences for the consolidation of a modern democratic state and the rule of law. The right of a citizen to be informed is violated every time a reporter is killed, abducted, attacked or forced to resort to self-censorship to protect his or her life. No story is worth a life. In many places in Mexico issues that affect the daily lives of ordinary people, drug trafficking, crime, corruption and ineffective governance, are not being covered. Citizens are being deprived of essential information that enables them to make informed decisions on public policies of direct concern to them. They are being deprived of the type of investigative reporting that makes the press in the United States, and many other democratic nations, “watch dogs” of democracy.

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The inability of the Mexican state to guarantee the right to freedom of expression, through a free and independent press, and the apparent lack of political will by the Mexican government to protect reporters, journalists, photographers and editors, has turned Mexico into one of the most dangerous places in the world for journalists to work. Not one of the murders or forced disappearances of journalists since 2000 has been really solved. Impunity is being allowed to prevail in the vast majority of cases. Since President Felipe Calderón launched the “war on drugs” at the end of 2006, more reporters have been slain and attacked than ever before. Mexico has displaced Colombia as the most dangerous and unsafe country in Latin America for reporters and the practice of journalism.

While the death toll in 2009 was one of the highest, 2010 could be even deadlier, for it has begun with an intensification of violence against the press, which resulted in the killing of five journalists during the first ten weeks of the year. From January 8<sup>th</sup> to March 15<sup>th</sup> four reporters and one editor were kidnapped, tortured and shot in the states of Guerrero, Coahuila, Sinaloa and Tamaulipas.<sup>1</sup> These events marked an unprecedented wave of abductions of reporters that generated international condemnation and fear among the media community in Mexico.<sup>2</sup> Between February 18<sup>th</sup> and March 3<sup>rd</sup>, eight reporters were kidnapped in Reynosa, a border city across from McAllen, Texas.<sup>3</sup> Three of the journalists were released, but one was tortured and beaten so badly that he died three days later. “As drug trafficking, violence, and lawlessness take hold,” said the Committee to Protect Journalists (CPJ) senior program coordinator for the Americas in a statement on the abductions, “the Mexican media are forced into silence. This pervasive self-censorship is causing severe damage to Mexican democracy.”<sup>4</sup> The CPJ, once more, urged the government of President Calderón to provide safety guarantees for the press, and to make the protection of free expression a top priority. However, as with most other past cases, no one has been arrested or charged. Impunity has succeeded in creating a culture of fear in news rooms that has reached alarming levels in the Mexican provinces.

Over the past 12 years, all murders of reporters confirmed killed because of their job have taken place in the provinces, outside of Mexico City. The Mexican chapter of Article 19 and the National Center for Social Communications (Centro Nacional de Comunicación Social), or CENCOS, two non-governmental organizations (NGOs) that joined forces to track aggressions against reporters, report that Oaxaca, Veracruz and Chihuahua were the most dangerous states where the highest number of attacks took place in 2009, although most killings happened in Durango, Sinaloa, Guerrero, Michoacán and Quintana Roo.<sup>5</sup>

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<sup>1</sup> Valentín Valdés Espinosa, *Zócalo de Saltillo*, Jan. 8; José Luís Romero, *Línea Directa*, Jan. 16; Jorge Ochoa Martínez, *El Oportuno*, Feb. 1st., Jorge Rábago Valdez, *La Prensa*, March 2, and Evaristo Pacheco, *Visión Informativa*, March 15.

<sup>2</sup> Committee to Protection Journalists (CPJ), “Drug-related violence, endangers media in Reynosa,” March 11, 2010, [www.cpj.org](http://www.cpj.org)

<sup>3</sup> Alfredo Corchado, “Cartels use intimidation campaign to stifle news coverage in Mexico,” *The Dallas Morning News*, March 8, 2010. [www.dallasnews.com](http://www.dallasnews.com)

<sup>4</sup> Carlos Lauría, , quoted in “Drug-related violence, endangers media in Reynosa,” *CPJ*, March 11, 2010.

<sup>5</sup> Dolia Estévez, “¿Juárez: El futuro de México?”, 62-65, *PODER y Negocios*, Año 6, No. 06, March 12, 2010. In this interview, Edgardo Buscaglia argues that 68% of Mexico’s municipalities have been infiltrated by organized crime.

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With a total of 11 reporters killed and one disappeared, 2009 was one of the deadliest years ever for the Mexican press. Of these reporters 70% were slain in direct reprisal for their work, Article 19 and CENCOS research shows. In addition, there were a total of 244 attacks against press freedom, broken down as follows: assassinations (4.5%); disappearances (0.82 %), physical assaults ( 44.6 % ), harassment (19.2%), intimidation (19.2%), arbitrary detentions (9.4%) and defamation (2.05%).<sup>6</sup>

According to the New York-based CPJ, an independent, nonprofit organization founded in 1981 to promote press freedom worldwide, in the last 10 years alone in Mexico, 32 editors and reporters have been killed, at least 11 in direct reprisal for their work. Nine more journalists, who covered crime and corruption, have been missing since 2005, a tally nearly unprecedented worldwide where “disappearing” reporters is not part of the menu of violence against the media.<sup>7</sup> Other media advocacy and human rights groups put the death toll higher. Reporters Without Borders, a non-profit international organization based in France that defends free press in five continents, reports that 61 journalists have been murdered in Mexico since 2000 and nine others have gone missing since 2003; Mexico was ranked 137 out of 175 countries in the group’s 2009 press freedom index.<sup>8</sup>

An statistical analysis by the CPJ, shows that since 1992, 95% of the journalists who lost their lives were murdered; 61% of the suspected perpetrators belong to criminal groups and 22 % were government and military officials; 89% of the crimes were carried out with full impunity; 39 % of the victims were threatened before being murdered; 28 % were taken captive and 22 % were tortured; 74% covered crime and 37% corruption; 84% worked in print media; 95% were male; 89% were local and 11 % foreign. Among leading NGO’s, however, there is a lack of consensus on the extent of the role government agents play in the aggressions. Article 19 and CENCOS argue that while the most serious violations, such as assassinations and forced disappearances, can be attributed directly to organized crime, their figures continue to point to local and state authorities, mainly corrupt policemen, as the principal perpetrators in most other non-lethal threats and aggressions against journalists. Of the alleged perpetrators in the 244 incidents registered in 2009 against reporters and media workers, research by Article 19 and CENCOS found that local and state police and law enforcement officials operating outside the control of the federal government were likely responsible in 65.7 percent of the cases.<sup>9</sup>

Mexico City, where the country’s most influential newspapers, magazines, television networks, radio stations and media organizations are headquartered, has mostly been an

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<sup>6</sup> Article 19, Mexico and Central America chapters, and Cencos, *Entre la Violencia y la Indiferencia: Informe de Agresiones contra la Libertad de Expresión en México 2009, 11-18*, Annual Report, Feb., 2010., [www.cencos.org](http://www.cencos.org)

<sup>7</sup> CPJ, *Attacks on the Press in 2009*, Annual Report. [www.cpj.org](http://www.cpj.org)

<sup>8</sup> Reporters Without Borders, “Another journalist shot dead amid a wave of threats against media personnel,” Press Release, Feb. 1, 2010. [www.rsf.org](http://www.rsf.org)

<sup>9</sup> Article 19 and Cencos, *Agresiones contra la Libertad de Expresión en México*, testimony before the 138th Period of Sessions of the Inter-American Commission on Human Rights (IACHR-OAS), (page 7), March 22, 2010. Title of the hearing: Attacks on Journalists in Mexico; petitioners: Article 19 and Cencos.

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exception to this rule of violence. In 2008, the CEO and Editor in chief of one of Mexico's leading newspapers was forced into self-exile for security reasons.<sup>10</sup> Murdering journalists in the nation's capital appears to be politically too costly for criminal organizations. Mexico City is where all three branches of government are concentrated, diplomatic embassies are based and where social and political groups from throughout Mexico come together to make their voices heard. Mexico City's print media (known as the "national media"), exercises greater political influence and editorial independence than their provincial counterparts. This, plus higher wages and education, makes the media in Mexico City less susceptible to bribes, blackmail and corruption. "Part of the problem that we confront in Mexico is the 'abysmal media geography' between Mexico City and the provinces. There are two very different realities. The level of tolerance we find towards editorial lines of some of Mexico City's newspapers is not far from the levels of editorial independence that exist in the first world," observed the Managing Editor of a leading Mexico City daily.<sup>11</sup> "One can print cartoons, editorials and columns very critical of the government and even cruel against President Calderón. This is not the case with newspapers in the interior which are not at liberty to criticize state governors and local authorities. There is a strong 'centralism' in Mexico City and the tendency is to underestimate the interior, but this is just an 'excuse of conscience' to justify oneself for not doing what we should be doing to support local reporters."

The lack of support by the national media with reporters under fire in cities and states throughout Mexico, is hard to explain for international media advocates who have become more vocal on behalf of local reporters. "Mexico City is an island. Reporters from northern states are left alone. Attacks on the press in the provinces have no consequences. It would be different if the victims were DF (Mexico City) reporters. Influential media personalities that could make a difference if they were to raise their voices refuse to do something about it. It is not like Colombia where media owners formed a united front to put pressure on the government," explained the Mexican representative of an international foundation.<sup>12</sup> Assassinating an editor or media personality in Mexico City, could be counterproductive. It could become the turning point causing media companies, editors and reporters to unite in demanding that the government intervene to put an end to violence against them, similar to what happened in Colombia.<sup>13</sup>

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<sup>10</sup> Carmen Aristegui, "Junco de la Vega", *Reforma*, Oct. 24, 2008. [www.reforma.com](http://www.reforma.com). In a speech during the conference *Scared Silent, Mexico's Journalists Under Attack by Drug Mafias*, Oct. 15 and 16, 2008, at Columbia University, Alejandro Junco de la Vega, *Grupo Reforma's* CEO and Chief Editor, announced his decision to relocate with his family to Texas. He denounced the Mexican government inability to protect the free exercise of journalism.

<sup>11</sup> Jorge Zepeda Patterson, *El Universal*, Managing Editor, interviewed by the author, Mexico City, Dec. 8, 2009.

<sup>12</sup> Dario Fritz, Mexican representative of the Rory Peck Foundation, interviewed by the author, Mexico City, Dec. 7, 2009. Created in 1995 to honor the memory of Rory Peck, a freelance war cameraman who was killed while covering Russia in 1993, the Rory Peck Foundation sponsors seminars on security issues and gives training on safety to reporters.

<sup>13</sup> In 1986, Guillermo Cano, the Editor of *El Espectador*, was murdered by a gunman paid by the cartels. It is believed that the event was a key turning point in the fight against violence in Colombia.

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The rights of citizen to be informed and the right to free speech imply a double obligation by the state. The state is not only obliged not to violate those rights, but also to protect them and promote an environment in which they are allowed to flourish. Freedom of the press and the right to know are fundamental rights protected by international treaties and Mexico's constitution. Article 19 of the Universal Declaration of Human Rights of the United Nations, adopted in 1948, reads: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Principle 9 of the Declaration of Principles on Freedom of Expression, adopted in October 2000 by the Organization of American States' Inter-American Commission on Human Rights, states that "the murder, kidnapping, intimidation of and/or threats against social communicators, as well as the material destruction of communications media, violates the fundamental rights of individuals and strongly restricts freedom of expression. It is the duty of the State to prevent and investigate such occurrences', to punish their perpetrators and to ensure that the victims receive due compensation."

In addition, Mexico's 1917 Constitution defends freedom of speech and expression in two Articles, the first Article 6 states: "The expression of ideas shall not be subject to any judicial or administrative investigation, unless it offends good morals, infringes the rights of others, incites to crime, or disturbs the public order," and Article 7: "Freedom of writing and publishing writings on any subject is inviolable. No law or authority may establish censorship, require bonds from authors or printers, or restrict the freedom of printing, which shall be limited only by the respect due to private life, morals, and public peace. Under no circumstances may a printing press be sequestered as the instrument of the offense."

The U.S. Government is well aware of the dangers reporters face in trying to do their job in Mexico. The State Department 2009 Human Rights Report, in its chapter dedicated to Mexico, writes that "despite federal government support for freedom of the press, many journalists worked in a dangerous environment. Reporters covering corrupt public officials and various organized criminal organizations acknowledged practicing self-censorship, recognizing the danger investigative journalism posed to them and to their families."<sup>14</sup> It says that in 2009, Mexico's Human Rights Commission issued (non-binding) recommendations to make "journalists a protected class, sanction authorities that are negligent in their investigation or prosecution of cases, guarantee the safety and support of journalists that cover high-risk and sensitive issues, and give victims of violence the right to reparations."<sup>15</sup> Under Section 2, Respect for Civil Liberties, Freedom of Speech and Press, the State Department Human Rights Report details a number of prominent cases involving journalists who were slain or disappeared during 2009. Despite this acknowledgement, protecting free press in Mexico has not become part of the regular human rights concerns raised in the bilateral agenda. Nor has it been

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<sup>14</sup> Department of State, Bureau of Democracy, Human Rights, and Labor, 2009 Human Rights Report: Mexico, [www.state.gov](http://www.state.gov)

<sup>15</sup> *Idem.*



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considered in the new “institution building” approach under discussion for the second phase of the Mérida Initiative, the U.S. counternarcotics assistance package for Mexico.<sup>16</sup>

## Government Response

The wave of violence against the news media and the failure of federal and local authorities to investigate and effectively prosecute crimes has resulted in an 89% level of impunity in murder cases against reporters, according to the CPJ. Other NGOs place the level of impunity higher. CPJ’s research shows that the absence of justice promotes a higher incidence of murder and perpetuates further violence against the press. Impunity is a major world-wide problem. According to the CPJ, the lack of justice in journalist ‘s murders, represents the world’s gravest threat to free expression. In Mexico, most crimes remain unsolved as Mexican law enforcement agencies, riddled with corruption and incompetence, do not aggressively investigate leads. The initial reaction is often to try to smear the victim, alleging that he or she was killed or abducted for reasons other than their job.

In 2008, the CPJ launched an 'Impunity Index' to calculate the number of unsolved journalist murders as a percentage of a country’s population. The CPJ examined every nation in the world for the years 1999 through 2008. Cases are considered unsolved when no convictions have been obtained. Only those nations with five or more unsolved cases are included on this Index, a threshold reached by 12 countries in the 2010 list. Mexico ranked 9<sup>th</sup>, not far away from authoritarian countries such as Pakistan (10th), Russia (8th) and Afghanistan (6th) . “Astonishing levels of violence against journalists covering crime, drug trafficking, and government corruption continued in 2009, pushing Mexico up two spots on the index. Impunity in nine murders over the last decade can be largely attributed to the government’s inability to rein in organized crime’s far and brutal reach,”<sup>17</sup> the CPJ observes, and adds that the country’s ranking, poor as it is, might actually be much worse: at least seven Mexican journalists have gone missing since 2005. “Those reporters and editors are suspected to have died, although their cases are not yet included in this index.”<sup>18</sup>

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<sup>16</sup> The “Programa de Protección a Periodistas y Comunicadores Sociales de Colombia,” founded in 2000 to protect and prevent violence against journalists, was partially financed, in coordination with Plan Colombia, by the U.S. Agency for International Development (USAID.) As part of its five-year Colombian program of strengthening democratic institutions (estimated at \$144 million), USAID assisted the mixed Ministry of Interior-NGO committee for protection of journalists. Radios, bulletproof vests and other commodities as well as security remodeling of offices for journalists, were purchased and delivered by USAID. USAID Colombia: Support to Democratic Institutions, Washington, D.C. Fact sheet, June 1, 2001. [www.usaid.gov/press/releases/2001](http://www.usaid.gov/press/releases/2001)

<sup>17</sup> , CPJ’s 2010 Impunity Index spotlights countries where journalists are slain and killers go free, *Getting Away with Murder*, April 20, 2010, [www.cpj.org](http://www.cpj.org)

<sup>18</sup> , CPJ’s Impunity Index spotlights countries where journalists are slain and killers go free, *Getting Away Murder 2009*, March 23, 2009. [www.cpj.org](http://www.cpj.org)



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A dysfunctional judicial and law enforcement system makes people doubt whether the few suspects who have been arrested, or the few cases where authorities have obtained convictions, have anything to do with the crimes. Investigations consistently produce no results. No progress has been made in high-profile murder cases<sup>19</sup> because, as one NGO's put it, "the government lacks political will. They don't see a problem. They are unable to conceptualize it."<sup>20</sup> President Calderón has accused the media of "helping organized crime get their message out" and of contributing to Mexico's deteriorating image abroad.<sup>21</sup> Other government officials have blamed the press for "trivializing crime" by taking it out of context, creating fear among the population and putting too much emphasis on the inability of Mexican law enforcement to fight the cartels and on the corruption of government institutions.<sup>22</sup> Negative views of the media by high level federal authorities feed local and state officials' animosity against the press.

The Special Prosecutor's Office for Crimes Against Journalists (*Fiscalía Especial para la Atención de Delitos Cometidos contra Periodistas*), part of the Attorney General Office has denied that Mexico has become a dangerous place for the exercise of journalism or that journalists are being killed in reprisal for writing about drug trafficking and government corruption. The Special Prosecutor has argued that most of the killings of reporters in 2009 were due to personal problems or business deals gone bad. While conceding that "some cases exist of reporters slain in direct reprisal for their work", the Special Prosecutor has insisted that the numbers are not as high as the figures claimed by the press and civil society.<sup>23</sup> It should be noted that most aggressions, particularly death threats, go unreported because reporters and media companies distrust authorities or they are too afraid to speak out and risk being singled out.

The Fiscalía was created four years ago, at the end of the Fox Administration, in response to an international demand for greater and more permanent involvement by federal authorities in the investigation of crimes against free expression. While it was a step in the right direction, the Fiscalía has been largely ineffective in part because of its limited mandate, lack of autonomy and weak and unqualified leadership. "The Special Prosecutor's Office is run by very mediocre people. They have no influence whatsoever. For these, reasons, the Fiscalía was still born," said *El Universal's* Managing Editor.<sup>24</sup>

In announcing its creation, the Mexican government stated that the Special Prosecutor's Office for Crimes Against Journalists, which helps the Attorney General's Office of

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<sup>19</sup> Francisco Ortíz Franco, *Zeta* (Tijuana, 2004) ; Bradley Will, freelance (Oaxaca, 2006) and Amado Ramírez, *Televisa* (Acapulco, 2007).

<sup>20</sup> Brisa Maya Solís, *Cencos*, *Idem*.

<sup>21</sup> Jorge Ramos, *FCH se lanza contra los medios*, *El Universal*, Feb. 26, 2010. [www.eluniversal.com.mx](http://www.eluniversal.com.mx)

<sup>22</sup> Attorney General Eduardo Medina Mora, speech before the forum *La responsabilidad de los medios de comunicación ante la lucha contra la delincuencia organizada*, Mexico City, March 2, 2009, as reported by *La Jornada* on May 3, 2009. [www.jornada.unam.com.mx](http://www.jornada.unam.com.mx)

<sup>23</sup> Octavio Orellana, Special Prosecutor for Crimes Against Journalists, interviewed by the author, Mexico City, Dec. 9, 2009. On Feb. 15, 2010, Mexico's Attorney General replaced Orellana with Gustavo Salas Chávez, a lawyer with prosecutorial experience and no human rights or freedom of the press training. PGR's Press Release 172/10. [www.pgr.gob.mx](http://www.pgr.gob.mx).

<sup>24</sup> Jorge Zepeda Patterson, *El Universal*, Managing Editor.

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Justice of the Federal District, and the diverse Attorneys General's Offices of the member states of the Federation, "is competent to direct, coordinate and supervise the investigations and, if needed, the prosecution of the crimes committed against national and foreign journalists within the national territory; [if] these crimes were committed because of the practice of their profession. The new Special Office will also seek sanctioning of the authors of the crimes and insure the victim's proper reparation of the damages. (8 Articles, 4 Transitory Articles, Pages 52-54)."<sup>25</sup> Although the Attorney General has the discretionary authority to name and removed the Special Prosecutor, the Prosecutor doesn't respond directly to him. The Fiscalía is assigned to the PGR's Assistant Attorney General for Human Rights (*Subprocuraduría de Derechos Humanos, Atención a Víctimas y Servicios a la Comunidad*), an arrangement that deprives it of legal or political autonomy.

Furthermore, the Fiscalía is not empowered to tackle cases involving drug traffickers or organized crime, both central sources of attacks against the media. It was created with no law enforcement or prosecutorial mandate to bring criminal perpetrators to justice and no formal ability to investigate and make charges. "The Fiscalía is not really a Fiscalía. Its role is not to investigate. It has no teeth," said a high level Foreign Ministry official.<sup>26</sup> In its first four years of existence, the Fiscalía has averaged one prosecution per year.<sup>27</sup>

The Fiscalía has justified its inefficiency by saying that its role is limited to monitoring investigations on crimes against reporters perpetrated by federal officials and authorities. "The Fiscalía has no jurisdiction on crimes committed by organized crime or drug trafficking organizations against reporters. The Fiscalía does not gather evidence or issue indictments. SIEDO is in charge of investigating these crimes," the Special Prosecutor explained.<sup>28</sup> The Assistant Attorney General for Special Investigations and Organized Crime (*Subprocuraduría de Investigación Especializada en Delincuencia Organizada*), or SIEDO, is the organized-crime division of the PGR. SIEDO gives information to the Fiscalía on cases of reporters suspected to have been slain by organized crime in connection with their job, but the Fiscalía does not make the determination on the motives of the killings. According to the Fiscalía, the majority of crimes against reporters belong to the "*fuero común*" meaning that they fall within the responsibility of local and state jurisdictions.

Drug trafficking, identified by the Mexican government as the main source of violence against the press, is a federal crime under Mexican law. Murder and assault, when not proven to be the works of organized crime, are state rather than federal crimes, and the federal government has no automatic right to intervene. In addition to these jurisdictional impediments, local and state investigations are in the hands of state and local authorities, prone to corruption, with fewer resources and subject to less accountability.

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<sup>25</sup> Mexico's *Diario Oficial*, Feb. 15, 2006.

<sup>26</sup> Ambassador Juan Manuel Gómez Robledo, Deputy Secretary for Multilateral Affairs and Human Rights in the Foreign Ministry, interviewed by the author, Dec. 9, 2009.

<sup>27</sup> Article 19 and CENCOS, , *Entre la Violencia y la Indiferencia: Informe de Agresiones contra la Libertad de Expresión en México 2009*, 33-36, Annual Report, February, 2010., [www.cencos.org](http://www.cencos.org)

<sup>28</sup> Octavio Orellana, Special Prosecutor for Crimes Against Journalists. *Idem*.

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Initially welcomed as a step forward in recognizing Mexico’s deteriorating press climate, the Fiscalía’s performance has been disappointing. To date there have been no successful prosecutions. According to the CPJ, the office has lacked legal jurisdiction to pursue most cases and the authority to take independent action. “It has proved largely ineffective.”<sup>29</sup>

In the beginning of 2010, Mexico’s Attorney General named Gustavo Salas Chávez, a lawyer with little human rights or freedom of the press background as the new Special Prosecutor.<sup>30</sup> In a statement announcing the change, the PGR said that the new Prosecutor was given “precise instructions” by Attorney General Arturo Chávez to “thoroughly review each one of the cases” filed with the Fiscalía and to “combat impunity, as well as to reorganize the structure of the office.”<sup>31</sup> Some media organizations welcomed the change of leadership in the Fiscalía as a preliminary step by the Mexican government to make the Special Prosecutor’s Office more effective. In a hearing before the Inter-American Commission on Human Rights, Salas said that the Fiscalía is undergoing an “institutional review” to improve its operations in four broad areas: administrative, technological, juridical and social engagement. This will lead, he explained, to the implementation of four “sub-programs” to systematize crime information, respond to crimes and crime claims, and to promote free press and free speech.<sup>32</sup> Salas, who became the third head of the Special Prosecutor Office since its creation in 2006, said that as part of the reorganizations the Fiscalía will expand its duties to include crimes against freedom of speech (not only crimes of press freedom) and that it will therefore change its name to “Special Prosecutor’s Office for Crimes Against Freedom of Expression” (*Fiscalía Especial para la Atención de Delitos Cometidos contra la Libertad de Expresión*).

## Media Response

Leading Mexican journalists argued that one reason why media companies, reporters and editors do not confront the government to demand protection for journalists and justice for those killed, is that “impunity breeds apathy” within Mexican society, and journalists are no exception.<sup>33</sup> Impunity has generated a sense of battle fatigue within the media. The more killings there are the less brutal they are perceived. This, in turn, has a paralyzing effect. The next death is no longer front page news and covering new killings becomes less important. The repetition of a tragic event ends up losing its news worthiness and

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<sup>29</sup> CPJ, *Attacks on the Press in 2008*, Annual Report. [www.cpj.org](http://www.cpj.org)

<sup>30</sup> PGR’s Press Release 172/10, Feb. 15, 2010, .

<sup>31</sup> PGR’s Press Release 172/10, *Designa el Procurador Arturo Chávez a Gustavo R. Salas como Titular de la Fiscalía Especial para Periodistas*, Feb. 15, 2010. [www.pgr.gob.mx](http://www.pgr.gob.mx)

<sup>32</sup> Gustavo R. Salas, *Intervención del Fiscal Especial para la Atención de Delitos Contra Periodistas*, before the 138th Period of Sessions of the Inter-American Commission on Human Rights (IACHR-OAS), March 22, 2010. Title of the hearing: Attacks on Journalists in Mexico; petitioners: *Article 19* and Cencos.

<sup>33</sup> Carmen Aristegui, host *MVS Radio Noticias* morning edition and *CNN’s Aristegui*, interviewed by the author, Mexico City, Dec. 9, 2009

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moral value. At the end, the problem goes back to impunity and its empowering effect on organized crime.

In addition, editors and journalists argue that the financial crisis reduced their response latitude, since it increased media companies' economic vulnerability. The press is now financially weaker than some years ago. While some major daily newspapers in Mexico City practice relatively high levels of editorial independence, openly criticizing the government and the President, something unheard of 20 years ago, media owners are reluctant to pressure the government into doing something about violence against the press. "Media owners have little interest in putting the government against the wall around violence against journalists because they might risk losing sources of advertising."<sup>34</sup>

Contrary to their Colombian counterparts, who believe that mobilizing the press and civil society around attacks against the right to information is the best way to guarantee the free exercise of journalism, the lack of solidarity and rivalries within the Mexican press makes it more difficult for them to close ranks. Media groups that have experienced killings and threats against their reporters, often opt for dealing with the situation on their own rather than asking for support from their counterparts in denouncing the federal government's inability to protect the press.<sup>35</sup>

A few years ago print media journalists, editors and columnists made an attempt to speak with one voice. In February 2006, after publishing a series of articles on drug violence and corruption, *El Mañana*, Nuevo Laredo's oldest newspaper founded in 1924, was attacked by armed assailants, firing semi-automatic assault rifles and tossing a grenade. One reporter was seriously injured. The event, an act of violence unseen in Mexico against a building housing a newspaper, infuriated journalists throughout Mexico. As a result, 65 newspapers, media owners and editors from Mexico City, Monterrey, Guadalajara and the states of Baja California, Baja California Sur, Coahuila, Chihuahua, Guanajuato, Sinaloa, Sonora, Tamaulipas and Yucatán, launched an unprecedented initiative known as *Proyecto Fénix*. After expressing their "outrage" for the high levels of drug violence against journalists and journalism, the members of *Proyecto Fénix* issued a declaration stating that federal and local authorities have the "obligation" to investigate crimes against journalists in Mexico. They committed themselves to maintaining open channels of communications to develop responses of solidarity on behalf of colleagues threatened by drug trafficking anywhere in the country and to encourage the work of a special team of investigative reporters that, under the auspices of *Proyecto Fénix*, was to deepen and expand the research of threatened journalists. Their work was to be published in all the newspapers that participated in *Proyecto Fénix*.<sup>36</sup>

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<sup>34</sup> Jorge Zepeda Patterson, *Idem*.

<sup>35</sup> *El Universal* did not openly denounce the death threats against Mónica Hernandez, their Durango correspondent. Instead, they told the State governor, Ismael Hernández Deras (PRI), that if he guaranteed Hernandez's safety she would no longer write "police stories."

<sup>36</sup> *Desplegado / No a la violencia, no al silencio*, Feb 9, 2006, [www.reforma.com](http://www.reforma.com).

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*Proyecto Fénix's* subscribers believed that by publishing the content of the research work that provoked the enemies of free speech to threaten the authors of the research they would be collectively protecting the authors and their journalistic work. *Proyecto Fénix*, however, soon vanished. Its failure can be partially explained by the lack of cohesion Mexican journalists have shown since the late 1990s when the media began decoupling itself from the government's control. Some journalists believe that despite the horrible high levels of violence against local reporters, perhaps the one thing that might trigger them to organize a united response would be the assassination of a prominent media personality in Mexico City. "We are left with the question of who would have to be killed or who would have to die to evoke a sense of solidarity. This has not happened despite the fact that all the reasons exist for it to have happened".<sup>37</sup>

When studying countries that have lived through and have largely survived episodes of violence against the press similar to what Mexico is experiencing now, the country that comes to mind is Colombia. For the Mexican media there are lessons to be learned from the Colombian experience. In the 1980 and 1990, when Colombian reporters were being slain and newspapers' offices attacked, there were three steps taken collectively by the actors involved which changed the deadly trend. First, the larger and more influential media companies took smaller papers under their protection, and created a united front to demand security and safety to do their job. Second, civil society and the general public supported their effort with the understanding that by doing so they were defending their own right to be informed. Lastly, the Colombian government recognized its failure to fulfill its obligation of protecting freedom of the press.<sup>38</sup> In Mexico, all three steps are absent. Without solidarity among reporters and media companies, effective solutions to stop the wave of violence will be hard to come by. International media advocates say that there is only so much they can do to defend press freedom in Mexico. They believe that the answers can only come from inside Mexico, from those directly affected. If media companies and reporters do not pressure the government, they argue, if they don't organize themselves to demand protection and the end of impunity, the government will continue dragging its feet.<sup>39</sup>

### **Forced into Silence**

As more reporters die, journalism itself and the right of citizens to be informed is suffering. Since the government declared the "war on drugs" in 2006, turf wars between drug cartels have intensified. Many editors and journalists working along the U.S.-Mexico border and in states overwhelmed with violence have engaged in wide spread self-censorship. Self-censorship is defined as an act of controlling what one publishes, writes or says in order to avoid annoying or offending others, but without being told that such control is necessary. In countries like Mexico, where freedom of the press is not protected by the State, self-censorship derives from fear of reprisal by those who feel their criminal or special interests are being threatened by the press. Self-censorship also

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<sup>37</sup> Carmen Aristegui, *Idem*.

<sup>38</sup> Darío Ramírez, *Article 19*, Director for Mexico and Central America, "Cómo protegió Colombia a sus periodistas", *El Universal*, Feb. 8, 2010.

<sup>39</sup> Dario Fritz, Mexican representative of the Rory Peck Foundation, *Idem*.

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works as a defensive mechanism against legal intimidation by powerful political and business interests.

In northern-border towns, drug traffickers have gone after the media with particular vengeance. They have attacked news rooms, killed, kidnapped and called up reporters and editors regularly with threats, demanding “do not dare print our names. We will kill you the next time you publish a photograph like that.”<sup>40</sup> As a result, sensitive issues such as drug trafficking, organized crime, and political corruption are not being covered. Frequently, reporters file crime stories based solely on official sources. The editor of a border town said they have learned the lesson: “To survive, we publish the minimum. We don’t investigate. Even at that, most of what we know stays in the reporter’s notebook.” Many journalists said the November 2008 killing of a veteran crime reporter, served as a warning to the entire press corps in Ciudad Juárez.<sup>41</sup> While newspapers’ coverage of organized crime, particularly along the northern Border States, was already meager, in 2006 self-censorship took a turn for the worse, after the violent assault on the Nuevo Laredo daily *El Mañana*. “With the level of impunity on crimes against journalists and with the war on organized crime that the government is waging, reporters who cover violence and drug trafficking have, more than ever, the most to lose. There is fear. Fear to write about issues that we know will bring reprisal or death”, said a former reporter with *Frontera* in Tijuana.<sup>42</sup>

In some states, self-censorship has reached new levels. The power of organized crime to intimidate reporters has gone from silencing news to demanding that the press follow particular agendas dictated by “powerful interests” (“poderes fácticos”), which include drug cartels and organized crime. Local newspapers are making deals with city authorities to print favorable news in return for protection. In some towns run like “small fiefdoms” by wealthy local people that exercise great power on people’s ordinary lives, the relationship with the local media is determined by money. News rooms are reported to receive “sacks full of cash” from local powerful groups in return for their silence or to control what is published.<sup>43</sup> The success of silencing the media is seen in the case of a local reporter in Michoacán who was threatened just for writing a minor story on a water leak in a parking garage of the town’s municipal art center, or the sportswriter who was kidnapped in Monterrey by drug cartel hit men upset over coverage of their favorite soccer teams.<sup>44</sup>

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<sup>40</sup> Marc Lacey, “Drug Killings Go Unreported Inside Mexico,” *The New York Times*, March 14, 2010. [www.nyt.com](http://www.nyt.com)

<sup>41</sup> Alfredo Quijano, editor-in-chief of *Norte de Ciudad Juárez*, referring to his newspaper’s practice of self-censorship. CPJ Special Report by Mike O’Connor, June 2009. [www.cpj.com](http://www.cpj.com).

<sup>42</sup> Jesús Angulo Corral, message sent to the author via Facebook, Jan. 17, 2010, which he authorized to publish.

<sup>43</sup> Francisco Bidal Benítez, Centro de Periodismo y Ética Profesional’s (CEPET) President, Elía Baltazar, CEPE’s Advisory Board member and Miguel Ángel Ortega, CEPET’s member, interviewed by the author, Mexico City, Dec. 8, 2009. CEPET is a Mexican NGO founded by print media reporters to promote journalism ethics.

<sup>44</sup> Mike O’Connor, “Michoacán journalists under siege with nowhere to turn”, CPJ, Dec. 7, 2009. [www.cpj.org](http://www.cpj.org)

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The situation of violence and intimidation against reporters makes it difficult to know with certainty which cases involved honest reporters trying to do their job and which involved corrupt reporters in the payroll of the cartels. Rejecting bribes or resisting threats can be tantamount to signing one's death sentence. An editor in Michoacán, close to the female reporter who disappeared in November 2009,<sup>45</sup> said she told him of a recent meeting with several other reporters in Zamora. Leading the meeting, he said, was a key police reporter who obviously represented one of the cartels. The reporter pointed to the other reporters and named the monthly amounts they would receive for skewing their coverage. They agreed to go along. The now missing female reporter refused and tried to leave, the editor said, but the others shouted her down and made her stay. He said she still rejected the offer. It was brave, said the editor, but considering the moral corrosion in government institutions, and now in journalism, it may have been her fatal mistake. It may well be, he said, that the corrupt journalists, and the cartel, couldn't allow the honest journalist to live.<sup>46</sup>

Bad working conditions, low wages, a lack of health insurance, and long hours of work with scarce resources, also act as a deterrent for developing high standards of professional ethics among journalists. These poor conditions increase reporters' vulnerability to corruption and compromise of moral and professional values. Honest reporters are often left with having to choose between being a poor reporter or a dead one. In Mexico City, the average monthly pay for a reporter is between \$700 and \$1,500 USD; in the provinces, it runs from \$300 to \$500 USD. Not even large papers pay well. A leading Mexico City daily, for instance, pays freelancers 140 pesos (around \$11 USD) per published story. Most media groups have the policy of not hiring reporters, excluding them from the pay-roll and not signing long term labor contracts, to avoid paying benefits and complying with labor rights regulations.<sup>47</sup>

Many opinion makers believe that press freedom in Mexico is not only being threatened by organized crime and corrupt government officials, but also by the "legal structure" that allows two corporations--the duopoly of Televisa and TV Azteca-- to control the airwaves and decide which stories receive news coverage on the basis of political expediency and their own business interests. Most Mexicans get their news from television, "In talking about violence against the press, we should expect television to play a critical role as well which is not the case. Television is not even seriously informing about it. It's not a news issue, like it may be in the print media or radio."<sup>48</sup>

### **Security steps taken by the Media**

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<sup>45</sup> María Esther Aguilar Cansimbe, a reporter who covered organized crime and corruption for *Cambio de Michoacán*, was last seen Nov. 11, 2009. She is feared murdered.

<sup>46</sup> "Michoacán journalists under siege with nowhere to turn," *Idem*.

<sup>47</sup> Francisco Bidal Benítez, Centro de Periodismo y Ética Profesional's (CEPET) President, Elia Baltazar, CEPE's Advisory Board member and Miguel Ángel Ortega, CEPET's member. *Idem*.

<sup>48</sup> Carmen Aristegui, *Idem*.



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Protecting journalists, freedom of the press and the right to know is primarily the responsibility of the state. However, in Mexico's unsafe working environment, reporters, editors and media owners have been forced to take security measures to protect themselves. While self-censorship is the main survival mechanism, there are additional initiatives that editors and individual reporters take. Reassigning reporters to less dangerous beats or physically transferring them to other locations, installation of surveillance cameras, hiring armed private guards and screening of visitors in news media buildings, are becoming more common. In some border cities, like Tijuana and Nuevo Laredo, reporters, photographers and cameramen sent to cover shootings and violence wear bullet proof jackets and helmets.

Measures to protect reporters' identities are being taken by editors and reporters as well. In Monterrey, the third largest city in Mexico, after a wave of violence against the press, some crime reporters asked to not sign their stories. Even without bylines, editors feared drug cartels could identify reporters who have distinctive writing styles. Editors decided to rewrite all crime stories in an antiseptic, just-the-facts style. Also in Monterrey, one of Mexico most competitive television markets, television reporters are going out in pools to cover crime stories.<sup>49</sup>

A poll on security measures by the press, conducted by *Article 19* at the end of 2009 beginning of 2010, shows the absence of a "culture of prevention" among news media personal from the top (owners and editors) to the bottom (reporters and photographers.) Violent incidents and other means of censorship are seen as extraordinary events despite the fact that a high percentage, 81.2 %, viewed the places where they work to be of high risk for journalism. A relatively high percentage, 68.7 %, of the 15 media outlets interviewed for the survey in Baja California, Chihuahua, Coahuila, Mexico City, Guerrero, Nuevo León, Oaxaca, Puebla, Queretaro, San Luís Potosí, Sinaloa and Tamaulipas, responded that no steps have been taken to give protection to threatened reporters; 43.7 % reported that there are no special resources available for physical protection and 81.2 % said that their employers don't offer self-defense training.<sup>50</sup>

In an effort to train reporters for dangerous assignments, in recent years, the Rory Peck Foundation has been instrumental in organizing groups of 20 to 25 Mexican reporters to take courses offered on the Internet by the Dart Center for Journalism and Trauma (Columbia University School for Journalism's project for journalists who cover violence and tragedy). The courses last 4 to 5 days and focus on practical measures to protect themselves and deal with trauma. However, NGOs cautioned, that in the general context of the government's failure to protect journalists and journalism, the measures being taken by media groups and reporters are not only insufficient but appeared to be more reactive than preventive.

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<sup>49</sup> Manuel Roig-Franzia, "Mexico's Journalists Feel Heavy Hand of Violence," *The Washington Post*, front page, May 30, 2007.

<sup>50</sup> *Article 19* and Cencos, *Entre la Violencia y la Indiferencia: Informe de Agresiones contra la Libertad de Expresión en México 2009*, 49-50, Annual Report.

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## Legislative Initiatives

The Mexican legislative branch has been mostly ineffective in fulfilling its central role of producing laws to strengthen and expand the legal framework to defend free speech, protect journalists and the practice of journalism. Although some progress has been made, such as the signing by President Calderón of a landmark reform to the Federal Criminal Code in 2007 that effectively eliminated criminal penalties at the federal level for defamation<sup>51</sup>, a lot more remains to be done to safeguard freedom of expression for all citizens, not just journalists. Top priority should be given to making the investigation of crimes against the press the responsibility of federal rather than state and local authorities.

In October 2007, the office of the presidency sent Congress a bill proposing a constitutional amendment that would make a federal offense of any crime related to “violations of society’s fundamental values, national security, human rights, or freedom of expression, or for which their social relevance will transcend the domain of the states.” Commonly known as the “federalization” of crimes against freedom of expression, the legislation proposed to change the penal code to make it a federal crime to curtail an individual’s right to freedom of expression. It also calls for reforming the Fiscalía by making it a dependency of the Attorney General’s office. June, 2008, President Calderón pledged his commitment to the bill in a meeting with the CPJ in Mexico City.

In April 2009, the Chamber of Deputies approved with 263 votes (out of a total of 500 members) the federalization bill. Subsequently, the legislation adds to the Federal Criminal Code, “Crimes perpetuated against freedom of expression exercised through journalistic activity.” The reform calls for imposing penalties of up to five years in prison for anyone who “impedes, interferes, limits, or attacks journalistic activity.” Sentences could be doubled if the assailant were a public official. The bill was turned over to the Senate Judicial Committee where it is pending action before being sent to the Senate floor for a vote. An analysis by the CPJ, which has followed the bill’s legislation process since the outset, found that if passed, it would be an encouraging but preliminary step in combating deadly violence against the press. The enactment of new penalties, CPJ found, would have a significant effect only if accompanied by adoption of a constitutional amendment granting federal authorities the jurisdiction to prosecute all crimes against free expression. The proposed amendment was still before the senate at the end of last year.<sup>52</sup>

In a separate development, in September 2009, the newly inaugurated legislative session of the Chamber of Deputies decided not to renew the Special Committee for Dealing with Attacks against Journalists and News Media (Comisión Especial para el Seguimiento a las Agresiones y Medios de Comunicación). In coordination with media representatives and civil society, the Committee, created in 2006, had been charged with examining violence against the press and had made progress in raising political awareness about the

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<sup>51</sup> In March, 2007, the Mexican Congress abolished articles 350 and 363 of the Federal Criminal Code that codified defamation as a crime and transferred it to the Federal Civil Code.

<sup>52</sup> CPJ, *Attacks on the Press in 2009*, Annual Report. [www.cpj.org](http://www.cpj.org)

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increasing number of victims and the deteriorating security situation. Its disbandment was seen as a set back for press freedom.

However, in the midst of reports of another brutal murder,<sup>53</sup> the Chamber of Deputies retracted its earlier decision and agreed to reestablish the Special Committee for Dealing with Attacks against Journalists and News Media.<sup>54</sup> In February 2010, the Special Committee was formally inaugurated. Formed by 13 **representatives** of all the political parties, the Special Committee is being lead by PAN Congresswoman Yolanda Valencia Vales, and co-chaired by Efraín Aguilar Góngora (PRI) and Agustín Guerrero Castillo (PRD). The Committee endorsed a long list of challenging “strategic objectives” to strengthen freedom of the press. At the top of the list are the “federalization” of crimes against freedom of expression and reforming the Fiscalía by granting it autonomy and prosecutorial powers. Between September and December of 2009, when the Chamber of Deputies was debating whether to revive the Committee, four journalists were killed and one more disappeared. So far the Mexican Congress has not moved in a timely way in recognizing and taking action to address the gravity of the situation. It remains to be seen how effective and diligent the new Commission will be in pressing for new legislation strengthening the legal protection for journalists and journalism.

## **Recommendations**

The following is a compilation of concrete measures and recommendations proposed by leading U.S. and Mexican NGOs<sup>55</sup> that, if adopted by the federal government, media companies, and civil society, could help protect journalists, freedom of expression and press freedom in Mexico.

- Guarantee the right of all Mexicans to express their ideas freely in any form, as established in articles 6 and 7 of the Mexican Constitution.
- Protect and promote an environment in which freedom of expression, through a free and independent press, is allowed to flourish.
- End the pattern of violations of the right to freedom of expression by state authorities.
- Develop prevention policies through effective human rights training for security forces at all levels of government.
- The legal reform to “federalize” crimes against free expression and freedom of the press that was approved by the Chamber of Deputies in 2009 should be voted on and passed by the Senate.
- The “federalization” measure should be accompanied by the adoption of a constitutional amendment granting federal authorities the jurisdiction to prosecute all crimes against free expression.

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<sup>53</sup> On Nov. 2, 2009, Bladimir Antuna García, a crime reporter for the daily *El Tiempo de Durango*, was found dead in Durango. Next to the body was a note stating: “This happened to me for giving information to soldiers and for writing too much,” according to *La Jornada*. Antuna appeared to have been strangled.

<sup>54</sup> *Gazeta Parlamentaria*, Dec. 10, 2009.

<sup>55</sup> CPJ, Cencos, *Article 19*, CEPET and Reporters Without Borders.

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- The “federalization” reform should ensure that future federal law is in line with international standards.
  - The “federalization” legislation should ensure that the language utilized is sufficiently broad to protect the rights of everyone, including journalists, whose freedom of expression is threatened.
  - The Office of the Special Prosecutor (Fiscalía) should be restructured to answer directly to the Attorney General, rather than to the Deputy Attorney General for Human Rights.
  - The Office of the Special Prosecutor should be empowered to investigate and prosecute crimes against the press.
  - The Office of the Special Prosecutor should be given the power to make mandatory the compliance of the National Human Rights Commission’s recommendation on violence against the press.
  - Create, within the state legal framework, a Mexican Committee to Protect Journalists to be composed of representatives from the government, civil society and the media, with the mission of protecting the public’s right to a free press and the right of reporters to work in a safe environment.
  - Modeled on the Colombian “Programa de Protección a Periodistas y Comunicadores Sociales,” the Mexican Committee to Protect Journalists’ role would be to set up a mechanism of protection and prevention through risk assessments, the implementation of basic preventative measures such as removing reporters from dangerous areas and providing them with bullet proof jackets and armored cars.
  - Open a “casa de refugio” (sanctuary) in Mexico City to host local reporters under threat or in dangerous situations in the provinces.
  - The sanctuary would give reporters under threat the opportunity of escaping to Mexico City, instead of crossing the border like many reporters in the north do. (A bill requesting 8.5 million pesos to rent a house to be used as a sanctuary for 20 to 25 threatened reporters was introduced in Mexico City’s Asamblea Legislativa in 2009.)
  - Demand an investigation into who is behind the attacks and request that reporters are given full protection before leaving the “casa de refugio” to return home.
  - Launch an “adopt a journalist campaign” among the Mexico City press. Under this campaign, reporters in Mexico City would “adopt” a slain or disappeared reporter to try to solve his or her case through the tools of investigative journalism.

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## About the Author

**Dolia Estévez** is a Senior Mexico Correspondent and foreign affairs analyst in Washington, D.C. She is a regular commentator for Mexico's MVS Radio Noticias, a contributor to *Poder Magazine* and a weekly columnist for *El Semanario*. From 1989 to 2005, she was the Washington Correspondent for *El Financiero* and Radio Monitor. She serves as a Senior Advisor for the U.S.-Mexico Journalism Initiative at the Woodrow Wilson Center. She has lectured at public and private institutions in Mexico and the United States. She is an accredited foreign correspondent with the Department of State, Capitol Hill and the Foreign Press Center, and a member of Mexico's Council on Foreign Relations.

**The Wilson Center's Mexico Institute and the Trans-Border Institute wish to thank our project interns Miguel Salazar and Christopher Wilson for their invaluable assistance in reviewing, editing, and formatting this Working Paper.**

