

RESOLUTION ON MEXICO.

The Assembly of Delegates of International PEN, meeting at its 80th Congress in Bishkek, from 29 September 2014 to 2 October 2014

For several years Mexico has been classed as one of the most dangerous places in the world for journalists working in electronic and print media, and even on social networks. When it comes to journalists being killed in Mexico, legal investigations have revealed very little, and schemes to give journalists official protection are not sufficiently effective. Today, censorship of information and free thought has taken on new forms, including the criminalisation of social protest and coverage of such protests; the Mexican government has also reformed laws on telecommunications.

In Mexico a journalist is attacked every 26.5 hours, according to Article 19; in 2013 alone, 330 cases of attacks on journalists and broadcasters were recorded, four of which were murders.¹ For example, Karla Janeth Silva, journalist for the *El Herald*, newspaper from Silao, Guanajuato, in Mexico, was attacked on 4 September 2014 by three armed men who warned her to tone down her writing and stole her mobile phone and computer.

Only 274 perpetrators were identified in the 330 attacks which took place in 2013,. In 146 of these cases, the perpetrator was a public official; in 49 it was a social organisation; 39 organised crime; 30 an individual; and in 10 a political party. In three out of every four cases of journalists murdered, organised crime was identified as the main culprit.²

Attacks are concentrated in the states of Veracruz, Tamaulipas, Chihuahua and Coahuila.³ However, the state with the highest risk for a journalist in 2014 is Mexico City, due to a series of threats, attacks and arbitrary detentions suffered by various broadcasters responsible for reporting information on social demonstrations.⁴

In addition, in Quintana Roo, freedom of expression faces both physical and digital attacks. In August 2014, the journalist and activist Pedro Canché who is Mayan, was arrested on spurious charges of sabotage while documenting protests against the rise in water rates. He was also injured during beatings in detention by other inmates but is reported not to have received adequate medical care afterwards.

Furthermore, there have been reports that the local government has been using social media to impersonate journalists and replicating local media websites in the state to distribute false information. Censorship of the media has increased, due to the control exercised over it by local and federal governments through government advertising. In 2012 just 26 federal organisations spent five billion, three hundred

¹ Article 19, Report 2013, p.3

² Ibid, p.65

³ Ibid, p.9

⁴ Ibid, p.58

seventy-six million, five hundred and six thousand, one hundred pesos (\$5,376,506,100)⁵, 20 times the federal expenditure for 2012, to combat, for example, fundamental health problems like maternal mortality.⁶

With regard to official investigations into the murders of journalists, we should particularly consider the death of the journalist Regina Martínez, killed in April 2012, whose case may be closed without having been properly solved by the legal authorities in Veracruz. The local authorities have persisted in linking the murder to the motive of robbery and have therefore discounted as a possible cause the investigation and report the journalist produced on political corruption and criminality in the state.⁷

Against the “Bullet Law” which legitimises the use of firearms at public demonstrations and limits coverage by journalists

The State Congress of Puebla in Mexico approved a legal initiative promoted by the governor of that state, Rafael Moreno Valle, which permits the legitimate use of force during demonstrations: the so-called “Bullet Law”. This legislation threatens social protest and violates human rights (Article 19) as it indirectly criminalises demonstrations in the country and comes with a series of unlawful restrictions on the right to social protest and freedom of expression, which have also been supported by legislation from other bodies such as the states of Mexico City, Quintana Roo and Chiapas.

By way of justification, Puebla’s legislators have defended the initiative by specifying that, far from limiting freedom of expression, it “protects life, property and the safety of demonstrators and third parties”. In statements made to the press (Animal Político, May 20, 2014) they insist that “the main criteria for the application of the new law are to regulate the use of non-lethal force such as batons, rubber bullets and chemicals, in the case of criminal acts”, and that “the use of firearms is only anticipated when there is a risk to the lives of uniformed officers or third parties”.

The Mexican National Human Rights Commission is studying the legislation in detail so that, should it assume any violations, it can bring action challenging the unconstitutionality of said legislation. However, given the lack of action taken by local human rights commissions, citizens groups have offered support to protect human rights and regulate the legitimate use of force by units of the Puebla police force. Similar efforts have been made in Quintana Roo and Chiapas.

⁵ Article 19 and FUNDAR Centro de Análisis e Investigación, Government advertising: Index of access to spending on government advertising in federal organisations 2013, p. 20 (http://publicidadoficial.com.mx/pdf/Informe_PublicidadOficial2013.pdf - consulted 5 August 2014)

⁶ Publicidadoficial.com.mx

⁷ See for example: ‘Despite making no progress, Veracruz District Attorney’s Office seeks to ‘shelve’ Regina case’, Proceso, 4 March 2013 (<http://www.proceso.com.mx/?p=335290> - consulted 5 August 2014); <http://www.change.org/es/peticiones/justicia-para-regina> (consulted 5 August 2014)

On 22 July, the government of Puebla sent the state congress a proposal to repeal this law and petition the legislative authorities to draw up new regulations on the matter. Despite new legislation being issued, the ~~Law~~ **Bullet Law** is still in force, although the local authorities have ceased to apply it. It is expected to be in force until the end of 2014, as the majority in the local legislative authorities do not consider it a priority to repeal it. The cancellation of this law is subject to the investigation into the death of a 13 year old boy, José Luis Tehuatle Tamayo, who was shot by the authorities. Unfortunately, repealing this law has not been considered in relation to attacks on free expression.

On secondary legislation governing telecommunications

On 14 July 2014, President Enrique Peña Nieto promulgated the Telecommunications Reform and its secondary legislation, which aim to strengthen the sector, create bigger and better competition and lower prices for users. However, the law discriminates against indigenous and community radio because it restricts them to a maximum power of 20 watts and aerials that measure just 30 metres (in larger territories), at the same time as preventing them from obtaining any resources through advertising to protect its social nature. With these kind of restrictions, the options for local populations will be limited, which will have a negative impact on variety of content, diversity and therefore democracy.

In addition, Articles 189 and 190 of the Telecommunications Law allows the Mexican Government to obtain - without a warrant - private user information such as location, content of emails and text messages, the numbers called and the content of every call.

PEN International urges the Mexican authorities to ensure that:

- Federal and local governments take all possible measures to complete the investigations into the murders of and attacks on journalists, in particularly the killing of Regina Martínez and the attack on Karla Janeth Silva;
- Pedro Canché receives all necessary medical care while held;
- Federal and local governments guarantee freedom of expression throughout the territory and do not limit or attempt to limit information or dictate journalistic views in the media;
- Federal and local governments regulate the use of government advertising in all media, and notify citizens of the use of any media resources.
- Safety protocols for the protection of Mexican journalists are revised and updated.
- Reports of the impersonation on social media of local journalists in the state of Quintana Roo are investigated, that any such practice is stopped and that the reputations of any affected journalists or media are restored;

- State and federal governments do not criminalise social protest, out of respect for free expression. Regulations and legislation which affect this universal human right should be avoided.
- The federal government, by means of the Telecommunications Reform and its secondary legislation permits the free transfer of ideas and free information from any part of the Mexican Republic, assuring that all media, even the most marginal and indigenous, is a means of expression free from all censorship and limitation of its radio space.
- Amend Articles 189 and 190 of the Telecommunications Law so that the government is required to obtain a warrant before collecting private user information, in conformity with its international obligations.