

# **ARTICLE 19 and PEN International submission to the UN Committee on the Elimination of Discrimination against Women**

## **70<sup>th</sup> Session, 2-20 July 2018**

ARTICLE 19 and PEN International submits the following information for consideration by the UN Committee on the Elimination of Discrimination against Women (the Committee), in advance of its examination of Mexico's 9<sup>th</sup> periodic report under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

This briefing is based on ARTICLE 19's extensive monitoring, research, and programmatic work through its Mexico and Central America Office to promote and protect the right to freedom of expression and information, and addresses:

- Safety of women journalists and women human rights defenders (WHRDs);<sup>1</sup>
- Access to the Internet and ICTs; and,
- Access to Information and Sexual and Reproductive Rights.

### **Safety of women journalists and WHRDs**

Six years since the passage of the Federal Law for the Protection of Human Rights Defenders and Journalists,<sup>2</sup> which created a Federal Protection Mechanism for Journalists and Human Rights Defenders (hereinafter "Federal Mechanism"),<sup>3</sup> the safety of journalists and HRDs in Mexico has deteriorated to unprecedented levels. Women journalists and WHRDs face a compound risk: facing attacks both for their journalistic or human rights work, as well as attacks motivated or exacerbated by discrimination on the grounds of gender, potentially intersecting with discrimination on other grounds. The form of violence they face is often gendered and/or has particular gendered impacts, and they face particular barriers to access protection, and effective remedies.

Attacks on women journalists in particular are a significant, and increasing, obstacle preventing women from exercising their human rights on the basis of substantive equality, including in particular the rights to freedom of expression and information, privacy, freedom of peaceful assembly and association, and participation in economic social and cultural affairs: directly silencing women's voices, and intimidating others into self-censorship and withdrawal from public life.

#### *Trends in attacks against women journalists*

ARTICLE 19 has documented an 144% increase in attacks against the press overall between 2012 and 2017. In addition to 49 murders, in this period there were 8 enforced disappearances, 404 credible threats, 132 attacks on media outlets, 660 physical attacks (including destruction of equipment), 132 acts of harassment, 376 acts of intimidation, 241 deprivations of liberty (including arbitrary detentions by the State and kidnappings by non-State actors) and 96 acts of institutional violence, including judicial harassment.<sup>4</sup> One third of attacks targeted women journalists, and this proportion is increasing. Since 2015, attacks against women journalists have escalated: with 84 attacks documented in 2015, 97 attacks in 2016, and 130 attacks in 2017. The gendered dimension of attacks is also increasing. Women journalists are often targeted in gender-specific ways, including, threats or acts of sexual violence; non-consensual sharing of intimate images; targeting of their family members; smear campaigns focused on individuals' sex lives or sexuality; and, the use of gendered abusive language. We note that under-

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<sup>1</sup> The term "women human rights defenders" is used throughout the submission to refer to HRDs who are women.

<sup>2</sup> [Ley para la Protección de Personas Defensoras de Derechos Humanos y Periodistas](#), 25 June 2012

<sup>3</sup> Mecanismo de Protección para personas defensoras de derechos humanos y periodistas.

<sup>4</sup> ARTICLE 19 Mexico and Central America internal documentation.

reporting by women journalists of threats and abuse, due, *inter alia*, to social stigma and shame, fear of professional repercussions, of being disbelieved or otherwise re-victimised, means the figures likely underestimate the scale of the problem.

Threats to women journalists' digital security have markedly increased in the same period. Since 2015, digital attacks, including cyber-attacks (such as DoS and DDoS attacks), threats via social media and email, harassment and intimidation via social media, and interception of communications, have increased by 46% overall,<sup>5</sup> and more than double for women. Threats against women journalists communicated through social media often use violent imagery. Death threats often also make reference to the families of women journalists. Digital attacks against women journalists are not isolated incidents, rather they are more often a continuation of, or precursor to, offline attacks. In the current context of pervasive insecurity for journalists, such online threats generate sufficient fear so as to prompt their targets to implement various self-protection strategies including, temporarily or permanently withdrawing from online spaces or from their human rights or journalistic work more broadly, as well as restricting their movement or relocating.

The most dangerous places for women journalists in Mexico are Veracruz, Guerrero, and Mexico City.<sup>6</sup> Women journalists who cover corruption and politics, in particular when they reveal the misconduct of federal, state, or municipal authorities, as well as matters related to public security and the justice system, are at particularly high risk. Women who take a feminist perspective, in particular by reporting on gender-equality, are also subject to particularly severe backlash. Women journalists covering protests and elections also face higher risks, both from public officials, as well as from political parties.<sup>7</sup>

Perpetrators of attacks against women journalists include State and non-state actors. Regrettably, rather than condemning the harassment and attacks against women journalists, public officials are frequently responsible for threatening or pursuing criminal cases against them, and engage in misogynistic smears to stigmatise and undermine their credibility.

In March 2016, journalist **Andrea Noel** was sexual assaulted while walking in the Condesa neighbourhood of Mexico City when an unknown aggressor lifted her skirt, pulled down her underwear, and fled. When authorities failed to act<sup>8</sup>, Andrea published CCTV images of the incident captured to help identify the perpetrator, prompting a wave of abuse via social media, including death threats. She left the country in March 2016 for three months following two incidents of offline intimidation, noticing a laser beam directed at her forehead inside her home, as well as online messages with photographs of her precise location. She came back after three months to work in the US-Mexican border.

**Gloria Ruiz Garcia**, a freelance journalist based in Coahuila, has been threatened and harassed in gendered ways for her reporting on alleged fraud by a political party member in 2013. The politician accused her of being "corrupt", a "whore", who was "at the Mayor's service", among other slurs; and the intimidation continued with indirect threats towards her colleagues and

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<sup>5</sup> ARTICLE 19 Mexico and Central America, "[Libertades en Resistencia](#)". 2017, at p.27.

<sup>6</sup> CIMAC, [El Poder del Cacicazgo](#), Informe 2014-2015, at p.35

<sup>7</sup> *Ibid.*, at p.39

<sup>8</sup> Luchadoras (coord.), Informe: la violencia en línea contra las mujeres en México, noviembre de 2017. Presentado a la Relatora Especial de Naciones Unidas sobre la violencia contra las mujeres por varias organizaciones (ARTICLE19 Oficina para México y Centroamérica, Asociación para el Progreso de las Comunicaciones, CIMAC Noticias, Derechos Digitales, Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos, JASS Asociadas por lo Justo Mesoamérica, La Sandía Digital, Luchadoras, Red en Defensa de los Derechos Digitales (R3D), Red Nacional de Defensoras de Derechos Humanos en México (RNDDHM), SocialTIC, SonTusDatos (Artículo 12, A.C.). <https://goo.gl/uUrc92>

attempts to discredit her by, linking her to organised crime and accusing her of taking money from the government. Ruiz has also explained attacks on women journalists deliberately target intimate lives forcing women to choose between their vocation and family and other relationships.

**Carmen Olsen**, editor of the *Rosarito en la Noticia*, has been subject to a campaign of judicial harassment intended to discredit her. In January 2013 an investigation was initiated against Olsen by the municipal police in Playas de Rosarito, Baja California, for allegedly committing an ‘offence against state authority’<sup>9</sup>. Olsen was documenting the detention of a citizen when two police officers physically attacked her to avoid from photographing the detention. The order allegedly was done by the head of the municipal police, Francisco Castro Trenti. A further charge of defamation and calumny was filed against her in October 2012 by the private secretary Claudia Cristina Espinoza of the municipal Public Safety Director, for an article Olsen wrote in which the gun of the secretary was fired in a gas station. In 2018 the campaign to discredit Olsen continued, online, through posts on public Facebook Pages from media and local organisations that linked her to organised crime.

Women journalists who experience attacks are often further victimised by their employers: as CIMAC has reported, media outlets have changed women’s reporting assignments, due to concerns that their coverage may have provoked the ire of public authorities upon whom they rely for public advertising revenues, or simply fired women journalists, on the basis that they have become an inconvenience to the organisation.<sup>10</sup>

### Protection Mechanisms

The Federal Mechanism is acutely under-resourced, its funding reduced from 128 to 15 million MSP per year between 2013 and 2017, impacting its operational effectiveness and reflecting a lack of political will to guarantee the safety of journalists and HRDs.<sup>11</sup> It has failed to adopt a gender-perspective across the Mechanisms’ units, contrary to the Committee’s recommendations,<sup>12</sup> notwithstanding funding apparently being allocated for this purpose.

Between October 2012 and April 2018, 658 HRDs and journalists requested incorporation into the Federal Mechanism, of whom 558 were accepted (394 journalists and 164 HRDs). Applications peaked in 2017, when 160 individuals requested protection, with 142 accepted overall. A failure to disaggregate this data on the basis of gender (or other characteristics) for those accepted into the scheme prevents a gender analysis. However, available information indicates that of 660 people currently receiving protective measures, 77 are women journalists (compared to 213 men); 186 are HRDs (compared to 184 men).<sup>13</sup>

Women journalists have attributed their reluctance to approach the Federal Mechanism to their distrust of the state authorities involved as well as a lack of knowledge of its existence. For indigenous women journalists, their geographical distance from the Federal Mechanism further compounds its perceived inaccessibility. Moreover, as the Federal Mechanism cannot provide protection against the type of attacks that indigenous women journalists typically experience –

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<sup>9</sup> *Ultrajes a la autoridad*, in Spanish. This broadly defined offence, that does not comply with international standards on freedom of expression or peaceful assembly, and was declared unconstitutional by a 2015 Supreme Court Decision [ADD CITATION], remains on the books in 26 states in Mexico: Baja California, Baja California Sur, Campeche, Coahuila, Colima, Chiapas, Chihuahua, Ciudad de México, Durango, Guerrero, Hidalgo, Jalisco, Estado de México, Morelos, Nayarit, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sonora, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Zacatecas.

<sup>10</sup> CIMAC, [El Poder del Cacicazgo](#), Informe 2014-2015, at page 41

<sup>11</sup> Mexican Ministry of the Interior Oficio UPSA/100/2017.

<sup>12</sup> CEDAW/C/MEX/CO/7-8 para 25.

<sup>13</sup> SEGOB, [Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas](#), Informe Estadístico, April 2018

largely, judicial harassment linked to their working with unlicensed community radios – its relevance to indigenous women is further limited.

The Federal Mechanism is not transparent with the risk-analysis methodologies it uses, preventing a clear assessment of to what extent gender perspectives are integrated and effectively implemented, or indeed whether they are implemented at all. On the basis of the risk assessments the Mechanism has carried out for women journalists supported by ARTICLE 19, it is clear that the protocols are not attuned to either the gender-based and gender-specific risks facing individual women journalists, or the structural inequalities and power differentials between men and women that exacerbate their vulnerability to, and the impact of, violence. That women journalists report a struggle in convincing the mechanism that physical and digital attacks are connected to their work, sometimes leading to secondary trauma, reflects a lack of staff training in responding to gender-based human rights violations and abuses. Although in December 2017 the Mechanism began to develop a risk register tailored to women, and initiated consultations with WHRDs and women journalists on its design, this process appears to have stalled.

Digital security is largely disregarded by the Federal Mechanism. Given the growing digital threats to women journalists, the lack of technical expertise on related matters across the Federal Mechanism's units, including the Rapid Response and Case Referral Unit, is of serious concern. Psychosocial security is also largely ignored, with no support offered to address these risks. These concerns aren't limited to the mechanism itself: once protection measures are granted, the federal or municipal authorities responsible for implementing them are also often dismissive of, and insufficiently responsive to, attacks women journalists and HRDs experience.

The work of the Federal Mechanism's Prevention, Monitoring and Analysis Unit is inhibited by its failure, contrary to its mandate, to systematically collect, and analyse disaggregated data on patterns of attacks, how risk factors played out in individual cases, and perpetrators' profiles. No progress has been made on a promise made over a year ago for the Mechanism to develop a map of attacks against those under its protection, in order to more systematically collect and analyse this data to inform prevention or protection efforts.

9 federal states have established state-level journalist protection mechanisms,<sup>14</sup> and 16 states have legislation addressing this issue,<sup>15</sup> with legislation under consideration in another 15 states.<sup>16</sup> This is creating an increasingly fragmented system – with many journalists reporting a lack of clarity as to whether the federal or state mechanism is legally responsible for providing them with protection. Of particular concern is the state mechanisms' lack of resources to fulfill their mandates, and the absence of a gender perspective across these. More generally, as state and municipal authorities represent a significant proportion of perpetrators of attacks against journalists and HRDs, or are otherwise allegedly colluding with organised criminal actors, distrust in state mechanisms is high.

Increasing numbers of women journalists are responding to these failures by consolidating their own networks of protection, with the support of civil society organisations. These networks, some of which are women-only include the National Network of Women Journalists, and the Northeast Network of Women Journalists.<sup>17</sup>

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<sup>14</sup> Guerrero, Nayarit, Veracruz, Jalisco, Quintana Roo, Coahuila, Hidalgo, Ciudad de México y Morelos

<sup>15</sup> Baja California, Chiapas, Ciudad de México, Coahuila, Colima, Durango, Guanajuato, Guerrero, Hidalgo, Jalisco, Michoacán, Morelos, Nayarit, Quintana Roo, San Luis Potosí y Tamaulipas.

<sup>16</sup> Baja California Sur, Chihuahua, Estado de México, Hidalgo, Morelos, Nuevo León, Oaxaca, Puebla, Querétaro, Quintana Roo, Sinaloa, Sonora, Tabasco (2 initiatives) y Zacatecas.

<sup>17</sup> Red Nacional de Periodistas and Red de Periodistas del Noreste, in Spanish.

### *Impunity for attacks against women journalists*

The overall rate of impunity for attacks on journalists is over 99%, which serves to only encourage a cycle of violence, including as against women journalists. In the minority of cases where individuals have been prosecuted,<sup>18</sup> they are often only “foot soldiers”, and the masterminds of attacks almost always escape justice. Many factors contribute to this broad climate of impunity, including:

- Inadequate investigative standards and protocols, which do not comply with the guidance set out in the UN’s Minnesota protocol in cases of murder and arbitrary execution;<sup>19</sup>
- Failures of law enforcement authorities to pursue and exhaust relevant lines of inquiry early in an investigation, in particular those relevant to the victims’ journalistic or human rights work;<sup>20</sup>
- The frequent violation of due process guarantees;<sup>21</sup>
- Inadequate mechanisms to ensure the independence of investigations where the authority tasked with conducting or overseeing an investigation is also implicated in the attack.<sup>22</sup>

The establishment of the Special Prosecutor for the Attention of Crimes Committed Against Freedom of Speech (FEADLE) in 2010, within the PGR, was intended to reduce the rate of impunity for crimes against journalists. It is of ongoing concern that FEADLE has not integrated a gender-sensitive perspective in their investigative work.<sup>23</sup> Many investigations embark on lines of inquiry based on gendered presumptions and stereotypes, often related to women journalists’ private lives rather than their journalistic work. Failing to evidence a connection to journalistic work allows FEADLE to drop investigations and send it back to prosecutors not specialised on crimes against freedom of expression.

This trend is mirrored in investigations carried out by Federal and State Prosecutors. Complaints made by women journalists and WHRDs are often not taken seriously, and investigations not opened, or diligently pursued, in particular when they involve digital attacks. Public officials have been monitored engaging in public smears against those who should be protected, or are alleged to have deliberately leaked confidential information on their cases, seemingly to discredit victims and distract attention from the responsibilities (and identities) of perpetrators.

For example, on 28 April 2012, Regina Martínez, a correspondent for *Proceso* magazine covering human rights and politics in the state of Veracruz, was murdered. The investigation and subsequent prosecution was marked by irregularities. In the immediate aftermath of the attack, the State Prosecutor of Veracruz, who was in charge of the investigation, openly disparaged her during press conferences, clearly signalling a lack of intent to conduct a thorough, impartial and exhaustive investigation. Prosecutor’s statements included reference to salacious and sexist rumours, were seemingly intended to discredit Regina Martínez’s journalistic work and obscure its possible relevance to her murder, and the identity of the perpetrators. Prosecutors relied on the presence of new perfumes and cosmetics in her apartment to frame the crime as a burglary or one of passion, relying on gendered stereotypes to concoct a fanciful theory. An individual was framed as a co-perpetrator of her supposedly unidentified lover who had absconded, and subsequently convicted. Based on serious doubts around the investigation bring the safety of this conviction into doubt, considering the perpetrator to be at large. We note that Beatriz Rivera

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<sup>18</sup> ARTICLE 19 Mexico and Central America, “[Karla Silva ejemplo de justicia plena](#)” 26 July 2017; available (in Spanish).

<sup>19</sup> OHCHR, *The Minnesota Protocol on the investigation of potentially unlawful death*, 2016.

<sup>20</sup> ARTICLE 19 Mexico and Central America, “A 3 años del asesinato de Moisés Sánchez, el Estado sólo garantiza impunidad” 2 January 2018; available (in Spanish).

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> 148.136

Hernández, the judge who sentenced one of the alleged co-perpetrators, was promoted and now serves as a judge of the Superior Court of Justice of the State of Veracruz.

The recent development of an investigatory protocol tailored to crimes against freedom of expression, which contains, as a cross-cutting general principle, a commitment to take a gender perspective to investigations, is welcome, but requires a holistic approach to implementation as well as sufficient resources, including for dedicated training, so that systemic impunity can truly be addressed.

Legislative responses to increasing digital attacks and threats to women have the potential to undermine women's rights to privacy, freedom of expression, sexual autonomy and integrity, and equality. In Chihuahua, for example, the May 2017 reform of article 180Bis of the State's criminal code, to include 'sexting' as a form of sexual assault without establishing exceptions for the consensual sharing of intimate images between adults unduly restricts sexual rights.<sup>24</sup> At the same time, efforts which would genuinely enhance women's access to remedies for violations of their rights have been neglected, including training for law enforcement in implementing a gender-sensitive investigative protocol, the role of digital technologies, and wider positive measures aimed at promoting gender equality within society.

### **Recommendations**

To the Protection Mechanism:

- Develop and effectively implement, in consultation with civil society organisations, women journalists and WHRDs, a gender risk-assessment methodology, that reflects the multiple and intersecting discrimination, and the systemic inequalities, women experience.
- Commit to proactively disclosing the risk assessment methodologies applied by the Federal Mechanism and state protection mechanisms, and the criteria used to determine whether to assign or withdraw protection measures;
- Commit to proactively and regularly collecting, and disclosing all relevant disaggregated data on, *inter alia*: the number of individuals in receipt of protection measures; the types of threats and attacks they face; the number of individuals that are attacked whilst in receipt of protection measures, and the nature of these attacks, including the profile of the perpetrators;
- Develop and effectively implement comprehensive protection measures – set out clearly in accessible protocols – that allow individually tailored responses to women journalists and WHRDs and their family members at risk, addressing physical, psychological and digital attacks;
- In collaboration with the Mexican Secretariat of Finance and Public Credit (SHCP), increase the funding of the Federal Mechanism to ensure adequate and sustained funding, especially considering its increasing workload, with sufficient resources to address personnel and technical capacity gaps, including to ensure effective mainstreaming of a gender-perspective within all the agencies constituting the Federal Mechanism.
- Ensure adequate funding for quality training for all personnel, and bodies with responsibility for providing protection measures, in order to combat discriminatory attitudes, and guarantee the full and effective implementation of a gender perspective within the Mechanism's operations, from the carrying out of the risk-assessment protocols, to the design and implementation of protection measures.

To FEADLE, and all Federal, State, Municipal law enforcement agencies and prosecutors:

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<sup>24</sup> Luchadoras (coord.). "[Informe: la violencia en línea contra las mujeres en México](#)". Noviembre de 2017, at p. 59

- Approve and implement the standardised investigatory protocol into crimes against freedom of expression, and guarantee the effective implementation of a cross-cutting gender perspective
- Ensure that all cases of killings, attacks and threats against women journalists and WHRDs are promptly, impartially and thoroughly investigated, including by pursuing their journalistic work as a relevant line of inquiry, ensuring that both the intellectual and material perpetrators (i.e. both “foot soldiers” and masterminds behind attacks) are brought to justice, and victims are granted effective remedies;

To CNDH:

- Ensure adequate funding for quality training for all CNDH personnel with responsibilities for responding to in order to combat discriminatory attitudes, and guarantee the full and effective implementation of a gender-perspective within its operations.

To CEAV:

- Develop and implement internal protocols in order to mainstream gender perspectives in all aspects of its work, and avoid revictimisation of victims of human rights violations
- Guarantee to all victims of human rights abuses legal and psychological assistance as a means of restoring human dignity and ensuring access to remedies, and guarantees of non-repetition
- Design and implement a comprehensive plan for women journalists and WHRDs who have become internally displaced due to safety concerns, ensuring responses are individually tailored, gender-sensitive, and respond to the needs of family members, including medical, psychological, and financial needs, and to ensure they are able to continue their work as journalists, and ultimately return.

To all public officials:

- Publicly, systematically and unequivocally condemn all attacks against women journalists and WHRDs, including gender-based attacks, in consultation with and on the full and informed consent of victim-survivors, and avoid making statements which may either contribute to or further exacerbate gender-based harms, or undermine efforts to bring those responsible for attacks to justice.

## Access to the Internet and ICTs

In relation to access to the Internet, in particular for rural, indigenous, and older women, there remains a significant digital divide. As of 2017 in Mexico, 49% of households lack an internet connection; there is also a significant urban-rural digital divide, with 86% of Internet users located in urban areas compared to just 14% in rural areas.<sup>25</sup> The percentage of households without access is even higher in states with greater social and economic inequalities such as Chiapas (83.5%), Guerrero (67.8%), Oaxaca (59.6%), Puebla (67.3%), Tlaxcala (72.4%) and Veracruz (61.8%). Women over the age of 55 report the lowest use of ICTs and the Internet in the country.<sup>26</sup>

The digital exclusion of the most marginalised groups is masked by the reliance on aggregated, and broader regional statistics. ENDUTIH, for example, does not collect data related to the number of

<sup>25</sup> INEGI, Encuesta Nacional sobre Disponibilidad y Uso de Tecnologías de la Información en los Hogares 2017 (Spanish).

<sup>26</sup> INEGI *et. al.* “Comunicado de prensa núm. 105 /18”. INEGI, 25 de febrero de 2018. Available at: [http://www.beta.inegi.org.mx/contenidos/saladeprensa/boletines/2018/OtrTemEcon/ENDUTIH2018\\_02.pdf](http://www.beta.inegi.org.mx/contenidos/saladeprensa/boletines/2018/OtrTemEcon/ENDUTIH2018_02.pdf)

female-headed households with access to the Internet.<sup>27</sup> Nor does ENDUTIH collect or publish data assessing women's access to ICTs and the Internet at municipal level. This prevents more nuanced, and effective monitoring of the impact of government policies among and within diverse population groups.

ARTICLE 19 has documented that indigenous women in Chiapas feel alienated from the use of ICTs and the Internet – the majority cited illiteracy, and a belief that such tools were for men and young people. More broadly, women's unequal access to educational opportunities in Mexico, in particular in STEM subjects, and unequal access to socio-economic resources to invest in ICTs and an internet connection, contributes to the gender digital divide. Regrettably, national policies, including the National Digital Strategy, aimed at enhancing internet connectivity and access to ICTs have not proactively addressed pre-existing gendered inequalities, or taken into consideration the particular cultural context, practices, as well as the physical location of, and languages spoken by, indigenous communities.

The *México Conectado* program, launched in 2013 and run by the Ministry of Communications and Transportation (SCT), aimed to “extend internet connectivity to 250,000 public places and spaces” before 2017, however it has achieved only 40% of this target, and rural communities have not benefited equally. Where operational, the Internet service does not work effectively, nor has Internet access had the expected impact on educational attainment, in part due to the failure to simultaneously implement complementary efforts to enhance access to ICTs, and training and education on their use, in particular efforts targeted at women. This is a particular problem in rural areas. Rather than facilitating the exercise of other rights or promoting local development for all, this and other such programmes have instead compounded pre-existing social and economic exclusion.

#### **Recommendations:**

- Review and revise policies aimed at promoting Internet connectivity to ensure that the most marginalized groups, in particular, rural and indigenous communities, and women within those communities, are able to exercise their rights to freedom of expression and information online; and regularly collect, analyse, and publish disaggregated data on all programmes aimed at promoting digital inclusion

## **Access to Information and Sexual and Reproductive Rights**

The Transparency and Access to Information Law, adopted in 2015,<sup>28</sup> is world-leading in the legal protections it establishes,<sup>29</sup> but there remain serious shortcomings in its implementation, in particular for the most marginalised groups.

Whilst the National Transparency System (NTS), which the law established, has shown some positive results, NTS guidance is not universally implemented. At local level, many public officials continue to resist the proactive disclosure of information, as well as responding to requests received. Where information is proactively disclosed, it is often not released in accessible formats, in the appropriate language or with culturally appropriate content, with the result that the most marginalised groups are still denied a genuine right of access to information.

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<sup>27</sup> Encuesta Nacional sobre Disponibilidad y Uso de las Tecnologías de la Información en los Hogares (ENDUTIH) 2017 Available at: <http://www.beta.inegi.org.mx/proyectos/enchogaresregulares/dutih/2017/default.html>

<sup>28</sup> *Ley Federal de Transparencia y Acceso a la Información Pública* <http://www.diputados.gob.mx/LeyesBiblio/pdf/LGTAIP.pdf>

<sup>29</sup> This ranking is carried out by the Centre for Law and Democracy and Access Info Europe. See, Milenio “Ley de transparencia, la mejor de 112 países”, 2 October 2016.



In particular, rural and indigenous communities continue to face many structural and institutional obstacles to access information of vital importance to them, including the provision of sexual and reproductive health services, local governance issues, and massive development projects impacting on their communities. Rather than correcting inequalities within society with regards to access to information, the NTS exacerbates them as the system privileges those who are digitally connected, urban and educated, indirectly discriminating against women, older individuals, and those from rural and indigenous communities. There is no provision for individuals who may need assistance to properly formulate requests and direct them to the appropriate bodies, or to be made aware of their right to request such information.

It is a particular priority for women living in indigenous and rural contexts in Mexico to be better supported to make information requests, and to have greater access to more proactively published information on their sexual and reproductive rights and on the various manifestations of obstetric violence, so that they have the necessary knowledge and resources to make informed choices about their health, and to advocate for better treatment within their communities.

In June 2015, women from different communities in the North Zone of the State of Chiapas formally requested information from the government agency 'Holistic Development of the Family' (DIF by its Spanish acronym) about the results of a July 2014 mammography campaign which had not been made public to the community. According to the "Obstetric Violence" research carried out by the Committee of the Center for Studies on the Advancement of Women and Gender Equality (Coceameg),<sup>30</sup> there has been an increase in complaints about inhuman treatment and obstetric violence, mainly affecting indigenous women in Mexico.

Responding to this information request (Reference HAMC/UAIPM/092/2015) in June 2015, the Department for the Holistic Development of the Family (DIF), affirmed that they did not have this information because the Ministry of Health of Chiapas was responsible for safekeeping and processing the results, stating "the information requested concerning the results of the mammography campaign that was carried out as part of the community campaign "DIF in your community", has been requested from the Ministry of Health of Chiapas twice in the last year without any response. Because it is a highly sensitive issue, we have requested the information again in this year." A follow-up letter sent by the community of Lázaro Cárdenas in 2015 did not prompt the information to be released. This constitutes an ongoing violation of the right to information, and also breaches data protection rights (derived from the right to privacy), given that individuals should be granted access to health information that relates to them. The case also exemplifies how the failure to provide information can contribute to human rights' violations, since those who received mammograms and may require follow-up healthcare, remain in the dark regarding their health.

### **Recommendations**

- Ensure the proactive disclosure of information relating to health, education, water, megaprojects, housing, and social programs at all levels of government, in an accessible format and with culturally appropriate content, in particular for those in marginalised communities and rural areas;
- Raise awareness of individuals' legal rights to access to information from government bodies that are responsible for providing essential services to them in furtherance of their rights.

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<sup>30</sup> Cámara de Diputados, LXIII Legislatura "México ocupa primeros lugares en violencia obstétrica", Boletín N° 2575; [available](#).