



The Distorsion

Summary

ARTICLE 19

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Summary

COVID-19 disrupted all areas of human life and its negative consequences are still immeasurable today. The strategy to bring about change (first year of the government of President Andrés Manuel López Obrador, AMLO) and to face the health crisis and its impacts (second year) gives a glimpse of the government's character, which obtained unprecedented legitimacy at the ballot box and has a historic opportunity to reverse the social grievances manifested in exclusion, inequality, impunity and corruption.

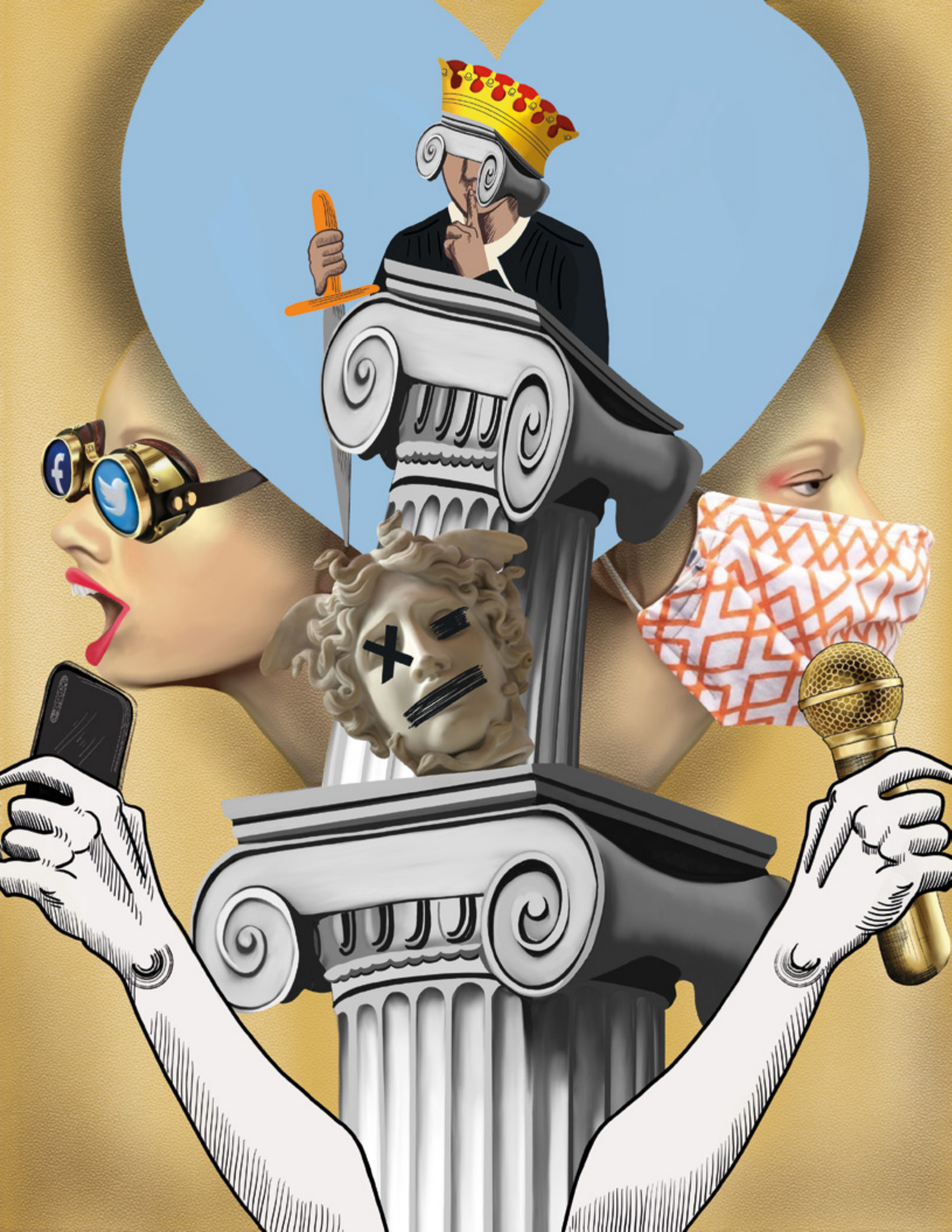
Two years later, however, the change has been the centralization of the debate and control through a new narrative that diverges from the lacerating reality of impunity, inequality, corruption, opacity and censorship. In 2020, in his attempt to dominate and establish the narrative of the national agenda, President López Obrador has used his word as a tool and a weapon during his morning press conferences, in which the stigmatizing discourse, aggressions to silence and annul journalists, discrimination and disinformation towards the most vulnerable intensified, with the aim of controlling and setting the terms of the public agenda and debate, as well as to divert attention from sensitive issues of the current administration.

Meanwhile, violence against the press has continued to rise steadily since 2007, and 2020 has been the year with the highest number of aggressions recorded. On the other hand, progress in judicial processes has only been made in limited cases and the preeminence of symbolic reparation of damage for victims has continued, without being accompanied by other equally important measures. That is to say, half-hearted justice that changes little and only for a select few.

As we will see throughout the various chapters, few aspects changed for the better in terms of freedom of expression. Disinformation from the government, correlated to the concentration and closure of public information, has been intensified. The Internet is under siege by recurrent legislative initiatives that seek to control and censor. Violence against the press is on the rise. The institutions responsible for the protection of

fundamental rights are not being rebuilt but are rather stagnating or being dismantled. The socio-political and economic inequalities manifested in the lack of access to information and the digital gap suffered by communities and indigenous peoples, as well as the precariousness faced by journalists in their work, has worsened in the context of the pandemic. Denying the existence of serious human rights violations has become part of the official discourse, with murmured acknowledgment in a handful of cases.

Thus, distortion is presented as a mechanism to try to alter the perception of realities through a discourse that deforms them. Below we will review the main findings for each of the trends that seriously affect freedom of expression in Mexico.



chapter

01

INFORMATION CONCENTRATION AND CLOSURE

The shortcomings of the governmental communication model

The flow of public information stemming from the government of the Fourth Transformation (4T) is concentrated in a single voice, that of the president, which limits access to information and closes other institutional mechanisms to exercise this right. In the second year of López Obrador's administration, the tendency to concentrate, close and misinform in "la mañanera" (morning press conference) has continued, which has also been the platform to launch stigmatizing discourse with messages and impacts that affect and remain in the civic space.

An example of these stigmatizing messages is the president's statement -without the necessary documentary support or evidence- that 60% of the people killed in confrontations with the armed forces were under the influence of drugs¹. ARTICLE 19 filed a request to access public information and requested documentary support for these statements, which was systematically denied. To date, the information requested from the Presidency of the Republic is not available, despite having a resolution in its favor from the National Institute of Transparency, Access to Information and Protection of Personal Data (INAI in Spanish), the entity that guarantees the right to information. It can be concluded that the president made an unsubstantiated statement and promoted a misleading discourse, the effects of which stigmatize victims of human rights violations.

1 AMLO morning press conference February 26th 2021, YouTube video, minute 25, February 26th 2021, <https://www.youtube.com/watch?v=nHOyyBX877o> (consultation on December 4th 2020).

Concentration of information

The tendency of the current administration to make the president's press conferences the main and almost exclusive mechanism of social communication, in turn, cancels out other voices within the government itself, from other branches of government or from various public actors. In this regard, three outcomes appear: 1) disinformation, 2) polarizing speeches and stigmatizing narratives² that are disseminated; 3) propagation of media and public agenda control³.

Closure of other access routes

A clear trend has been identified in the closing or shutting down of channels to obtain public information that support the president's statements or that allows us to assess the impact of implemented public policies. Requests to access public information are answered with

2 The Inter-American Court of Human Rights characterized the consequences of the polarizing speeches of state authorities and the effects on freedom of expression and the right to information in Case Perozo et al. v. Venezuela, judgment of January 28, 2009, Inter-American Court of Human Rights, Case of Perozo et al. v. Venezuela, Judgment of January 28, 2009. Par. 131, https://www.corteidh.or.cr/docs/casos/articulos/seriec_195_esp.pdf (consultation on December 10th 2020).

3 For an analysis of these effects, see Sicilia, Javier, "Polarization or chaos", Proceso Magazine, June 30th 2020, <https://www.proceso.com.mx/opinion/2020/6/30/polarizacion-caos-245366.html> (consultation on December 6th 2020)

Information control through morning press conferences

declarations of non-existence. This trend becomes more explicit with the president's recently announced intention to eliminate the INAI's autonomy and delegate its functions to the secretaries of state⁴.

Disinformation

For the purposes of this analysis, disinformation shall be understood as the dissemination of information and propaganda with “the purpose of misleading the public and interfering with the public's right to know and the right of individuals to seek and receive, as well as to disseminate information and ideas of any kind, regardless of borders”⁵. This situation is particularly worrisome when it is high-level authorities or relevant public figures who promote disinformation, knowing that the statements they issue are false or misleading.

The practices of opacity, concentration and systematic disinformation of López Obrador's administration find their origin in his morning press conference in which statements that could be qualified as not true are delivered. According to an analysis conducted by SPIN Political Communication Workshop (Taller de Comunicación Política) from December 1st 2018, when his administration began, to November 30th 2020, the president had made a total of 40,502 statements which were qualified as false or misleading⁶, an average of 20,000 per year or, in other words, 79 such assertions per day.

The organization Verificado collated López Obrador's statements and found that from “December 2nd 2019 to November 30th 2020, 1499 verifiable phrases were identified: 264 misleading, 262 incorrect and 973 true. The above means that almost four out of every ten verifiable phrases said by the president during his second year in office were not true.”⁷

The severeness of the concentration of information in the morning press conferences is evident in terms of the level of reproduction and dissemination of the messages, making it one of the most viewed sources of information nationwide. According to figures from SPIN Political Communication Workshop, an average of 641,000 people watch the morning press conference daily through the Presidency's Facebook⁸ account. An-

4 During the first weeks of January 2021, the president led a series of attacks aimed at eliminating the autonomy of the institutes. This issue will be analyzed below; see ARTICLE 19, “Eliminating autonomous bodies such as INAI would imply a serious setback for human rights in Mexico.” Mexico, ARTICLE 19, January 7th 2021 <https://articulo19.org/eliminar-organismos-autonomos-como-el-inai-implicaria-un-grave-retroceso-en-materia-de-derechos-humanos-en-mexico/> (consultation January 14th 2021)

5 “Joint statement on freedom of expression and ‘fake news’, disinformation and propaganda,” UN Special Rapporteur on Freedom of Opinion and Expression, et al., Organization of American State, 2017 <http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1056&IID=2> (consultation December 6th, 2020)

6 “AMLO morning press conference”, SPIN Political Communication Workshop, <http://www.spintcp.com/conferenciapresidente/infografias/> (consultation December 6th, 2020)

7 “Two years of morning press conference”: 4 out of 10 verifiable statements are not true”, Verificado, December 1st, 2020 (consultation December 10th, 2020)

8 “Morning press conferences...” et. Al.

drés Manuel López Obrador's YouTube account⁹ has 2.33 million followers, while that of the Mexican Government has only 633,000¹⁰. On Facebook, the President's page has 8.2 million followers¹¹ and the Mexican Government has 2.7 million¹².

Although the morning press conferences are an important exercise of openness and social communication, the Office of the Presidency of the Republic (OPR) has maintained the systematic practice of rejecting requests for access to information through declarations of non-existence and non-competence when documentary support is required for the assertions made in the morning conferences, which has serious effects on the exercise of the right to information.

During 2020, media plurality and the freedom of the media to seek, receive and disseminate information were put at risk, with the continuation of three trends that ARTICLE 19 has identified¹³: 1) lack of clear criteria for the allocation of government advertising, to avoid its use as an indirect censorship mechanism; 2) concentrated expenditure for government advertising in the last two months of the fiscal year, known as "December spending" and a symptom of mismanagement of public resources; 3) concentrated marketing granted to some media outlets.

Of the total amount spent, 54% went to only 10 media companies, while the remaining 46% was distributed among 387. The biggest beneficiaries were TV Azteca, La Jornada, Televisa, Grupo Fórmula, Milenio and Radio Centro. According to preliminary data from the Social Communication Expenses System (Comsoc) of the Ministry of Public Function (SFP), 1.2 billion pesos were spent during 2020, which is 50% of the 2.4 billion pesos approved in the 2020 Federal Expenditure Budget for this item.

Despite the pandemic, the Ministry of Health is one of the institutions that has spent the least on advertising. This raises doubts about the Ministry's public communication strategy, crucial in 2020, a year in which the most important information has to be related to public health. Out of the total 80 federal entities that paid for official advertising, 10 of them accounted for 89% of this disbursement. The decrease in this expenditure seems to be good news at first sight, however, the concentration at the end of the year in a few media outlets may continue being a mechanism of editorial control¹⁴.

A noteworthy issue is that the spokesperson for the Presidency, Jesús Ramírez Cuevas, made a request to the National Electoral Institute (INE in Spanish) that politi-

9 Lopez Obrador, Andres Manuel, YouTube channel <https://www.youtube.com/channel/UCxEgOKuI-n-WOJaNcisHvSg> (consultation December 6th, 2020)

10 Mexican Government, YouTube channel, <https://www.youtube.com/channel/UCvzHrtf9by1-UY67SfZse8w> (consultation December 6th, 2020)

11 Lopez Obrador, Andres Manuel, Facebook profile, <https://www.facebook.com/lopezobrador.org.mx> (consultation December 6th, 2020)

12 Mexican Government, Facebook page, <https://www.facebook.com/gobmexico/> (consultation December 6th, 2020)

13 ARTICLE 19, Dissonance: voices in dispute, Mexico, ARTICLE 19, March 30th, 2020, <https://disonancia.articulo19.org/>

14 Although it is beyond the scope of this report, it is important to analyze official advertising on social networks as a tool for disseminating official messages.

cal parties yield their official time to promote pandemic related content¹⁵. However, this request is questionable since the federal government does not adequately spend on official advertising, implements measures such as the reduction of fiscal time (which is analyzed below) and the president already concentrates the public agenda through the morning press conferences.

Fiscal times

In the morning press conference on April 3th 2020, President López Obrador announced a decree to return *fiscal time*¹⁶ to radio and television media, so that they can market and obtain greater income. Finally, the decree did not consider the dismissal of such time, but rather a cutback, from 18 to 11 minutes per day, for television, and from 35 to 21 minutes per day, for radio broadcasters.

Civil society organizations made some recommendations in this regard, given the implications it could have in the exercise of the right to information, mainly in the most remote and vulnerable communities, where there is no internet access¹⁷. Measures such as this one and the reduction of official publicity spending without allocation criteria also invalidates the spaces for interlocution of different governmental instances with the population. Thus contributing to the concentration of

social communication in the president's morning press conferences, to the detriment of the plurality of institutional messages.

Infodemia.mx: The State rates the veracity of the information

The head of the Mexican State Public Broadcasting System (SPR), Jenaro Villamil¹⁸, launched an initiative, amid the pandemic, to tackle misinformation on social media and other media outlets. The Infodemia.mx¹⁹ site, he says, seeks to “offer digital audiences a space for verified information. This is carried out in two stages: 1) identifying fake news and 2) digital literacy”²⁰.

This initiative has serious implications for the exercise of freedom of expression and the right to information, as a governmental body is also the regulatory entity for verifying information without any clear criteria or methodology to state it as true or false. This gives rise to political controls and establishes itself as a censorship tool.

15 “INE and parties must cede official time due to COVID outbreak: Presidency”, *Contralinea*, December 18th, 2020, <https://www.contralinea.com.mx/archivo-revista/2020/12/18/ine-y-partidos-deben-ceder-tiempos-oficiales-por-rebote-de-covid-presidencia/> (consultation January 14th, 2021)

16 In these spaces, messages from the different branches of government and autonomous entities are transmitted. See: Trejo, Irene “Tiempos oficiales y su normatividad”, IJ UNAM, <https://archivos.juridicas.unam.mx/www/bjv/libros/6/2654/16.pdf> (consultation December 12th, 2020) *The Fiscal Time arose with the Decree Authorizing the Ministry of Finance and Public Credit to Receive from Radio and Television Station Concessionaires the Payment of the Tax Indicated, published in the Official Gazette of the Federation, Diario Oficial de la Federación, October 10, 2002.*

17 ARTICLE 19, “Eliminating fiscal time in the media is a setback to the right to information”, Mexico, ARTICLE 19, April 3rd, 2020, https://articulo19.org/el-decreto-que-planea-firmar-el-presidente-andres-manuel-lopez-obrador-para-devolver-los-tiempos-fiscales-del-ejecutivo-en-radio-y-television-representa-un-retroceso-al-derecho-a-la-informacion-de-la/#_ftn1 (consultation December 12th, 2020)

18 “Infodemia, the other pandemic: Jenaro Villamil”, *Telediario*, May 6th, 2020, <https://www.telediario.mx/nacional/infodemia-la-otra-pandemia-de-la-sociedad-jenaro-villamil> (consultation December 12th, 2020)

19 The flow, dissemination and reproduction of false information or fake news.

20 “Who we are”, IfodemiaMX, infodemia.mx/nosotros

The closure of the right to information

In the second year of the 4T administration, the trend of indiscriminate use of the declarations of non-existence of information and of incompetence (lack of jurisdiction) as the most used mechanisms to close the channel of requests for access to public information²¹ continued. This clearly contributed to a process that hinders the exercise of this right, entrenching the negative trends identified throughout 2019.

Suspension of terms

It is not possible to analyze the exercise of the right to information in 2020 without considering the context of the pandemic. In particular, the lengthy suspension of deadlines and time frames to reply to requests for public information and for other functions of the National Transparency System. This, despite the call of the Inter-American Commission on Human Rights (IACHR), INAI, civil society organizations and state transparency institutes, not to increase the restrictions on freedom of expression and the right of access to information with

the general suspension of deadlines and time frames²². The impact of this measure on vulnerable groups and people with disabilities in the context of the pandemic²³ is of concern. In April, the INAI decided to reinstate the time frames, to safeguard the right of access to information and the protection of personal data in light of the current contingency situation.

The long periods of suspension caused the interruption of the exercise of the right of access to information for almost a year. In addition, a relevant trend of 2020 is that, in general, the agreements for such suspensions did not offer clarity regarding which activities were considered a priority and which were not; nor was the basis and motivation for such classification provided; nor were any options proposed to offer such information in culturally relevant formats. In this way, the oversight work of the guarantor agencies for the right to information was seriously diminished, thus reaffirming the trend to close information mechanisms other than the morning press conferences.

21 According to international standards on the right to information, embodied in the Inter-American Model Law 2.0 on Access to Public Information and the General Law on Transparency and Access to Public Information itself, there are three forms of transparency: reactive, which refers to the management of access requests; active, that is, compliance with the obligations established by law to periodically publish certain information; and proactive, referring to initiatives to organize and make available information that may be of public relevance or that may contribute to certain groups in vulnerable situations to exercise other human rights or to close gaps or dissymmetries. See: Sandoval, Rodrigo, "Mexico between an open government and artificial transparency", *Espacios Públicos*, year 20, num. 51, 2018, pp. 95-113, <http://politicas.uaemex.mx/espaciospublicos/eppdfs/N51-5.pdf> (Consultation December 7th, 2020).

22 IACHR and its SRFS express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic", press release R78/20, OAS, April 18th, 2020 <http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1173&IID=2> (Consultation December 7th, 2020).

23 For a letter from civil society organizations in this regard, see [Document without symbol], Fundar, Centro de Análisis e Investigación, April 15th, 2020, <https://fundar.org.mx/carta-publica-organizaciones-y-personas-piden-al-inai-garantizar-el-derecho-de-acceso-a-la-informacion-ante-la-pandemia/> (Consultation December 7th, 2020).

Declarations of non-existent information and lack of jurisdiction

Despite the INAI's suspension of deadlines and time frames, in 2020, the number of information requests did not decrease, as it received 228,414 requests to different regulated entities. Likewise, the filing of review appeals or complaints to the entity in cases of unsatisfactory replies was also sustained, with 15,045 filed in the same year. Two thirds of the requests filed resulted in appeals for review, which represents an increase of 479% with respect to 2019.

It is important to analyze the excessive increase in the use of two mechanisms to deny access to public information: the declaration of non-existent information and the lack of jurisdiction/competence. From 2002 to November 19th, 2020, the institutions that on most occasions have declared non-existent the requested information are the Federal Commission for the Protection against Sanitary Risks, with 21,363; the Ministry of Public Function (SFP), with 4922; the Mexican Institute of Social Security (IMSS), with 4886, and the OPR, with 3632, maintaining a parallel growth to the increase of information requests. The case of the OPR stands out, as it plays an important role in the process of concentration, closure and disinformation.

The use of the declaration of lack of jurisdiction/competence went from zero, in 2019, to 389, in 2020, while the declarations of non-existence went from 381, in 2019, to only three, in 2020, which shows a reversal of the mechanism used. "Non-existence" is no longer used to the same extent but "lack of jurisdiction/competence" is utilized to deny the requested information.

EQUIS Justice for Women claims that there has been an increase in automatic responses, especially from OPR, to declare lack of jurisdiction, as was the case with the President's claim that 90% of women's 911 calls to report gender-based violence were false. When the OPR was asked for the data on which this assertion was based, it responded stating its lack of jurisdiction/competence. EQUIS adds that the groups "Elementa and Intersecta had similar experiences with other requests. They declare themselves incompetent. It is a *modus operandi*".

Presidential threat to eliminate INAI

As of January 4th 2021, the President began a series of attacks directed against the INAI and other constitutionally autonomous entities. In particular, on January 7th he announced that he would prepare an administrative reform so that INAI and the Federal Telecommunications Institute (IFT) would become part of the Ministry of Public Function (SFP), the former, and the Ministry of Communications and Transportation (SCT), the latter.

This announcement is extremely worrisome and exemplifies the trend towards the closure of the right to information that we document in this report. Autonomous constitutional entities have a role as counterweights to power, in the face of the arbitrariness of both government institutions and public servants. The potential measure of transferring their functions to agencies that are part of the federal public administration, whose officials are appointed directly by the head of the Executive, would turn them into judge and jury. Furthermore, they would concentrate and exercise the corresponding attributions in a discretionary and arbitrary manner.

The President argues that they are entities that "have been very expensive" for the country; however, the 918 million Mexican pesos budget allocated to INAI for 2021 represents less than 1% of the resources allocated to the Ministry of National Defense (Sedena), which amount to 112 billion Mexican pesos for the same period. Therefore, their spending cannot be the main argument for their disappearance, especially since they are institutions designed for the protection of rights and with independence from the powers that are subject to their scrutiny.

The following trends were identified throughout this chapter: the concentration of information; the ongoing media control mechanisms through official advertising, fiscal time or the verification of information; and the control of the exercise of the right to information. These trends have repercussions on the exercise of freedom of expression, the right to information and the plurality of messages and information available in the civic space, which are deepened by the causal link between them.



chapter

02

INFORMATION INEQUALITY IN THE PANDEMIC

No strategy to bridge the digital divide

More than two years into the current administration, poverty and inequality persist, a situation that is not only the result of the economic and social policies implemented in Mexico over the last 40 years but is also attributable to current policies that are not very inclusive. The National Council for the Evaluation of Social Development Policy (CONEVAL) estimated an increase in the population living in extreme poverty from 6.1 to 10.7 million people by 2020. There does not seem to be a clear strategy to address this problem, which has worsened during the pandemic. Nor has there been any progress in the exercise of other rights that have been denied to at-risk populations, such as the digital divide, the lack of access to information for indigenous peoples and the precariousness in which thousands of journalists carry out their work.

The Internet and access to information and communication technologies (ICTs) have acquired unprecedented relevance in the wake of the COVID-19 pandemic. However, it also revealed the country's structural inequalities and the significant digital divide. In rural Mexico, only 47.7% of the population is connected to the Internet. Meaning that more than 30 million people who do not have access to ICTs and cannot exercise that right.

While the centralist plans and programs of the current government remain distant from local needs, the disjointed deployment of its connectivity policy and estimations are not aligned with the commitment that by 2021 the entire national territory would have internet access. Since the disappearance of the Undersecretary of Communications and Technological Development of the SCT, in August 2020, programs that function in a disjointed manner still remain, without a coordinated strategy nor a clear direction.

The current connectivity process is carried out through two shared network programs. The first is a public-private partnership headed by Altán Redes, inherited from the previous administration. Its infrastructure reaches the communities but faces two essential problems: 1) it does not have retailers to offer and market its telecommunications services in rural areas and 2) the quality of the network is not reliable. The second is CFE Telecom-Internet for All (CFE-TIPT), an opaque program that provides public information in dribs and drabs and develops actions as its implementation progresses.

In the context of the health crisis, which led to the closure of schools, the promotion of telecommuting and the transfer of a large part of daily life to the digital space, Internet access became essential, not only to continue with academic and work activities, but also to

Indigenous peoples without access to information

access timely and accurate information created by the State with regards to health issues.

Bridging the digital divide involves reducing the different gaps faced by the population in Mexico, especially in rural areas. An example of this is the state of Chiapas, where ARTICLE 19 has worked to promote the right to information: 88% of rural households in Chiapas do not have internet connection, only 3 out of 10 inhabitants have access to ICTs and less than 20% of families have a computer, tablet or laptop. Exclusion is even more acute in the case of women, since 7 out of 10 do not know how to use a computer and between 6 and 7 out of 10 do not use the internet either. This situation is compounded by an adverse socioeconomic context and lack of formal education, with the average schooling level of 7.3 years, little more than the first year of high school.

The star program of the current administration, CFE Telecom-Internet for All, which provides coverage to 7.8% of communities with less than 250 inhabitants has been criticized because to date the deployment of connection points has been concentrated in urban areas where there is already connectivity. In the digital era, Internet has become a primary means for the exercise of freedom of expression. The guarantee of its access is fundamental for the indigenous peoples and communities of Mexico to fully exercise their human rights, both physically and digitally. The affirmative actions that the State must promote, as indicated in the draft ruling of the Supreme Court of Justice of the Nation (SCJN) regarding the constitutionality of Articles 239 and 244-B of the Federal Law of Rights, must include the promotion of community initiatives that foster digital inclusion, encouraging communities and peoples to generate their own connectivity processes.

Despite Andrés Manuel López Obrador's discourse, which places indigenous peoples at the center of his administration, there has not been an effective policy of proactive transparency that would allow indigenous communities to access adequate, sufficient, timely and culturally relevant information on COVID-19's prevention and attention measures.

ARTICLE 19 corroborated, through interviews with various individuals and organizations in the states of Chiapas, Oaxaca and Yucatán, and documentary research from April to November 2020, the consequences of the lack of information to confront the pandemic and its effects on the exercise of the right to health and a dignified life, to education, and to free, prior and informed consent. It also documented the situation of the right to information in indigenous communities in Chiapas and Tabasco during the floods caused by tropical storm Eta and cold front number 11 during November 2020.

The majority of the indigenous language-speaking population belongs to the socioeconomic sector that faces the greatest obstacles in accessing their rights; they also experience different circumstances in terms of health and public services compared to Spanish-speakers. For their part, indigenous women have few opportunities to engage in the labor market, access to health and education services, and have limited access to social programs and services, and little community political participation.

The state response to the pandemic: late and limited action

In the area of prevention and attention to COVID-19, the indigenous communities did not have timely, accurate,

reliable and verifiable information, which not only led to a lack of knowledge about the pandemic itself, but also caused greater fear and uncertainty among the population and, in some cases, situations of stigmatization of infected persons and their families.

The actions carried out by the National Institute of Indigenous Peoples (INPI) and the Ministry of Health consisted of the Community Action Strategy, implemented in April 2020, and the publication of materials translated into several indigenous languages in May of the same year, such as the “Guide for the care of indigenous and Afro-Mexican peoples and communities amid the health emergency generated by the SARS-CoV-2 virus (COVID-19)”, in addition to the campaign of “radio spots on prevention measures against the contagion of the COVID-19 coronavirus”, as well as various messages such as “Stay in your community” or “Hand washing”.

Representatives of indigenous communities, interviewed by ARTICLE 19, confirmed that information in their languages provided by government agencies was not disseminated through culturally relevant media, but rather resorted, above all, to written format, television and the Internet. The latter widened the digital divide faced by indigenous peoples. According to the Diagnosis of Mobile Service Coverage for Indigenous Peoples in 2018, 82% of the localities with presence of this population has 3G technology mobile coverage, but only 40% has access to 4G. Another limitation is that not all indigenous families have television, or the signal is not strong enough.

This outlook becomes more discouraging due to the serious impact that COVID-19 cases could have on their subsistence or survival as peoples. In addition, at the municipal level, severe failures were documented in the dissemination of infection and death figures associated with the virus. Thus, the lack of adequate and relevant information not only led to an increase in infections and deaths from the virus, but also meant that the population did not have the services and infrastructure needed for its prevention and care, such as screening tests, actions to contain the spread of the virus, indications for the handling of corpses, medical equipment and specialized health-care personnel.

Indigenous consultation and megaprojects

One of the main concerns of international human rights organizations during the pandemic has been the implementation of productive and/or extractive projects in indigenous peoples’ territories, taking advantage of the impossibility to carry out prior, free and informed consent processes due to the social distancing measures recommended by the World Health Organization (WHO).

In the case of Mexico, the continuation of the activities of the so-called “Tren Maya” (Mayan Train), despite the fact that its construction and the eviction of people was not essential in the context of the pandemic, was met with several complaints from human rights organizations and community land defenders affected by this megaproject. As a result, on May 14th 2020, the National Human Rights Commission (CNDH) decreed precautionary measures in favor of the indigenous peoples of the Yucatan Peninsula, directed the National Fund for the Promotion of Tourism (Fonatur) to suspend, as a matter of urgency, the non-essential works of this project. Despite this, during the pandemic, some sections have been inaugurated and public consultation meetings have been held.

Back to School Program: inequality in access to education

In addition to lack of access to healthcare resulting from the lack of information on COVID-19, its effects and prevention measures among indigenous populations, President López Obrador and the Secretary of Public Education, Esteban Moctezuma, decided to resume the school year through a distance learning modality, due to the lack of necessary conditions to carry it out in person.

To this end, the federal public administration reached an agreement with private companies such as Televisa, TV Azteca, Grupo Imagen and Grupo Milenio Multimedios, to provide distance learning to the 30 million students in Mexico’s 16 elementary and high school grades, with a budget of 450 million Mexican pesos.

At the time, ARTICLE 19 questioned the opacity of the federal government's reports, which did not clarify whether this determination was based on a prior analysis of the potential pedagogical impacts of this adjustment in the educational model aimed at the indigenous population; or whether it contemplated evaluation mechanisms that take into account national diversity and multiculturalism; or whether they considered other alternative and diverse educational models. It is also unknown whether the program design took into account the obligation to provide connectivity and infrastructure to reduce the digital divide, as well as the obligation to take measures for indigenous peoples to make use of the radio electric spectrum and broadcast on radio and analog television in their own languages.

ARTICLE 19 submitted a request for access to information to the Ministry of Public Education (SEP) through the National Transparency Platform (PNT) in which it requested “[...] a simple copy of the contracts signed with Grupo Televisa for the execution of the program Learn at home (Aprende en Casa)”. In response, the SEP sent a copy of the Agreement for the Distribution, Dissemination and Transmission of Educational Audiovisual Content “Back to School. Learn at Home II”. However, this document does not contain any clause referring to the resources to be paid for the consideration, its nature, as well as the monitoring and administration of the same.

Humanitarian crisis in Chiapas and Tabasco: the disaster is not a natural one

During the month of November, in addition to the pandemic, the states of Chiapas, Tabasco and Veracruz suffered various damages due to the heavy rains caused by tropical storm Eta and cold front number 11, including damage to homes, schools and other public infrastructure, as well as loss of life. In the case of Chiapas, the federal government has given less media attention to the floods. So far, it is known that the Welfare Secretariat will carry out a census in 649 affected localities in order to grant support, which will be delivered per affected household and will require the voter's I.D card of the representative of each home.

The unhealed wound: historical discrimination and inequality for indigenous peoples

The strategy to inform indigenous populations about the COVID-19 pandemic has not really been adapted to the linguistic and cultural diversity of the country and to the needs of these groups, since the dissemination, in general, has focused on urban sectors, leaving out and abandoning rural areas. In other words, the historical debt prevails, and the conditions of poverty and inequality remain the same, despite the official narrative.

Precisely because the health crisis has had serious consequences on the health and lives of indigenous peoples, the government should take extreme measures to protect their human rights by carrying out coordinated actions at the state and municipal levels. This should guarantee, among other things, access to health services and medical attention, taking into account preventive care, curative practices and traditional medicines. In addition, it should guarantee indigenous peoples access to adequate, timely, reliable information in their own languages on all aspects of the pandemic, including public services, as well as the duties and obligations of the State in this context.

Finally, governments should ensure the availability of this information in culturally appropriate formats for all people, paying special attention to linguistic, digital, educational and social gaps, and recognizing the importance of indigenous community radio stations in the transmission of information of interest to indigenous peoples.

Insecurity exacerbated among journalists

One year after the pandemic arrived in Mexico, material and structural violence against the media persists, limiting the possibilities for pluralistic, critical and independent journalism. From March to December 2020, 113 attacks were documented in connection with the news coverage of the pandemic. Of these, 63.7% were perpetrated by public servants, who are the main perpetrators of direct violence against the press. This situation is compounded by violence arising from the economic, political and social conditions of those who exercise the right to inform and by the high risk of infection they face when reporting on COVID-19. As documented by ARTICLE 19, in 2020, 69 journalists died from the virus, while in 2021, as of February 5th, 21 more deaths had been recorded. Many were infected during their work as journalists. As a result, the debt of the State and companies increases.

Precariousness and violence: factors that silence the press

From November 2020 to January 2021, we conducted a survey among journalists who suffered attacks related to the coverage of the pandemic. This exercise shows that as a result of the health crisis, 62.7% of the journalists interviewed suffered a reduction in their salary or journalism-related income. While 49.3% earn between 5,000 and 10,000 pesos per month, 28.4% earn between 10,000 and 20,000 pesos per month, while 20.9% earn less than 5,000 pesos per month and less than 2% earn more than 30,000 pesos per month. The salary decrease has a greater impact if we compare the possible medical expenses with the reduced economic income: a single COVID-19 test could mean almost the monthly salary of a journalist, and an oxygen tank would be equivalent to two-month's income.

According to ARTICLE 19's survey, 62.7% of journalists stated that they did not have any type of social security. A sign that media owners are also failing to protect journalists. Thirty-four percent stated that they did not have the necessary sanitary equipment to report during the pandemic and 79.1% indicated that they had to cover the expenses required to protect themselves out of their own pocket. These shortcomings have a clear impact on the infection rate of journalists: 49.3% of those interviewed reported that someone in their media outlet had been infected with COVID-19, while almost 16.4% said they had already been infected.

The absence of protection, lack of access to social security and generally precarious conditions also have a psycho-emotional impact on the press. Out of the total number of journalists surveyed, only 7.5% said they had not experienced any type of psycho-social impact, while the majority (93.2%) declared having stress, fear and anxiety.

This precariousness is very clear in the area of job security. Our survey showed that only 50.7% of journalists have a full-time contract, which is linked to the fact that 32.8% of those interviewed stated that they have another job in addition to journalism. Because many journalists do not have a full-time job, they are more susceptible to attacks and stigmatization.

In 2020, approximately one out of eight attacks against the press occurred during the coverage of the pandemic. In this case, the precariousness and direct violence against journalists is mainly perpetrated, by direct actions or omission, by the authorities. Let's not leave aside that the deterioration of working conditions are also the responsibility of media companies. Until the reality experienced by hundreds of journalists and the role of the State in the perpetuation of violence is recognized, little can be done to prevent attacks and improve the conditions in which journalism is practiced in Mexico.



RA QUE TIENE RESPALDO
GARANZIA
AMLO LA
LIBERTAD DE
EXPRESION

Ejér
pre
leal al pueblo"

La impunidad propicia el delito, opinan expertos
Suma México
4 masacres

Va AMLO en 2021
contra órganos
autónomos

El presidente aseguró que en estos órganos "todo era una farsa, y eran para darles trabajo a los allegados a los funcionarios"; rechaza INAI su eventual eliminación

la 'L
Chavote

Alertan sobre el uso discrecional de recursos en la publicación de información pública

Resiste
AMLO
abrir
datos

chapter

03

PERMISSION TO ATTACK THE PRESS

"Divide and conquer": stigmatization as a silencing strategy

In a country where the press is attacked every 13 hours, neither the right to dissent nor the right to information is guaranteed. In 2020, ARTICLE 19 recorded 692 aggressions against journalists and media outlets, possibly linked to their informative work. This represents 13.62% more than in 2019. That is, attacks against media and journalists continue to grow. In addition, six journalists were murdered for their work and 24 remain missing to date.

State instruments have a multiplying effect on attacks, starting with a two-faced official narrative: one that tells the general population that everything is fine and another that attacks and justifies attacking the press. In 2020, this strategy is no longer exclusive to the president, but various public officials and private individuals already use it as a tool to threaten and silence dissident voices, stigmatizing narratives, attacking and murdering journalists without fear of any forceful response from the State.

The president has managed, through his words, to manipulate the public debate and reinforce old censorship mechanisms, control and silencing of criticism. This has emphasized the patterns of violence against the press, which are accompanied by a stigmatizing narrative that turned the morning conferences into the key space to make a clear division between the only supposedly reliable source of information -the government- and its adversaries -the critics-. In little more than two years of the current administration, 17 journalists have been murdered for reasons possibly associated with their professional work.

In the morning press conference, the information presented is not always reliable, but rather aims to disinform and launch attacks. An example of this is the accusation of the media outlets that supposedly received foreign funds "exclusively to oppose the Tren Maya". The funds in question, in reality, are from a project that began in 2017, before the current administration came to power. Thus, the attempts to inhibit the exercise of free speech are evidenced by the smear campaign undertaken by the federal government against those who warn about the risks and violations to economic, social, cultural and environmental rights that the Tren Maya project entails.

In his attempt to "inform" that freedom of expression is respected in Mexico, the Chief Executive presented a comparative report from several articles and opinion columns published by eight different media outlets and categorized them into "positive" and "negative" in order to develop a narrative in favor of his administration and against the plurality of ideas, stating that "never before has a president been attacked so much". Unfortunately, these reports lack clear methodology and are not very transparent; instead, the president's action denotes a

huge intolerance to criticism when, on the contrary, it is his duty to guarantee it.

In Mexico, the authorities are responsible for the largest number of direct attacks against journalists, with 46.45% of cases of intimidation and harassment, as well as 35.71% of threats against them. Thus, it is not surprising that -continuing with the last seven-year trend-, attacks against the press by the State reached 343 in 2020, 78 attacks more than the previous year. This means that almost one out of every two attacks against journalists and the media come from the authorities. In particular, public servants perpetrated 188 of these 343 attacks (54.81%). The most common were the illegitimate use of public power (mainly judicial harassment and stigmatization), intimidation and harassment, and blocking or moderation of content.

Violence from the State triggers a domino effect and a spiral of violence against the press. Unfortunately, this has been replicated in the country's states, for example Baja California, where Governor Jaime Bonilla launched a campaign to discredit the weekly Zeta and, in general, to stigmatize journalists who question his administration. In Baja California, aggressions against the press went from 20, in 2018, to 32, in 2019, and to 34, in 2020. In the latter year, 52.94% were perpetrated by state authorities. This case illustrates why official stigmatization and smear campaigns against the press represent 22.34% of the aggressions perpetrated by public officials.

Another examples come from the governor of Aguascalientes, Martín Orozco Sandoval, whose Social Communication area blocked the work of journalist Carlos Gutiérrez, and the governor of Chihuahua, Javier Corral Jurado, who used social networks to make stigmatizing comments against El Diario.

Of the 87 blockings of information documented in 2020, 37 were associated with coverage of the COVID-19 pandemic in Mexico, representing four out of ten refusals to provide information to the public.

As well as the civil service, there are the armed and security forces. These were responsible for 45.49% of the aggressions perpetrated by the State. With 144 cases, civilian security forces mainly perpetrated 29 information blockings, 27 arbitrary detentions and 22 physical attacks with injuries. Similarly, although to a lesser extent, with 11 aggressions the armed forces, especially the

National Guard, attacked the press by blocking information, arbitrary detentions and acts of intimidation. Attacks by police forces occurred during protests, such as the #JusticeForEvelyn (#JusticiaParaEvelyn) march, held in León, Guanajuato, where four journalists informed ARTICLE 19 that municipal police handcuffed them, pushed them and threatened them with arrest. Moreover, in Benito Juárez, Quintana Roo, elements of the municipal police and the single command used illegitimate and arbitrary force to repress social mobilizations to end violence against women, during the #Justicia-paraporAlexis mobilization. As a result, seven journalists were attacked.

"Easier said than done": official narrative vs. harassment

In 2020, the cases of judicial and administrative harassment by the State tripled, from 11 to 33, both through civil and criminal proceedings. The SFP alone imposed a fine of almost one million pesos on a media outlet (Nexos). Pío Lorenzo López Obrador, a member of the National Regeneration Movement (Morena) and brother of the President, filed a criminal complaint to the Attorney General's Office (FGR) against Carlos Loret de Mola, for the reports in LatinUS showing videos of the Morenista receiving money for his party's campaigns.

The use of public power against the media is not exclusively at federal level, as it has also been reproduced at the state level. Tlaxcala is an example of this, where Mario Antonio de Jesús Jiménez Martínez, former president of the State Superior Court of Justice and current magistrate, sued Edgardo Cabrera Morales and José Luis Ahuactzin Ávila of the digital portal GenteTlx, for moral damages, arguing that due to their publications he was not ratified as president of the Court. In Guanajuato, María Bárbara Botello Santibáñez, former PRI mayor of León, sued the newspaper AM for 300 million pesos, which had documented several acts of corruption in the state.

In turn, in Puebla, public power is used to attack the press. After the publication of the special report C.O.V.I.D: Freedom of expression and information during the COVID-19 pandemic in Mexico and CA, the General Coordination of Communication and Digital Agenda of Governor Miguel Barbosa Huerta sent a letter to ARTICLE 19 assuring that freedom of expression is respected in the state. However, we have warned on multiple occasions of aggressions against the press perpetrated by Puebla authorities. The governor and the

Coordination are directly linked to systematic blockings of information and stigmatization. In 2020 alone, the state government was responsible for 65% of the attacks against the media in Puebla, in addition to disseminating disinformation about protective measures against the SARS-CoV-2 virus.

In addition to the stigmatizing public discourse, Puebla is the state with the highest use of civil judicial harassment, with 16 journalists and media sued, four times more than the second place (Guanajuato). In addition to this, the state went from fourth to second place in the country for violence against the media, with an increase of aggressions from 34, in 2019, to 75, in 2020. The result: a harmful situation of intimidation against the press.

Notimex: the Mexican BBC that wasn't... the Mexican impunity that (always) is

It has been 10 months since we disclosed that executives of the Mexican State News Agency (Notimex) ordered their employees to attack -with their own Twitter accounts and fake accounts- journalists and former employees of this government agency. The authorities leading the investigation have acted with inexplicable and obsequious slowness and to date neither the SFP nor the Internal Control Organ of Notimex have reached any conclusion. It is not known whether the evidence provided was safeguarded, but the person responsible for these aggressions continues to head the agency with total impunity and under the protection of the authorities.

This case illustrates the current crisis of public media in Mexico. Far from offering quality journalistic content and editorial independence, Notimex is in a deep crisis due to a workers' strike and the lack of legitimacy of its management as a result of the smear campaigns against reporters and critics of the agency.

As with the SFP, we filed two complaints with the CNDH in June 2020. Almost five months later, on October 26th the institution only notified us that it had received Notimex's report. We were only informed in December, in a meeting, that the investigation had been turned over to Carla Aurora Adame, deputy of the Sixth Inspector General's Office. This in spite of the fact that our complaints are not related to labor issues, but to the exercise of freedom of expression.

It is regrettable that the role of the CNDH has been reduced to waiting for the delivery of information from Notimex's management, while having little communi-

cation with the victims. For its part, Notimex's Governing Board, made up of different government ministries, has let the situation of institutional degradation and detrimental use of public resources by the current management go unchecked.

The result of these attacks, the incessant search to control the public narrative and the blind eye to the aggressions directly perpetrated by officials of the federal administration generate the necessary conditions for ongoing aggressions against the Mexican press. In the face of this, the attacks continue to escalate, as other aggressors take advantage of the complacency of the State and the impunity which, as we have already seen, is fully guaranteed.

Concentrations of violence

In 2020, 692 aggressions against the press were reported. The states with the highest number were Mexico City, Puebla, Quintana Roo, Veracruz and Oaxaca. Between the five of them, they exceed 47% of the total. The country's capital reported the highest number of attacks, with a total of 92, which exceeds 13% of the total.

Similar to the year 2019, 2020 was a year in which Mexican women, fed up with the systemic violence experienced on a daily basis, took to the streets to demand rights that the patriarchy violates or denies. Thus, during the coverage of the feminist mobilizations, 35 female journalists were assaulted by both police forces and private individuals, further highlighting the double risk of being a woman and a communicator in Mexico. Male journalists, on the other hand, were victims of 43 attacks, mainly intimidation and threats.

The case of Puebla represents a clear warning of the abuse of state powers against the press. ARTICLE 19 documented 75 attacks, including the 16 civil judicial harassment cases mentioned above, 8 information blockings, 7 physical attacks and 7 deprivations of liberty. The increase in attacks in the state, and a discourse that denigrates the press, lends itself to a possible cascade effect, which increases violence to the point of endangering the physical integrity of journalists. This is the case of the injuries suffered by reporter Itzel Valencia and cameraman Alejandro Rodríguez of Canal 10 de Puebla television station.

Veracruz and Oaxaca are among the 10 states with the highest levels of violence against the press. In the former, approximately 60% of the aggressions come, above all, from unidentified elements, private individuals or organized crime. In the second, the proportion rises to 75%. This pattern, which is also repeated in Guerrero (the sixth state with the most attacks) can be analyzed in two ways: first, that the State is absent, thus allowing the development of power structures outside the law.

The second, that the governmental structure, in fact, is part of and uses illegal groups for censorship purposes.

The absence of a guarantor state is particularly serious in Veracruz. Murders such as that of the reporter María Elena Ferral, in Papantla, and that of Julio Valdivia, in Tezonapa, consolidate the state as one of the most dangerous for journalists in Mexico. In addition to these two murders there were another 50 attacks against the press in Veracruz, the most frequent being intimidation and harassment, attacks from false domains or accounts, threats and deprivation of freedom. Of the total, in 40.38% there were insufficient elements to identify a perpetrator; in 17.30%, it was private individuals, and in only 2% it was possible to confirm the direct participation of organized crime. Impunity for crimes and aggressions against journalists continues to be a pending justice issue in the state of Veracruz. From 2000 to date, 30 journalists have been murdered.

Likewise, in Oaxaca, there is a high percentage of attacks perpetrated by non-state actors. Of the 44 documented attacks on the press, 16, or 36.36%, came from private individuals. This is the same number as in the cases in which there are no elements to help identify the person or group attacking, while one attack was committed by a member of a political party.

Quintana Roo continues to be one of the most dangerous states for the press. During 2020, ARTICLE 19 documented 60 aggressions, including 25 cases of intimidation and harassment and 19 threats. That is, 41.67% and 31.67%, respectively, of the total number of attacks against the press reported in the state. In 38.33% of the cases, they were by security forces; in 20% by private individuals; in 10% by members of organized crime and in 15% there were insufficient elements to identify the aggressor.

In contrast, the states with the fewest attacks against the press were Nuevo León, Zacatecas, Tabasco, Colima

Diversification of aggressors: private individuals, anonymity online and organized crime groups

and Querétaro. In view of this, it is essential to remember that aggressions are only one of several metrics to measure the risk experienced by the press and do not necessarily imply that the states with the fewest cases are necessarily the safest to practice journalism. An example is the murder of Jaime Daniel Castaño Zacarías, director of the digital portal PrensaLibre MX, in Jerez, Zacatecas. It is possible that the scarcity of attacks against the press in Zacatecas and other states has more to do with self-censorship than the absence of violence.

Despite the fact that State agents are the main aggressors of the press, in 2020, attacks perpetrated by private individuals and organized crime, plus the cases in which it was not possible to identify them, added to the total of 692 attacks. Almost 24% of them (161) were carried out by private individuals through threats, intimidation, harassment and physical attacks, and were associated with the coverage of corruption and political issues, protests and social movements, and private enterprises. This could be an indicator that the business sector is also a source of aggression when journalists report possible acts of corruption and links between this sector and authorities.

Out of 138 attacks without sufficient elements to identify the perpetrator, 70 of them -that is, a little more than half- were in the digital sphere, such as the computer attack against Animal Político. Journalists from several states warn about coordinated attacks on social networks and their media sites. It is important to emphasize that 191 of the 692 documented aggressions against the press, that is 27.60%, are of a digital nature.

The identification of direct aggressors is also difficult when it comes to organized crime. Thus, in 2020, it was only possible to recognize criminal groups or their members in 5.64% of the total number of aggressions in the year. According to the map on drug trafficking in Mexico presented by the Financial Intelligence Unit (UIF), six of the 15 entities with the highest presence of this crime are also where there is more violence against

Politics, security, protests and pandemic: high risk coverage

the press: Quintana Roo, Veracruz, Oaxaca, Guerrero, Baja California and the State of Mexico. In at least 62 cases (8.96%), journalists reported fear or suspicion that organized crime groups were allied or linked to their aggressors, whether they were private individuals or public officials. Of the six homicides documented this year, in at least five there are indications that they were carried out by organized crime. Likewise, the two disappearances documented this year were probably also carried out by criminal groups.

In states such as Guanajuato -as established by the National Risk Assessment 2019-2020, released by the UIF-, the criminal presence has grown as a result of the struggles for territory, while the ties between organized crime and the State leave the press adrift and under siege. As a consequence, the murder of Israel Vázquez Rangel, reporter of the portal El Salmantino, of Salamanca, stands out, as well as the murder of Jorge Miguel Armenta Ávalos, general director and owner of Grupo Editorial Medios Obson, of Cajeme, Sonora. In Guerrero, multiple hot spots have been documented due to disputes between different organized crime groups. From 2009 to 2020, ARTICLE 19 documented 67 cases of forced displacement due to this.

High risk coverage has maintained an upward trend with respect to the previous year. Attacks on the press associated with the coverage of corruption and political issues accounted for 43.21% of the cases, and those related to security and justice issues accounted for 18.93%. Violence against those who cover human rights also more than doubled. Of the six journalists murdered in the course of their work, four covered security and justice, one covered corruption and politics, and another covered human rights.

On the other hand, sources related to security and justice, particularly in the case of police reports, represents a high risk for journalists. Although it represents only 18.93% of the aggressions, it stands out for being linked to 38% of the death threats (21 out of 55), as well as to almost half of the arbitrary detentions (15 out of 31).

One factor that explains the increase in attacks associated with the coverage of human rights is the prominence acquired by the issue of the right to health. The press has suffered from the pandemic in two ways: first, as a catalyst for violence against them, and second, as a factor that increases their precarious working conditions. A total of 113 aggressions, 16.33% of those documented in 2020, are linked to the coverage of the pandemic and are concentrated in the first months of the health contingency situation, from March to June, with 77.88% of the aggressions. As we explained in the special report C.O.V.I.D: Freedom of expression and information during the COVID-19 pandemic in Mexico and CA, this shows that the arrival of the virus to Mexico brought with it an attempt to censor those who sought to exercise their right to inform about the real situation in terms of the management of the pandemic and the crisis it would unleash in the country.

Today, as was the case last year, it is of great urgency that the government reverse the trend of violence against the press. A first step corresponds directly and solely to the president and consists of López Obrador ceasing the criminalization and stigmatization of journalists and recognizing the essential role of the press in strengthening democracy. ARTICLE 19 recognizes that reversing the adverse conditions for the full exercise of freedom of expression requires time and multi-factorial strategies. But it also stresses that the political will and decision of the head of state is necessary. If the president were to change his intolerance and his strategy of narrative control and censorship of dissident voices for a discourse of respect for plurality, undoubtedly, a path towards safeguarding those who exercise the right to inform on a daily basis would begin to take shape.



chapter

04

THE DESIRE TO CENSOR THE INTERNET

Legislation to the detriment of the Internet and digital rights

The Internet has become a tool with which our rights and freedoms associated with information, expression, participation and collective protest are exercised today. In this space, the State lacks the power to discourage social mobilizations, which clashes with the current administration's desire to control. This chapter aims to show how the siege of the Internet seeks to dilute the civic space. On the one hand, the government seeks to dominate the Internet in the only way it can: by legislating, punishing and regulating. On the other hand, the right to protest in its different modalities, in particular, protest in the digital space as a fundamental resource to exercise the freedom of expression of feminist groups.

Today, women, historically ignored by the State, are finding a new way to express themselves through technology, despite being one of the most vulnerable populations, aggravated by the siege on the Internet.

In this context of structural violence that deepens inequality, Angie Contreras, activist for a feminist internet, supported in 2020 more than 90 women from different municipalities of Aguascalientes who suffered some kind of digital aggression. However, only one of them decided to file a criminal complaint through the so-called Olimpia law, approved in that state at the end of 2019. More than a law, it designates a set of reforms made from various state criminal codes (28, as of the date this report was written) to punish the dissemination of images with sexual content without consent. These reforms allow investigating authorities to intervene, intercept or remove content on the Internet without any judicial control to prove the necessity, proportionality and legitimacy of the measure.

These reforms were mainly driven by the initiative and mobilization of different groups of women activists, through advocacy campaigns and dialogue with congress members to recognize and address this type of violence. However, Angie points out that there are several problems in the way digital violence against women is conceptualized and, therefore, politicized. Moreover, the resolution of a particular case is something different from eradicating gender inequality and guaranteeing conditions that allow all women to enjoy a life free of violence. But "it is convenient for the state to say that this is the solution".

Furthermore, despite the fact that the dissemination of images with sexual content without consent has been positioned in the public debate as if this issue exhaust-

ed digital violence, the reality is that such conduct is only one of the 13 forms of digital aggression for which there are no comprehensive public policies.

Thus, by typifying another crime with the Olimpia law, the congress pretends to solve a problem of structural violence and gender inequality. The end product is reforms that do not pay attention to the systemic conditions that enable violence against women and its digital modality. This populist solution promotes partial and ambiguous criteria to determine what is or is not removed from the Internet. As well as empowering the authorities to exercise censorship to the detriment of freedom of expression, the free flow of information, and the very nature and architecture of the network of networks.

As in the case of the Olimpia law, public figures praised themselves in 2020 for promoting reforms in the criminal codes, in the Political Constitution of the United Mexican States and in other legal instruments on digital issues, but they are poorly designed and poorly thought-out initiatives. They are highlighted for their technical deficiencies and moralizing speeches and, above all, for the corrosive impact they may have on the access and use of the Internet, as well as on the exercise of freedom of expression in the digital sphere.

“There is a lot of tendency to control networks; that is, to censor.”

Andrés Manuel López Obrador

Senator Ricardo Monreal is one of the actors who promoted legislative initiatives far from the principles and guidelines established in international human rights standards, since, directly and indirectly, they contain measures that would interfere with the free access and use of the Internet. In sum, three initiatives were announced, but were not formally presented to the Legislative power, while 15 more were officially presented to the Congress of the Union and other local congresses, of which eight were approved and published.

The main shortcomings -in terms of freedom of expression and online information- of these initiatives are summarized as follows:

1. *Emergence of new criminal offenses.* The disinformation, hate speech, digital gender-based violence against women and Cybersecurity bills, public de-

nunciation and pressure on authorities confuse concepts and notions in the definition of the crime itself; they do not provide clear elements to identify which actions could be qualified as such, nor to identify who are the subjects of these criminal definitions. This leads to self-censorship and generates an ecosystem of fear and uncertainty regarding the application of criminal law.

2. *Regulation of internet intermediaries.* A bill on personal data and the reforms that are already approved and published on copyright (to the Federal Copyright Law and the Federal Criminal Code) seek to assign roles and responsibilities to digital platforms to censor or delete internet content, including content of public interest on the actions of government officials, relevant events of the national agenda, criticism of the government or signs of dissidence and citizen discontent. The requirement that intermediaries censor content not only has had a paralyzing effect on the freedom of expression of Internet users, but also repercussions on the fight against impunity, the struggle for truth, memory and justice, and the effective exercise of political participation. Undoubtedly, these reforms have meant the clearest and most evident setback in terms of freedom of expression in the digital sphere. For this reason, the CNDH, at the request of civil society organizations, filed an action of unconstitutionality that will have to be resolved by the SCJN.

3. *Media regulation.* On the one hand, an initiative on personal data intends to force digital media (news portals, blogs, etc.) to delete all information concerning a person at his or her request. This includes public servants -from current and past administrations- who find the media coverage of them unfavorable. This would be a direct attack against freedom of expression and information, by enabling the indiscriminate exercise of censorship. On the other hand, a disinformation initiative (foreseen in the draft of a National Criminal Code leaked in January 2020) seeks to require publishers to identify the authors of certain publications.

4. *Interference in the digital market.* A bill regarding digital services and internet access (Federal Law of Telecommunications and Broadcasting reform) seeks to establish the obligation for pay TV service providers via internet (such as Netflix, anime portals, national and foreign influencers, among others) that at least

30% of their programming be of Mexican production. Given the arbitrary imposition of a percentage, as well as a regulatory burden that does not make sense for several digital platforms that are not interested in buying content from Mexican television stations, many foreign companies and creators would restrict access to their services from Mexico. Meanwhile, an initiative to reform the Federal Copyright Law seeks to make all digital storage devices more expensive, which would aggravate the information gap, since not all people could cover the increased costs of technologies.

5. *Powers and attributions of state entities.* A bill on regulatory bodies seeks to disband the IFT and turn it into a non-specialized political body. In contrast to the above, bills regarding digital gender-based violence (some of them), digital services and internet access seek to give extraordinary powers to 1) any “competent authority” to request the removal of content from digital platforms; 2) the IFT to decide what is allowed or not allowed on the internet and 3) the Tax Administration Service (SAT) to order the blocking of pages and online services. These actions would be carried out without a judicial authority ordering it after a trial that guarantees due process, so they would constitute censorship measures and even prior censorship.

It was thanks to the insistence and advocacy of social and academic actors that some of these initiatives were stopped or, at least, corrected, in defense of human rights against the ideas of legislators and other political actors. In fact, in the absence of effective and sufficient exercises of citizen participation, civil society played a strategic role by mobilizing in the digital space, with hashtags that spread as emblems of the defense of the Internet, for example, #Salvemosinternet (let’s save the internet), #NiCensuraNiCandados, (No Censure No Locks) #MocheDigital (Digital Chop) and #Impuestos-Digitales (Digital Taxes).

The obsession to control “the digital”

As a result of the ignorance and unilateralism with which attempts have been made to regulate the digital world, all the initiatives analyzed in this chapter imply the extraterritorial application of Mexican norms, raising complex questions about governance and the future

of the jurisdiction of a single governmental entity on the Internet.

The *regulation* of the Internet seeks to centralize everything in the single voice of the State, as a figure that dominates and has control over the digital world. ARTICLE 19’s analysis of the bills presented to the Legislative branch - half of which were approved - shows that they were configured as legal devices that, when successful, threaten online participation, expression and information. The trend that was beginning to be outlined since the first year of the current administration is confirmed in 2020, when *this type of initiatives proliferated to pursue and achieve the prowl of Internet freedoms.*

Such proliferation not only tries to justify itself, many times, with official statements that misinform citizens by presenting these bills as a panacea for the problems that afflict us, but it is even more harmful to society because it seeks to be celebrated in itself. This simulation of a deficient rule of law and merely symbolic justice, as we will see in Chapter 6 of the report, is used at the convenience of the politicians who promote these types of norms and who seek the applause of a society that fails to see the true cost to democracy and to fundamental rights of legislative and punitive populism. Finally, the government conquest of the Internet seeks to break with its democratizing potential and for the exercise of rights.

What needs to be done regarding the Internet governance framework?

ARTICLE 19 recognizes that big technology companies have demonstrated that they are unwilling or not sufficiently efficient to respond to the challenges of protecting freedom of expression and other human rights on their platforms. However, instead of seeking the excessive regulation of a technology that it does not understand, the State -within the scope of its competence- should promote the implementation of the Guiding Principles on Business and Human Rights of the United Nations, as laid out by the Business and Human Rights Program of the CNDH.

In principle, digital platforms -as key actors in the development of 21st century democracies and of Internet governance- should provide information that allows people to monitor government actions. This includes, at

a minimum, publishing everything related to the requests for information or requests for removal of content received from any authority, as well as contracts, the identity of the contracting entities and the criteria for the dissemination of all political advertising and propaganda paid with public resources. They must also establish better response mechanisms to any controversy or uncertainty regarding any measure that implies the restriction of human rights. Finally, transparency should be a basic and cross-cutting requirement for all actions and decisions of companies, providing detailed information in accordance with the Santa Clara Principles.

Beyond avoiding misinformation from the public sector, reversing the restrictive trend with which legislation on digital issues has been attempted would require the State to recognize that human rights enjoy the same level of protection when they are exercised online as in the physical world. Such recognition would imply the following, primarily:

- Respect the constitutional mandate regarding the scope of permissible restrictions on the exercise of the right to freedom of expression online and the use of the Internet. This includes that they must be provided for by law, strictly defined to serve a legitimate interest recognized in the Constitution and international treaties to which Mexico is a party, and be necessary in a democratic society to protect that interest. All speech enjoys the protection of the right to freedom of expression as a rule and not as an exception.
- Refrain from adopting restrictive or punitive approaches to broad and open concepts, such as “abuse” or “harassment” online, or to expressions of “hostile”, “alarming content” or “disinformation”, among others. Loosely defined terms and concepts can easily be arbitrarily interpreted and used against legitimate discourses and citizens’ interests, particularly in highly polarized societies, such as Mexico’s, where people try to challenge and question public decisions.
- - Processes for the active, free and meaningful participation of ICT users and other stakeholders in Internet governance are fundamental to the design of policy and legal solutions.
- Any alternative to the centralization of power in large companies must be based on solid evidence to address the challenges posed by technology and the ecosystem of digital platforms, and must have transparency, accountability and have the protection of human rights at its core. The principles of legality, necessity and proportionality must be upheld at all times. One way to respond to the problem would be to counteract the power of large companies, rather than regulate them. This includes the establishment of measures that favor economic competition and the deployment of net neutrality policies to ensure that ICT users freely decide which digital platforms they wish to use.
- Build knowledge and appropriate institutional responses on the Internet and digital rights, not only from Congress, but also from the Judiciary.

From the streets to the networks: the vindication of feminism and digital protest as an echo of demand and exercise of human rights.

In 2020, Mexico and the entire world faced a new health challenge: COVID-19. The State was forced to focus its efforts on addressing the shortage of available medical infrastructure. In this context, groups, collectives, individual women and divergent groups came together to rejoin the feminist movement, which went from street protests to the use of social networks. They also used the digital space and the internet as a tool to invigorate a feeling of belonging for all in “an emancipatory struggle of global scope”, known as fourth wave feminism.

ARTICLE 19 has documented the human rights violations committed by the State in the context of street protests. Actions such as the excessive use of force, arbitrary and illegal detentions, and criminalization under the pretext of crimes such as terrorism, sabotage, sedition, insult to authority or institutions, and even damage to private or public property; all of this accompanied by a stigmatization that detracts from the purpose of the causes. In light of these demands, President López Obrador’s response has been to minimize how gender-based violence is experienced in Mexico. Declaring women as “conservatives”, and even manifesting his lack of empathy with the “violent” ways of exercising the right to protest and assembly, by pointing out that

“his” movement (which gave rise to Morena) did not “break a single glass”.

During 2020, feminist mobilizations took to the streets in several states of the country. Immersed in the demand for justice in the face of violence against women, they protested against femicides, harassment, abuse and sexual aggression throughout the country. These events reached exorbitant figures during the year. There were 3,825 women murdered. That is, an average of 10 violent murders per day. Moreover, according to federal government figures, more than half of all Mexican women have suffered violence at some point in their lives.

Action campaigns based on online petitions, as well as the use of hashtags and social media for organizing or disseminating information, have been incorporated into protest modalities. They have served as a means to collect and disseminate information from protests in real time, giving visibility to abuses committed by the authorities.

ICT’s potential for this purpose even contributes to the transparency and accountability of police forces when they commit abuses during protests, as happened in the State of Mexico, Guanajuato, Quintana Roo or Mexico City itself, where the hashtags #JusticiaParaEvelyn (#JusticeForEvelyn), #JusticiaPorAlexis (#JusticeForAlexis) and #28S were used. This a way for people to take ownership of physical and digital spaces.

State response: use of force and stigmatization in social media

The response of the Mexican State to the protests against impunity for gender-based crimes committed against women and girls has resulted in aggressions, arrests and an institutional discourse that criminalizes the demonstrators. The stigmatizing statements and accusations have come mainly from public agents who seek to discredit these mobilizations with the intention of creating a distraction from the claims for justice, truth and reparation for the gender-based violence in which Mexico is immersed. Such expressions range from the morning press conferences offered by the president to the statements of the head of government of Mexico City. All this in addition to the statements of various government officials who publicly point fingers

at women protesters and discredit the feminist movement. These narratives divert attention from the content of the protests, dividing public opinion and blurring the reasons that have driven thousands of people to appropriate the civic space.

One example is the head of the Mexico City Government, Claudia Sheinbaum, who during a virtual conference, in the context of the #28S protests, publicly exposed two people who allegedly financed the occupation of the CNDH office in the State of Mexico, as well as criminalizing the women who carried out the protest, which was reproduced on various websites. For ARTICLE 19, “it is serious and reprehensible that the authorities use doxing” on their official social media accounts, displaying activists or participants in a protest with the aim of identifying, intimidating or threatening them.

Community standards and social platform policies – a censorship tool to silence digital protest?

Hack-feminism or cyber-feminism has prospered exponentially with the pandemic. Social media has been a space of expression for many organizations, women’s collectives and even individual women who use their creativity and networks to disseminate information, develop projects, raise solidarity support or accompany cases of gender-based violence.

ARTICLE 19 believes that the digital space is an ally of street protests, assemblies and public discussions. Network attacks against women clearly aim to silence them, remove them from the digital sphere and intimidate them so that they do not continue to occupy the spaces of public discussion. Thus, we have called on Twitter and Facebook, in particular, to 1) speed up the process of reporting targeted harassment, intimidation and threats experienced by women in the context of social protest; 2) apply community standards in this regard; 3) promote actions to address online violence without undermining the exercise of other rights, and 4) greater transparency regarding the number and characteristics of reports of misogynistic violence of any kind.

Many women, organized or independent, see greater opportunity to express themselves on social media. Groups such as Menstruación Digna have found in them a way to raise awareness about the menstrual process.

To make their proposal visible, they created a Facebook profile with the intention of sharing all the information related to the subject, which was illustrated with a towel dyed red as an expression of the problem generated with the creation of a tax on menstrual products and to promote online workshops for women. However the most important thing was to give voice and image to menstruation. Facebook’s immediate response was to remove it as “shocking, sensationalist, provocative and excessively violent” content. They were also censored on Twitter, a platform that removed videos of women explaining or sharing any position related to menstruation.

Content moderation is something that platforms need to improve by broadening their focus and perspective, but mainly by being transparent with users whose posts are removed. Transparency allows for a better understanding of how and what types of content are being moderated, as well as the criteria for removal, so that due process is respected for the users.



chapter
05

**THE DISMANTLING
OF THE
PROTECTION OF
RIGHTS**

Attention to victims, amid disorder and delay

The government of Andrés Manuel López Obrador has constructed a narrative of rejection and disdain towards various institutions whose main mandate is the protection and guarantee of human rights. At the morning press conference, journalists and the media, civil society organizations and, in general, anyone who criticizes his administration and performance has been vilified, which constitutes a democratic setback for the country.

In a context of disqualifications and growing polarization, actions have been taken to discredit, weaken or outright dismantle institutions with competence in the area of human rights, such as the Executive Commission for Attention to Victims (CEAV), the Protection Mechanism for Human Rights Defenders and Journalists, the INAI and the CNDH.

In addition to disqualifications and stigmatization, another way to weaken the institutions is the appointment process of their heads, either by inducing “resignations” or by placing close and/or loyal people in those positions. This is reflected in non-transparent appointments, without effective citizen participation and with no accountability for the reasons behind the 50 appointments made during 2020, which also undermines the effective autonomy of these entities, which are essential to control and counterbalance power.

In a country such as Mexico, where crimes and human rights violations are not only a daily occurrence, but where impunity reached 92.4%, in 2019, the CEAV is going through a significant institutional, economic, legitimacy and trust crisis. In just two years, two Heads of this entity have presented their resignation: Jaime Rochín del Rincón in 2019, and Mara Gómez Pérez in 2020. Both assumed clear and critical positions regarding the CEAV.

In a press release entitled “Austerity Decree will paralyze CEAV’s operation”, some examples of the impact of López Obrador’s austerity policies on the attention to victims were listed. Meanwhile, the National System of Attention to Victims (SNAV), made up of various instances of the Legislative and Judicial branches and the National Human Rights Commission, has remained on paper, because since 2014 there has been no information on how it has operated or if it has done so effectively and articulately. The CEAV, and its obligations towards the victims, will also face the consequences of the disappearance of multiple trusts approved by the Federal Executive and Legislative branches, among them the Fund for Aid, Assistance and Integral Reparation (FAARI), which is in charge of assistance measures and reparation of damages.

Austerity as democratic regression and restriction of rights

The austerity policies implemented by the current administration have undermined and weakened institutions that are guarantors of human rights and that respond to fundamental problems, such as attention to victims. The main narrative of the federal government persists in the fight against corruption and gives little space to the generalized situation of human rights violations that prevails in Mexico.

President López Obrador announced an administrative reform for the INAI and the IFT to become part of federal ministries and agencies. This would imply the elimination and loss of their autonomy. The argument is that “they are not essential” and “they consume billions of pesos that could be destined to health, education and the people’s welfare”. With this, the government would eliminate institutional counterweights, the result of decades of citizen struggles, and would concentrate all power in public administration.

Historically, autonomous constitutional entities have served as a counterweight to power and to confront the arbitrary actions of the authorities. Their creation breaks with the traditional scheme of the three powers (Executive, Legislative and Judicial) and represent social conquests and the fruits of democratic struggles. Dismantling autonomous agencies is a false solution to address the problems of corruption and public expenditure. Of course, this does not mean that they should not be analyzed, reviewed and the necessary adjustments made to improve their functioning. However, their disappearance would lead back to an undemocratic and opaque system, with the logic of “more power, less society”.

This contrasts with the increase in militarization in Mexico. On the one hand, the federal government in-

tends to eliminate autonomous agencies, and, on the other hand, it is increasingly strengthening the military sphere (see Chapter 6). A clear example of this is the elimination of multiple civilian trust funds in 2020 (for culture, art, science, etc.) in comparison with the military, which not only remain, but have enjoyed a dizzying increase in their resources, going from 2.5 billion pesos in 2019, to 31 billion in 2020, an increase of more than 1000%. Likewise, the Sedena’s budget for 2021 amounts to 112,557 million pesos, the highest in its history, which is parallel to the increase in the army’s powers and presence in the country’s public life. Thus, the government strategy translates into more military power, less civilian institutions.

Institutionalized impunity

Another institution that has failed the victims and continues without effectively combating the almost total impunity that exists in Mexico is the FGR, an agency that has not seen substantive changes in its operation. The appointment of the first attorney general, Alejandro Gertz Manero, in a hasty and opaque process, translated into an automatic pass, since he was the head of the Attorney General's Office at the time of his appointment, which generated enormous doubts about his proximity to President López Obrador and his real autonomy from the Executive.

In the last two years, the FGR has also shown a distancing from victims and civil society organizations, demonstrating null interest in working jointly with them, in addition to dragging incomplete and pending processes of great importance regarding the obligations that are provided for in its own Law, such as: 1) the elaboration of the Criminal Prosecution Plan, with the participation of civil society; 2) the integration of the Citizen Council, which should issue opinions on the performance of the Prosecutor's Office and recommendations that, although not mandatory for the prosecutor, should be answered; 3) the due appointment, without opacity or discretionality, of the specialized prosecutors in anti-corruption and human rights matters. The appointment of Sara Irene Herrerías Guerra as head of the Specialized Prosecutor's Office for Human Rights was questioned by victims and organizations due to the lack of openness and citizen participation.

Impunity in Mexico is also an epidemic. On October 6th 2020, a cluster of civil society organizations and individuals, together with international organizations, announced the formation of the Collective Against Impunity (*Impunidad*). Their first diagnosis, entitled *Fiscalómetro, How does our country face its "impunity"*? reveals that the FGR reported having initiated 13,560 criminal investigations for the crime of torture between 2006 and 2019. Of this number, only 30 preliminary investigations were filed, that is, 0.22%; in addi-

tion, only 27 sentences were issued, of which 18 were convictions and 9 acquittals. Regarding disappearances, the most recent records of the Special Prosecutor's Office for the Investigation of Crimes of Forced Disappearance of Persons indicate that in the same period, 188 complaints of forced disappearance and 368 of disappearance by private individuals were received, amounting to 2,072 victims, but only six have been filed and prosecuted. In turn, the Federal Judiciary Council issued only 27 sentences for this serious human rights violation, of which only 13, less than half, were convictions.

In terms of freedom of expression, the Special Prosecutor's Office for Attention to Crimes Committed against Freedom of Expression (Feadle) is part of the same inertia of lack of justice and advancement of the "impunity". In 2020, the impunity rate for crimes against freedom of expression stood at 98%. In the case of convictions, these are imposed on the material perpetrators, with no progress in the investigation of the masterminds, which creates a vacuum in access to justice and the fight against impunity.

In February 2021, at the time this report went to press, Mario Marín Torres, the former governor of Puebla charged with the crime of torture against Lydia Cacho 15 years ago, had been arrested. There is still a long (and tortuous) road ahead to reverse the serious structural deficiencies related to inertia, bad practices and stagnant institutional designs.

The Feadle is also unclear about the criteria with which it exercises its competence and jurisdiction of cases. An example of this is the cases of journalists Moisés Sánchez and Miguel Ángel Villarino, whose case was deemed to fall under Feadle's competence. However this was not a decision made by Feadle, but rather by judicial order, which has negative effects and takes a greater toll on the victims, who are forced to litigate to ensure their human rights are guaranteed.

To the panorama of the weakening and dismantling of institutions was recently added the bill presented by Senator Ricardo Monreal, on October 6th 2020, to reform the Organic Law of the FGR and eliminate its obligations to participate with voice and vote in the Protection Mechanism for Human Rights Defenders and Journalists, and to be part of the National System for the Search for Disappeared Persons. In response, victims, journalists, human rights defenders and civil society organizations once again raised their voices and demanded to be heard.

On the other hand, after the arrest in the United States of General Salvador Cienfuegos, former Secretary of National Defense (2012 to 2018), in October 2020, and his subsequent transfer to Mexico on January 14th 2021, the Attorney General's Office announced its decision not to prosecute him for, it argued, lack of evidence to charge him for drug trafficking. This illustrates the following: 1) lack of tolerance to criticism and social scrutiny by prosecutor Gertz Manero who, in an interview with Aristegui Noticias, stated: "The goal is to screw me over"; 2) that the true autonomy of the FGR vis-à-vis the Executive power remains in question, inasmuch as it has been the President who has given the guideline for the actions of the Prosecutor's Office; 3) that the message of an impunity pact with the military is reinforced in order not to prosecute or punish military personnel for crimes and human rights violations, which goes hand in hand with a lack of civilian control over the armed forces in Mexico; 4) the lack of knowledge and understanding of the accusatory criminal justice system by the prosecutor, who has even tried to fight it, is evident.

The fact that the Prosecutor's Office waits to receive evidence instead of collecting it, or that investigations are initiated based on a complaint or denunciation and not on its own initiative, is evidence of a lack of capacity and will. Time and the historic opportunity for Mexico to move from an opaque and failed prosecutor's office and investigative system to a new autonomous prose-

cutor's office equipped with strategies that would begin to fight impunity has been lost. The FGR has not overcome the bad practices or the inability to investigate.

Journalists Protection: disconnected and contradictory actions

After two years of Andrés Manuel López Obrador's presidency, it is possible to affirm that the Protection Mechanism for Human Rights Defenders and Journalists is extremely weakened and there is no clarity about the political commitment that its existence implies. Despite the 104 recommendations issued in 2019 by the Office of the United Nations High Commissioner for Human Rights (OHCHR) to improve its functioning, there has been no clear information on its implementation or progress.

On the contrary, the Mechanism has been exceeded, as new requests have been added to the 1621 people incorporated since its creation until June 2020, as it remains on the verge of collapse. As a result of this shortage, two beneficiary journalists were murdered during the year. And despite the increase in the number of cases, its budget has not increased, with the consequent risks and lack of support for the beneficiaries.

Given the lack of resources and capacities of the Mechanism, ARTICLE 19 and other member organizations of the Espacio OSC network insisted on the need for a comprehensive public policy that goes beyond the implementation of physical measures and is oriented towards the development of safe environments to exercise freedom of expression and the right to defend human rights. For this reason, we have emphasized that plans for prevention, combating impunity and reparation of damages must be designed.

On November 25th Alejandro Encinas, Undersecretary for Human Rights, Population and Migration of the Ministry of the Interior (Segob) presented the diagnosis "Offenses against journalists and those who exercise freedom of expression", which includes a route to reverse the situation of violence against the press. Likewise, the National Human Rights Plan, presented on December 10th 2020 -two years after the current administration took over- provides for various measures for prevention, protection and investigation, such as the design and implementation of protocols for the pursuit of justice, recognition campaigns, greater articulation between the powers and orders of government, and the technical and financial strengthening of the Mechanism, among others.

Although it is positive that the existence of violence against the press is recognized and that solutions to the problem are proposed, these are contradictory to other reforms and actions promoted by the Executive and Legislative branches throughout 2020. For example, the Senate has not approved the amendments to the Law for the Protection of Human Rights Defenders and Journalists promoted by Congresswoman Rocio Barrera Baidillo with the participation of civil society organizations. Also, ignoring the call of the citizenry and as part of the decree that dismantled 109 public trusts, the resources of the Fund for Assistance, Attention and Integral Reparation (FAARI), an essential instrument to protect the life, freedom, integrity and security of journalists, were eliminated.

National Human Rights Commission: responsible by omission

Although, on several occasions, the current administration has publicly expressed its willingness to protect journalists, in reality, its actions speak for themselves. During 2020, we saw with concern, time and again, that there is no clear intention of the Executive or the Legislative, beyond some individual cases, to promote a strategy to reverse the risk conditions faced by the press in the country.

In November 2019, María del Rosario Piedra Ibarra was appointed by the Senate as president of the CNDH in a process that was widely questioned in terms of the way it was carried out and the closeness of the new head with the president of the Republic. Despite this, and given the importance of this institution to prevent, protect, promote and guarantee human rights, ARTICLE 19 called on her to recognize the situation of violence faced by the press in the country, as well as to process the pending complaints and follow up on the recommendations implemented. However, during 2020, the CNDH opted for silence, further aggravating the context of impunity in Mexico.

One example is the request of civil society organizations for the CNDH to file an action of unconstitutionality against the presidential agreement that provides for the armed forces to perform “public security tasks in an extraordinary, regulated, controlled, subordinate and complementary manner”, for being contrary to the human rights recognized in the Constitution and in the international treaties to which the country is a party. In response, the commission declared that it was unable to intervene because it was not a law.

Another example is the case of Notimex. The CNDH minimized the fact that public resources were used illicitly and its employees were ordered to attack critical journalists on social media. Instead, it made a call “with the greatest spirit of conciliation, to resolve the parties’ differences in a democratic spirit through the established channels”, thereby downplaying the allegations of abuse of power, human rights violations and budget diversions for personal purposes, ignoring its constitutional obligations to safeguard human rights and protect victims.

In September 2020, Piedra Ibarra appeared before the Human Rights Commission of the Senate, an act that she described as an “authentic democratic exercise”. However, according to civil society organizations such as the Miguel Agustín Pro Juárez Human Rights Center, A.C., the opportunity to truly renew this body has been lost. In the year since Piedra Ibarra has been Head of the CNDH, the timely announcement of every investigation and public condemnation of serious human rights violations (executions perpetrated by the military in Tamaulipas and Sonora, or by the National Guard in Chihuahua) has been disregarded, as have positions on regressive human rights legislation (for example, the reforms to the General Law on Victims). Worse yet, the CNDH has avoided investigating and reporting, as is its essential obligation, serious human rights violations.

It is worth mentioning, given the current context, that ARTICLE 19 does not promote or defend the disappearance of the CNDH or any of the autonomous entities mentioned: on the contrary, considering their importance for human rights, the analysis is aimed at identifying their strengths and vulnerabilities, and denouncing their failures, in order to implement actions to strengthen them and, thus, reverse the serious crisis in this area.

During 2020, the Congress of the Union made 50 appointments in institutions such as the Bank of Mexico (BM), the Federal Economic Competition Commission (Cofece), the National Institute of Statistics and Geography (Inegi), the National Anticorruption System (SNA), the Coneval, the INAI, the INE and bodies that impart justice in electoral (Electoral Tribunal of the Federal Judiciary), administrative (Federal Court of Administrative Justice) and agrarian (agrarian courts) matters. In addition to the above, 43 appointments have been made since the beginning of the present federal administration, that is, 93 in the first two years of the so-called 4T, out of a total of 123 positions prioritized by the Public Appointments observatory.

In only the first 10 days of December, the Senate of the Republic made 38 of the 50 appointments corresponding to 2020, that is, 76%, which for the most part, with the Congress working virtually due to the pandemic, were carried out in a hurried, opaque and discretionary manner. Practices far from the standards of maximum publicity and transparency were reproduced, without effective participation mechanisms, with procedures closer to simulation, and with no accountability. And, above all, the profiles of many of those elected raise serious doubts about their independence or autonomy, as they are close to the head of the Federal Executive or to the ruling party, or because they have been part of the presidential cabinet.

One of the most significant processes of this year -the appointment of four INE councilors- was reactivated by the ruling of the Electoral Tribunal of the Judiciary of the Federation (TEPJF), which ordered that channels be opened and that the evaluations of the candidates be published. Although the result was not disastrous, as expected, the truth is that it did not stand out for its maximum publicity or for promoting participation mechanisms. Of these appointments, the recycling of the hashtag #SinCuotasNiCuates -originally launched

by Designaciones Públicas- by political actors of the Chamber of Deputies, with the aim of giving another meaning to citizens' claims and emptying its political content, as well as misinforming by promoting the false idea that the process had followed high standards, is noteworthy.

An extreme example of these bad practices was the holding of 234 interviews of candidates for judgeships in electoral jurisdictional bodies in a single day. This evidences the lack of seriousness of the Chamber of Senators in fulfilling its responsibility and could confirm the hypothesis that these were mere procedural exercises, since the appointments were already defined a priori, or that the criteria for making these decisions do not necessarily depend on the curricular review or on the performance and knowledge shown in the interviews.

In this sense, the selection of people close to the Chief Executive has been another constant, as was the case in the past. For example, López Obrador proposed his former Secretary of Economy for the Board of Governors of INEGI, whose profile reveals a great closeness to the President. Therefore, his independence to be part of an autonomous constitutional body is called into question. Not to mention that it only took the Senate two days to ratify the presidential proposal.

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“Prometimos que la crisis económica provocada por la pandemia sería transitoria, dije que sería como una V, que caíamos pero que salíamos pronto, afirmadamente así está sucediendo. Ya pasó lo peor y ahora vamos para arriba, ya se están recuperando los empleos perdidos, se está regresando poco a poco a la normalidad productiva y ya estamos empezando a crecer”.

Vamos

Lo que me preocupa es el discurso de Andrés Manuel López Obrador, presidente del gobierno. En el Palacio Nacional, su gabinete legislativo y dijo:

México en

que ya
una política
orientada en
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los
protocolo
Poderes a

CONAGO, A PUNTO DE DESAPARECER

Que se salgan, dice Miguel Barbosa a los gobernadores

FUEBIA. “Que se salgan”, responde el gobernador político Miguel Barbosa Horta a los 10 mandatarios que definen el lunes si permanecen en la Conferencia Nacional de Gobernadores (Conago), como el de Tamaulipas, Francisco Javier García Cabeza de Vaca, quien dice que es un despropósito por parte de ésta, toda vez que ya perdió su esencia federalista. Pág. 20

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Pág. 19

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chapter
06

**THE APOLOGY FOR
THE PAST AND THE
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The State's debt to memory, truth and justice

More than two years into his administration, two tendencies mark López Obrador's position regarding human rights and the struggle for the disappeared: the denial that these violations persist, such as torture, disappearances and massacres, which violates the full guarantee of the right of access to information of the victims and society; and a selective and isolated administration of justice, through symbolic actions, without comprehensive strategies and public policies of memory, truth and justice to ensure non-repetition.

Denying that serious human rights violations continue to occur is an attempt to erase what is a reality at the national level: the numbers of homicides and femicides continue to increase; people continue to be disappeared and tortured; the findings of clandestine graves are not decreasing but multiplying throughout the country, and little is being done to make profound changes. If the recognition of these crimes and the guarantee of the right to information do not occur, it is difficult to think about access to truth and justice. It was only in December 2020, two years into government, that the National Human Rights Plan 2020-2024 was presented.

The administration's narrative and the government presenting itself as a guarantor of human rights and a transforming authority, as well as transparent, is contradicted by the militarization of public life. Militarization of public life is directly related to the increase in cases of illegitimate use of force/torture or extrajudicial executions and disappearances. As already mentioned, not only is SEDENA's budget for 2021 the highest in its history, but also the territorial presence, responsibilities and powers of the Army have increased throughout the length and breadth of the country.

Despite the fact that the president misinforms the population when he assures that they no longer occur, human rights violations are committed daily throughout the national territory. A few hours after having stated, on his second anniversary of taking office, that "the people have never been repressed, nor have we allowed massacres, torture and other human rights violations, which were common practice in other governments, it has all been eliminated", a massacre took place in Irapuato, Guanajuato, in which 30 young people lost their lives. In addition to this, there were the events of the night of June 21st and the early morning of June 22nd 2020, where at least 15 people were murdered in the Isthmus municipality of San Mateo del Mar, Oaxaca. Some were burned, others stoned with bricks and others, with machete blows to the head.

Although President López Obrador downplayed the incident, by saying that it was an issue between residents of the community, the victims have claimed that the attack was committed by paramilitary groups and tolerated by the security forces.

Similar events occur throughout the country, from Minatitlán, Veracruz to the municipality of Bavispe, Chihuahua; from the north of Culiacán to Guanajuato, a state that has gone through a series of massacres that have dismayed the country, although the government minimizes them. The co-responsibility of the State in these massacres derives, at the very least, from the lack of due diligence to prevent, investigate, judge and punish the guilty parties, as well as the omission to repair the damages to the victims.

It took 23 years for a friendly solution to be agreed between the Mexican State and some of the survivors of the Acteal massacre, municipality of Chenalhó, Chiapas, where on December 22nd 1997, 45 people were murdered. However, for the Las Abejas Civil Society Organization, to which the victims belonged, the State only

Denial of human rights violations

assumed responsibility for omission and negligence, not for the acts. They stated that “the friendly settlement signed last September 3th was a trick so that you can wash your hands of this case and pretend that López Obrador’s administration is different”.

Simón Pedro Pérez López, president of the board of directors of Las Abejas, pointed out: “We see that it is not a truthful commitment made by the government, because we are very aware of the ongoing land problems and also the indigenous comrades from Chalchihuitán and others from the state of Chiapas continue to be displaced [...] We as an organization not only want justice to be applied in the case of Acteal, but for all other massacres here in Mexico and in other countries”.

Despite the first apology offered by the government, and the willingness of the State to accept some responsibility for these events, as long as the commission is not admitted and the paramilitary groups are not stopped, massacres like this one will continue to occur. The debt of memory, legal justice and guarantees of non-repetition in all cases, both past and present, is still pending.

In his second government report, on September 1st 2020, López Obrador stated: “Now there is justice for the poor. In security, organized crime is no longer in charge, as it was before. There are no more tortures, disappearances or massacres; human rights are respected and the guilty are punished, whoever they may be”. By denying the existence of serious human rights violations, it would seem that he seeks to end them by decree. However, evidence that they continue to occur, which, in addition to generating disinformation, has concrete effects of making the cases and the victims invisible. Therefore, contributing to the hindering of access to justice.

Although the president has made statements in different fora and moments about the decrease or non-existence of human rights violations, and how his government is different from others in the past in that regard, the figures of violence and violations show a contrary reality.

Femicides

According to data from the Executive Secretariat of the National Public Security System (SESNSP), from January to December 2020, 969 victims of alleged femicides were registered in the country. Although the number of deaths decreased, it did so by just 3.67% compared to 2019. In addition, emphasis should be placed on the 2783 intentional homicides against women during the same period, in the last four and a half years, only one in five of these murders were classified from the outset as probable femicides. Although there was a minimal reduction in femicides and intentional homicides of women, this is not a satisfying result nor is it compatible with the statements made by the head of the Executive, since in each of these cases the human rights of the murdered women and their families were violated.

Torture

According to official data obtained by Animal Político through a request for access to public information, “in

the first 18 months of the current six-year term, the Attorney General's Office (FGR) received 522 new complaints for possible acts of torture against federal agents. Added to those that already existed, raised the number of open cases for this serious crime to more than 1259". Only three cases were brought before a judge and only one was convicted. The media claims that "initially the FGR tried to hide the statistics of solved cases alleging that it did not have them, but after the filing of a complaint to the INAI, it agreed to partially reveal the requested data, without identifying the corporations denounced".

Disappearances

Throughout the current administration there has been an increase in the number of missing persons. According to data provided by the Segob (Secretary of the Interior), in January 2020 there were around 60,000 missing persons, while by July there were already more than 73,000. In January 2021 the agency raised the figure to 82,647. This information, as in the cases of torture and impunity, contrasts with the president's statements.

Mass graves

The issue of missing persons figures is linked to the lack of clarity in the statistics of graves and unidentified bodies. According to federal government data from December 1st 2018 to November 31st 2020, 1399 clandestine graves were found, from which 2290 bodies were exhumed. In this regard, it is important to highlight the case of Guanajuato, since so far we do not have official information about these findings, despite the fact that at least nine requests for access to public information have been submitted. The authorities say they do not have it; however, they do acknowledge and provided information on "clandestine burials", comprising 50 corpses, but clarify that they do not have a specific record of the respective locations. In 2018, the current state attorney general admitted their existence but called them excavations "to hide".

For its part, in July 2020, during the update of the National Registry of Missing and Unaccounted for Persons (Rnpdno), the National Search Commission (CNB) reported that there were 3978 clandestine graves and 6 625 exhumed bodies. In addition, it pointed out Guanajuato as one of the six states that had not updated their data

on missing persons and had no information on clandestine graves. Civil society has demanded that the Rnpdno, the National Register of Mass Graves and Clandestine Graves and the National Register of Unidentified and Unclaimed Deceased Persons should be made available in public versions, in open format and accompanied by the methodology used to update them.

Massacres

Giving a figure for massacres is complicated, as it depends on how they are defined. The organization Causa en Común (Common Cause) carried out a count by monitoring journalistic notes with which they identified 429 massacres from only January to July 2020. In turn, the newspaper Reforma, combining journalistic monitoring with official data, published that, during 2020, 71 massacres were reported in which at least 486 people were killed in 22 states. The event with the highest number of victims was the murder of 26 people in Irapuato, Guanajuato. The massacres that have taken place in different parts of the national territory demonstrate that the president's statements are unsubstantiated.

Impunity

President López Obrador claims that there is no more impunity, however, according to the 2020 Global Impunity Index (IGI), Mexico continued to be, in 2019, one of the worst rated countries out of the 69 covered by the study, ranking 60th (with 49.67 points), only 9 places above Thailand, the nation with the highest impunity index (62.82 points). On the other hand, according to research by México Evalúa, impunity in 2019 was 92.4%. Although this represents an improvement over 2018, when it was 96.1%, by no means could it be said to have disappeared. Impunity continues to be the norm.

When from the presidential platform there is insistence on the non-existence of human rights violations, this not only misinforms society, but also negates the experience of the victims of massacres, disappearances, torture, femicides and homicides. The right of the victims and society to the truth is violated, while the people who have suffered are re-victimized by the negation of their experiences.

Symbolic and selective justice

In terms of human rights violations committed in the past, many actions carried out by the State are symbolic justice. They also do not follow a clear policy to provide legal justice or to create conditions that guarantee non-repetition. So far during this administration, at least nine public apologies have been offered, however, the victims expect something more and different to move towards truth and justice.

State repression: over 50 years of impunity

On February 11th 2019, the second public apology from López Obrador's administration took place during the presentation of the Collective Plan for Full Reparation as Part of the Right to Collective Reparation in Favor of the Victims of Serious, Widespread and Systematic Violations Occurring in a Context of Past Political Violence, in the Period Known as the "Dirty War". Almost two years later, none of the agreements for the creation of an independent investigation mechanism, the creation of memorials and resignification of public spaces, the creation of narratives to recover memory, the establishment of a national day to remember the victims of the dirty war, as well as restitution, rehabilitation and non-repetition measures have been fulfilled.

Two inhabitants of El Quemado, Guerrero, who directly and indirectly experienced State repression in the 1970s in their community, where 97 men were detained and tortured, accused of being members of Lucio Cabañas' guerrillas and of having participated in the assassination of 18 soldiers, recounted these events in an interview and referred to the lack of full reparation. Victoria-no Flores commented that the economic compensation has not been fulfilled: "I call it compensation because our personal suffering was very deep. Even if they give us a 'pile' of money, or some other comfort, we will never forget this because 50 years have gone by and we will

never forget it". Regarding the urgency of these reparations, Norberto Morales, relative of one of the victims, mentioned: "Men have already died, men who disliked feeling revictimized. It hurt them, they cried." And so, the State's time and bureaucracy clash, as they usually do, with those of the victims.

In the words of Nicómedes Fuentes, former commissioner of the Truth Commission of the State of Guerrero (Comverdad):

Given the lack of attention to the full reparation of damages for the victims of the dirty war, the follow-up team of the Truth Commission of the State of Guerrero decided to file an injunction whose demands are: the recognition of the status of victims of the complainants, full reparation of damages and recognition of Comverdad as an analogous organization to a human rights defense organization. The judge's decision was favorable to the victims for the creation of an emergency comprehensive program for aid, attention, assistance, protection, access to justice, truth and full reparation of damages for the victims. The CEAV disagreed and in May 2019 the Collegiate Court in Administrative Matters in Mexico City upheld the ruling and to date is awaiting full compliance. The victims of the dirty war represent the realization of impunity, a lacerating debt of the Mexican State with the people of Guerrero and in general with the Mexican people.

In the case of State repression in the seventies and eighties, as survivors state, symbolic justice and public apology are not enough to move towards truth, justice and non-repetition.

In his speech marking 2 years in government, López Obrador mentioned: "Reparations are being made to people or family members affected by neoliberal corruption or State violence, such as the cases of the ABC daycare center in Hermosillo, Sonora, or Pasta de Conchos, in Coahuila; the program for the protection of

journalists is being maintained”. However, problems with reparations are constant and widespread, as is the case of the parents of the children of the ABC daycare center, who demand that the CEAV expedite the process of full reparations.

Ayotzinapa: lessons learned for truth and justice

The Ayotzinapa case, of the 43 students from that town who disappeared at the hands of various Mexican State security forces in Iguala, Guerrero, has been the exception in terms of the search for justice and truth. Moreover, it is the only case for which a Truth Commission has been created during this administration. Various government agencies, civil society organizations and relatives of the victims have followed up on it, in addition to the appointment of a special prosecutor. This shows that, if there is political will, progress can be made towards truth and justice that could be applied to other cases.

During the commemoration of the sixth anniversary of the disappearance of the students, President López Obrador apologized on behalf of the State to their families. However the families had no prior knowledge of the message, since, unlike in the other apology events of this administration, and unlike the protocols that are usually followed in them, the expectations of those affected were not taken into account. For this reason, Santiago Aguirre, director of the Miguel Agustín Pro Juárez Human Rights Center suggests that these acts should be constructed “with them so that they can be in some minimal measure reparatory and not simply a formality”. Even in this case, in which there has been more progress or more political will than in the majority of cases of disappearances, the apology remains a relatively isolated event that does not fit in with the rest of the policy on the subject.

The Truth Commission, proposed by the government as an instrument of transitional justice, has produced concrete results that can be considered positive. Examples of this include: the arrest warrants against Tomás Zerón, former head of the Criminal Investigation Agency; the arrest of Carlos Gómez Arrieta, who headed the Federal Ministerial Police, or the fact that a captain of the 27th battalion is accused of organized crime, which points to the involvement of other security forces, besides the lo-

cal ones, in the shipment of drugs to the United States. The other major breakthrough, says Aguirre, “the most important, actually, is the finding of the remains that could be identified, belonging to one of the boys, Christian Alfonso Rodríguez Telumbre, because the remains were abandoned in a place where searches were no longer done, which is not the Cocula dump.” Besides, it “shows that it is possible to identify those small fragments that are being found in many places of the country. In this case it shows that the parents were right, they were lied to when they were told ‘the whereabouts of all the 43 was the garbage dump’”.

The proposal and the hope was that with the punctual follow-up of the Ayotzinapa case, a model would be created that could be taken up again to bring truth and justice to other cases. So far, two years after the creation of the Truth Commission, this has not happened. In the words of Jorge Verástegui, family member of disappeared persons and human rights defender, “the differentiated attention given by the current administration has, on the one hand, a negative impact on the rest of the families who, on a daily basis, do not see equal attention in their cases. This also creates tension within the movement of relatives of disappeared persons because the narrative is being structured stating first and second class disappeared persons”.

Even in this paradigmatic case, in which there has been a clear political will for the investigation to progress and, above all, in which the narrative of the facts created by the previous government has been broken, the advances do not end up guaranteeing the right to the truth, since the whereabouts of the students have not been revealed, nor the motive, nor who were the responsible parties. In addition, since it is an isolated case, it may not be able to influence the policy of searching for missing persons in general, nor guarantee the non-repetition of these crimes.

Other symbolic reparations

In addition to the acts of public apologies, the State has given other signs of symbolic justice. An example of this is the agreement to transfer to the General Archive of the Nation (AGN) various files related to the repression and acts of corruption of the past, in February 2019, and the delivery of files made by the Segob, on October 2nd 2020, to relatives of victims and survivors of State repression. With it, this government of symbolism feigns

a separation between the previous regimes, which spied and repressed, and the current one, which describes itself as transparent, to reinforce the version of a present in which similar atrocities no longer occur.

As part of the Truth and Historical Memory of the Recent Past Plan, signed by Segob, the AGN, the National Institute of Historical Studies of the Revolutions of Mexico and the government of Mexico City, it has been announced that the names of people identified as repressors of the 1960-1980 period will be removed from public places. According to Encinas, this document will also guarantee universal access to the AGN's documents. The documents will be digitalized and a description will be added to them to achieve "an agile and effective consultation, since at the moment, this estimated eight million is not fully described, thus undermining its consultation possibilities due to the lack of certainty about the information contained therein".

In January 2020, researchers specializing in the repressive period from the 1960s to the 1980s publicly spoke out against the restrictions on access to the documents housed in the AGN. On the 30th of that same month, the AGN and INAI signed an agreement declaring the historical importance of the collections of the Federal Security Directorate (DFS) and the General Directorate of Political and Social Research (DGIPS). However, at the close of this report, only 10% of the boxes with DFS documents have been inventoried. While the announcement of the total digitization of the files may be viewed favorably, the fact that the contents of these documents are five decades old and the process of scanning them could take years raises concerns.

It is important to mention that given the opacity that weighs on the archives corresponding to the period of State repression, from the 1960s to the 1980s, ARTICLE 19 coordinates the effort to catalog and make available to the public the documentation recovered by the Comverdad, which can be consulted on the website Archivos de la Represión (Archives of Repression).

It is clear that the federal public administration acts in a symbolic and selective manner in the face of serious human rights violations. On the one hand, it only recognizes those perpetrated in past administrations and carries out isolated actions in some emblematic cases. On the other hand, it continually denies the existence of such crimes in the present, even when reality proves otherwise.

For the purposes of this report, around 25 requests for access to information were made to federal obligated subjects on various topics related to the commission, documentation and obtaining of reports of serious human rights violations, such as disappearances, findings of clandestine graves, torture, massacres, symbolic justice actions and comprehensive reparation measures. Many of these were made on the basis of the president's statements, from his morning press conferences, his government reports and in other speeches, denying the existence of such violations. However, the OPR responded that they did not locate "documentary evidence that meets the requirements of the interested party" or declared their "incompetence (lack of jurisdiction)" in the matter, among other excuses. In the cases in which they did provide information, they rarely gave it in full; in many cases it was incomplete, such as that of the FGR on investigation files initiated for the crime of torture or without disaggregating it, as happened with the CEAV.

The inability of the authorities to comply with their obligation to generate documentary evidence of current events that possibly constitute serious human rights violations should be noted. It clearly reflects the state of the right to the truth and the little or no access to information on the matter in Mexico.

It is clear that the Mexican State incurs multiple breaches of international standards, for example the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity of the United Nations, as well as national norms with respect to its transparency obligations, as provided in Article 77, section II, subsection e) and Article 115, section I of the General Law on Transparency and Access to Public Information. It has also failed in its duty to fully guarantee the right to information as a necessary instrument to access information of serious human rights violations, and to create, preserve and facilitate access to public files designed to gather and organize information on such events, especially those that have occurred in recent years.

