



Stakeholder Report Universal Periodic Review 31st session – Mexico

*Association for Progressive Communications (APC)
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I. Introduction

1. This submission is a stakeholder contribution to the third cycle of the Universal Periodic Review (UPR) mechanism for Mexico. The Association for Progressive Communications (APC) appreciates the opportunity to participate in this cycle and recognises the important human rights issues being raised by other stakeholder reports. This submission is limited to addressing the growing concerns regarding online gender-based violence (GBV) in Mexico and its interconnection with other human rights violations. It draws extensively on the Internet es Nuestra Coalition report¹ (Coalition report) in response to the Special Rapporteur on Violence against Women's call in 2017² and APC's research in this area. APC is an international network and non-governmental organisation with consultative status to the United Nations Economic and Social Council (ECOSOC) since 1995 and a member of the Internet es Nuestra Coalition in Mexico.³

¹Internet Es Nuestra MX. (2017). *Informe: La violencia en línea contra las mujeres en México*. <http://internetesnuestra.mx/post/167782105468/informe-la-violencia-en-l%C3%Adnea-contra-las-mujeres>

²<http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/OnlineViolence.aspx>

³Internet es Nuestra is a coalition that defends an internet free of violence. It is made up of six organisations: ARTICLE 19, Derechos Digitales, Luchadoras, Red en Defensa de los Derechos Digitales (R3D), SocialTIC and APC. For more information about the Internet es Nuestra Coalition consult <http://internetesnuestra.mx>. For more information about APC consult <https://www.apc.org>.

2. Technology-related gender-based violence, also referred to as online GBV, “encompasses acts of gender-based violence that are committed, abetted or aggravated, in part or fully, by the use of information and communication technologies (ICTs), such as phones, the internet, social media platforms, and email.”⁴ These forms of violence may be perpetrated via technology but they infringe on women’s rights to self-determination and bodily integrity, impact on their capacity to move freely without fear of surveillance, cause self-censorship, psychological and emotional harm, reinforce prejudice, damage reputation, cause economic loss, pose barriers to participation in public life, and may lead to sexual and other forms of physical violence.⁵

3. Online GBV is part of the continuum of violence against women and as such “occurs in all countries, contexts and settings,” “is one of the most pervasive violations of human rights,” and is a “manifestation of the historically unequal power relations between men and women and systemic gender-based discrimination.”⁶

4. In Mexico, structural systemic violence against women continues to be a serious problem and is an area where Mexico has received and accepted multiple recommendations during previous UPR reviews. However, according to a recent government survey on household relationships, 66% of women over the age of 15 have experienced some form of violence in school, work, community, family environments or from intimate partners.⁷ Furthermore, as the Coalition report⁸ notes, an average of seven feminicides occur every day in Mexico and only 1.6% of feminicide cases obtain a sentencing. In general, 88.4% of women who experience violence do not take action with the authorities, given the culture of impunity that exists regarding gender-based violence and in general in Mexico.⁹

5. Online gender-based violence does not exist in a vacuum and is interconnected to many basic human rights in addition to the right to live free from violence and discrimination and access to justice. These include freedom of expression including sexual expression, freedom of association, and the rights to privacy, information, intimacy and free mobility, among others.

II. Mexico’s commitments

6. Mexico is a state party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of all Forms of Discrimination against Women. As such, the government of Mexico has obligations and duties under international law to respect, to protect and to fulfil all civil, political, economic, social and cultural rights, without discrimination between men and women. In addition, the government has the obligation to eliminate discrimination in both the public and private sphere by both state and non-state actors.

⁴APC. (2015). *Technology-related violence against women – a briefing paper*. https://www.apc.org/sites/default/files/HRC%2029%20VAW%20a%20briefing%20paper_FINAL_June%202015.pdf

⁵APC. (2017). *Online gender-based violence: A submission from the Association for Progressive Communications to the United Nations Special Rapporteur on violence against women, its causes and consequences*. <https://www.apc.org/en/pubs/online-gender-based-violence-submission-association-progressive-communications-united-nations>

⁶See Agreed Conclusions, CSW 57, available at undocs.org/E/CN.6/2013/4

⁷INEGI. (2017). Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares (ENDIREH) 2016. Boletín de prensa 379/17. www.inegi.org.mx/saladeprensa/boletines/2017/endireh/endireh2017_08.pdf

⁸Internet Es Nuestra MX. (2017). Op. cit.

⁹INEGI. (2017). Op. cit.

7. The UN General Assembly (UNGA) and Human Rights Council (HRC) have made numerous recommendations to states regarding the internet and human rights, including regarding gender-based violence. They have affirmed that the same rights people have offline must also be protected online;¹⁰ highlighted the risk of harassment faced by women who engage in public debate through the internet and the safety that anonymity provides for those who face discrimination due to their sexual orientation;¹¹ and noted the special circumstances faced by women human rights defenders (WHRDs)¹² and journalists due to online GBV¹³ and regarding the right to privacy.¹⁴ Mexico is part of the core group leading resolutions on the right to privacy in the digital age at the HRC and UNGA.

8. In June 2017, the Report of the United Nations High Commissioner for Human Rights on ways to bridge the gender digital divide from a human rights perspective highlighted that online violence against women must be dealt with in the broader context of offline gender discrimination and violence through adequate legislative measures which must comply with international human rights law, including the criteria for permissible restrictions to freedom of expression provided under article 19 (3) of the International Covenant on Civil and Political Rights.

9. In 2017, General Recommendation 35 from the Committee on the Elimination of all Forms of Discrimination against Women¹⁵ clearly included technology-related GBV references:

Gender-based violence against women occurs in all spaces and spheres of human interaction, whether public or private. These include the family, the community, the public spaces, the workplace, leisure, politics, sport, health services, educational settings and their redefinition through technology-mediated environments, such as contemporary forms of violence occurring in the internet and digital spaces.

III. Areas of concern

Impunity and targeted attacks against WHRDs and journalists

10. The February 2018 Mexico mission report of the Special Rapporteur on the situation of human rights defenders¹⁶ also cited serious concern regarding the situation of impunity in the country, with approximately 98% of all crimes going unsolved.¹⁷ He noted how journalists and human rights defenders are subject to intimidation, harassment and stigmatisation, frequently via information and

¹⁰See Human Rights Council resolutions A/HRC/RES/20/8, A/HRC/RES/26/13, A/HRC/RES/32/13 and A/RES/68/167.

¹¹See A/HRC/23/50, Report of the Working Group on the issue of discrimination against women in law and in practice, available at www.ohchr.org/Documents/Issues/Women/WG/A.HRC.23.50_English.pdf

¹²See UN General Assembly resolution A/RES/68/181, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, available at www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/181

¹³See Human Rights Council resolution A/HRC/RES/32/2 on protection against violence and discrimination based on sexual orientation and gender identity, available at <https://undocs.org/A/HRC/RES/32/2>, and UN General Assembly resolution A/RES/72/175 on the safety of journalists and the issue of impunity, available at <https://undocs.org/A/RES/72/175>

¹⁴See UN General Assembly resolution A/RES/71/199 on the right to privacy in the digital age, available at <https://undocs.org/A/RES/71/199>

¹⁵tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf

¹⁶www.hchr.org.mx/images/doc_pub/A_HRC_37_51_Add_2_EN.pdf

¹⁷Ibid., paragraph 48.

communications technology (ICT), including social media, observing “authorities rarely considered such messages as ‘real’ threats” although defenders felt they could lead to physical harm. Technology-related abuses included threats, smear campaigns and illegal surveillance tactics being used by state and non-state authorities against human rights defenders and journalists. He noted that journalists and WHRDs are targeted with GBV on social media, through threats of harm against them or their family members, anonymous aggressors inciting “corrective rape”, and via stigmatisation efforts to portray them as prostitutes or as immoral.

11. The Special Rapporteur’s findings echo APC research results¹⁸ from seven countries, including Mexico, about online GBV not being taken seriously by authorities or seen as “real” even though gender-based violence is clearly addressed in country criminal and civil codes. Furthermore, APC has found that women such as feminists, journalists, sexual rights activists and WHRDs who are in the public eye are more likely to be subject to online GBV and freedom of expression limitations, including sexual expression.

12. The Coalition report also found feminists, journalists and WHRDs to face particular risk of online GBV in Mexico and documents specific cases. The joint database of the Red Nacional de Defensoras de Derechos Humanos en Mexico and the Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos documents attacks on WHRDs. The Coalition report analysed 159 cases registered in 2015 and 2016 and found that 34%, or 55 cases, involved ICTs and included incidents of data theft through raids of homes and offices and seizure of belongings; threats and intimidation on social networks, instant messenger platforms, email or cellphones; defamation campaigns; and real-time surveillance via messages and photos to demonstrate that every movement made by defenders was being monitored.

13. Comunicación e Información de la Mujer (CIMAC) documents attacks on women communicators and is a contributor to the Coalition report. CIMAC cites the indifference and dismissal of authorities regarding online threats against women journalists and notes that such threats specifically target women’s bodies, with threats of rape and graphic assassination. ARTICLE 19, another Internet es Nuestra Coalition member and report contributor, found that online GBV is on the rise in attacks against journalists, and women journalists face defamation campaigns with sexual connotation, sexual harassment, photomontage and non-consensual dissemination of private information.

14. In the Coalition report, ARTICLE 19 documented a notable increase in attacks against journalists via ICT, stating:

The seriousness of such aggressions is in the repetition of traditional patterns from physical spaces, now transferred to the digital sphere, whose stigmatising, ridiculising and discrediting characteristics are based on the exercising of their right to freedom of expression with the intention of silencing them, disappearing them, and limiting their activity.

Limitations in available data and analysis

15. The Coalition report found that feminists and other women activists face similar experiences regarding online GBV, noting that there is a general lack of statistical information available. The only significant national registry was carried out in 2015 as part of a national survey of ICT in households and

¹⁸For more information on this research, see https://www.genderit.org/sites/default/upload/csw_map.pdf

found that at least nine million Mexican women and girls aged 12 and above have experienced cyberharassment.¹⁹ Luchadoras, SocialTIC and APC have accompanied many individual women and organisations who have faced online GBV in Mexico and other countries and published their classification of 13 categories of technology-related GBV in the Coalition report.

Tendencies identified

16. Based on its research and accompaniment of cases, the Internet es Nuestra Coalition identified six tendencies regarding online GBV in Mexico, illustrated with representative cases:

- Viral hate, where denouncing GBV in physical and/or online spaces unleashes a wave of online violence
- Closure and take-down of spaces of expression online, including websites under distributed denial of service (DDoS) attack or through biased application of social media companies' terms of service
- Organised misogynist mob campaigns
- Sextortion and extortion under threat of disseminating intimate images without consent
- State spying
- Defamation campaigns.

17. In the case of state surveillance, it is important to note that documented cases included important WHRDs and women journalists.²⁰ Several members of the Internet es Nuestra Coalition – R3D, SocialTIC and ARTICLE 19 – researched 11 cases of illegal state spying using the Pegasus software, a violation also noted with grave concern in the Mexico mission report of the Special Rapporteur on the situation of human rights defenders.

18. Concern regarding the increase in non-consensual dissemination of intimate images has unfortunately provoked state-sponsored and private campaigns against sexting.²¹ The Internet es Nuestra Coalition considers the practice of consensual sharing of sexual or intimate digital content (video, audio, texts or photos) via text, messaging, cellphone or the internet – sexting – as an exercise of sexual expression and individual autonomy regarding one's private life. Such campaigns deny the right to sexual expression by stigmatising people who engage in sexting. Furthermore, the campaigns do not tend to question those who disseminate private material without consent, or see such activity as sexual violence or a violation of the right to privacy and intimacy. The disclosure of personal information such as the malicious and non-consensual distribution of private sexual content through ICTs can particularly subject women of diverse sexualities and gender identities to significant threats, including violence, harassment, intimidation and silencing both in the offline and online contexts. Campaigns tend to blame the victim, usually a woman, for taking intimate photos and put the burden of stopping this phenomenon entirely on victims.

19. Consensual, uncoerced sexting between adults is frequently conflated with sextortion or the crime of child sexual exploitation in campaigns and legislation. The Coalition report cites several examples of

¹⁹INEGI. (2016). Encuesta Nacional sobre Disponibilidad y Uso de las TIC en Hogares (ENDUTIH), Módulo sobre Ciberacoso (MOCIBA) 2015.

²⁰See the research by Citizen Lab, R3D, SocialTIC and ARTICLE 19, available at: <https://citizenlab.org/2017/06/reckless-exploit-mexico-nso>

²¹See references to the "Think before you sext" and "Take care on the net" campaigns in the *Internet es Nuestra* Coalition report, page 55.

legislation that attempts to address non-consensual dissemination. It expresses concerns that existing legislation is not being applied, and that new bills only contemplate criminalisation. It cautions against violating other basic rights such as the right to privacy, expression and women's sexual expression, and enabling an environment of surveillance by the state or internet intermediaries. It notes that any legislation in this matter will be ineffective if it is not accompanied by increased access to justice.

20. The case of "Romina" detailed in the *Internet es Nuestra* report demonstrates the complexity of addressing online gender-based violence and the lack of proper procedure and protocol to avoid revictimisation of those targeted. In that case, intimate images and private location information could not be removed from the internet, the victim was told, because they were part of case evidence. Romina not only could no longer continue her professional career as a photographer, she was forced to move out of the country.

IV. Recommendations

21. Mexico should:

1. Recognise online gender-based violence as part of the continuum of structural, systemic gender-based discrimination.
2. Develop mechanisms to report, denounce and document cases of online GBV to have sufficient statistical data and analysis of its dimensions and characteristics and develop adequate response systems.
3. Explore adaptation of existing law, or flexible interpretation of law, to encompass technology-related GBV.
4. In particular, Mexico should take steps to ensure proper protocol and procedures for the *Ley General de Acceso a Una Vida Libre de Violencia* and its corresponding state legislation to ensure it is an effective tool for women's protection and access to justice in cases of GBV, including online GBV.
5. Ensure that new and existing legal frameworks adequately protect women's freedom of expression (including political, religious and sexual expression), privacy, and freedom from violence. Any restrictions on freedom of expression to respond to gender-based violence must be necessary and proportionate, should not be vague in terms of what speech is restricted, and should not overpenalise (in criminal sentencing or responses which restrict internet/platform access).
6. Ensure that victim blaming, morality and obscenity as rationale for protecting women and other communities affected by injustice must not be the basis for any legislative reform, new law, response from authorities or educational campaign in matters of gender-based violence online. Rather, rights to bodily autonomy, self-determination, freedom of expression and the right to participate in public debate should be emphasised.
7. Ensure that privacy, anonymity and encryption are not eliminated as a justification for finding perpetrators. Survivors often need these to re-enter online spaces, to feel safe, to share their stories.
8. Carry out a thorough and impartial investigation into the use of Pegasus spyware to spy on journalists and HRDs, to ensure accountability and provide redress to those targeted, and take measures to prevent future violations.

9. Train law enforcement, judiciary and other response actors to take gender-based violence online seriously and react swiftly, increasing their understanding of technology and how it can exacerbate violence, sensitising them against victim blaming, outlining protocols to request takedown and/or obtain information from internet intermediaries following due process, etc.
10. Particularly, ensure an effective implementation of the protection mechanism for journalists and human rights defenders with gender-sensitive guidelines, capacity to assess online violence and risk, and sufficient funds and trained human resources to guarantee investigation and prosecution.
11. Seek holistic solutions for online gender-based violence prevention and response which include measures such as improving access, digital literacy, the creation of enabling environments for diverse expressions, and clear and specific delineations of legal and illegal gender-based hate speech.
12. Consult with women's rights, internet rights, sexual rights and other civil society organisations to ensure synergy with other legislative and policy developments responding to online gender-based violence.