



The United Mexican States

Submission to the UN Universal Periodic Review 17th Session of the UPR Working Group

Submitted 04 March 2013

**Submission by CIVICUS: World Alliance for Citizen Participation, NGO in
General Consultative Status with ECOSOC**

CIVICUS: World Alliance for Citizen Participation

Mr Tor Hodenfield, Email tor.hodenfield@civicus.org
Tel +27 11 8335959, Fax +27 11 8337979

Ms Renate Bloem, Email renate.bloem@gmail.com
Web www.civicus.org

1. (A) Introduction

- 1.1** CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizen's freedom of association are threatened.
- 1.2** In this document, CIVICUS outlines urgent concerns related to the environment in which civil society activists and human rights defenders operate in Mexico, and discuss threats faced in the exercise of the freedoms of expression, association and assembly.
- 1.3** CIVICUS is concerned by legislative measures taken by the Mexican government imperiling the freedom of association for labour unions.
- 1.4** CIVICUS is deeply alarmed by undue and arbitrary restrictions on freedom expression, independence of the media including the harassment and intimidation of journalists and netizens.
- 1.5** CIVICUS is greatly concerned by restrictions on the free exercise of the right to freedom of assembly, including unwarranted use of excessive and sometimes fatal force to disperse nonviolent demonstrations.
 - In Section B, CIVICUS highlights concerns related to the freedom of association of labour organizations.
 - In Section C, CIVICUS expresses concerns involving harassment and attacks against human rights defenders.
 - In section D, CIVICUS highlights concerns relating to the freedom of expression, independence of the media and restrictions on access to information.
 - In section E, CIVICUS highlights concerns regarding the freedom of assembly.
 - In section F, CIVICUS makes a number of recommendations to address the concerns listed.

2. (B) Restrictions on freedom of association and impediments to civil society activities

- 2.1** Under Article 9 of the Constitution of Mexico, the right to associate peaceably cannot be restricted. In addition, Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Mexico is a state party, guarantees freedom of association. However legal obstacles to the effective realisation of this right persist. Guarantees safeguarding the right of workers to organize were further undermined in 2012 with the adoption of measures limiting the right to strike.
- 2.2** Freedom of Association for labour unions has experienced setbacks since 2009. In November 2012, Congress passed the most extensive reform of Mexico's *Federal Labour Law (FLL)* since 1970. Among other regressive measures, the amendments jettison longstanding protections for unions by imposing burdensome preconditions for striking and remove restrictions on labour outsourcing, including subcontracting, and the use of

third-party employment agencies. Moreover, while Article 357 of the *Federal Labour Law* provides that, “workers and employers are free to form unions without prior authorization,” retaliatory dismissals against persons who attempt to establish independent unions remain rampant.

3. (C) Concerns involving harassment, intimidation and attacks against human rights defenders and civil society activists

- 3.1** Article 12 of the UN Declaration on Human Rights Defenders mandates States to take necessary measures to ensure protection to human rights defenders. The ICCPR, to which Mexico is a state party, clearly guarantees the freedoms of expression, association and assembly. Nonetheless, in contrast to these firm legal protections, harassment, intimidation and attacks on human rights defenders and civil society activists by criminal groups and states security forces continue at unprecedented rates across the country. Moreover, with few exceptions, relevant national and sub-national governmental bodies have failed to conduct adequate investigations into such attacks. It is the responsibility of the government to ensure that mechanisms function properly to protect civil society activists and human rights defenders.
- 3.2** The precipitous rise in acts of violence and intimidation committed by state and non-stake actors against civil society members and staff of Civil Society Organisations (CSOs) is a matter of grave concern. In December 2011, the Mexican National Human Rights Commission (CNDH) disclosed 523 investigations of threats and attacks on civil society activists, including 27 murders, between 2005 and 2011. While many of these acts are reported to have taken place in localities afflicted by long standing conflicts, several of the killings in 2010 and 2011 targeted watchdog groups in states without a history of such attacks. Moreover, according to national groups, support and contributions to some civil society groups has precipitously contracted as a result of the perceived risks among the public of being associated with civil society groups that report on sensitive issues including gang violence and police corruption.
- 3.3** On 25 February 2011, Nepomuceno Moreno, a prominent anti-violence activist associated with the Movement for Peace with Justice and Dignity (MPJD) was murdered in broad daylight by unidentified assailants. Moreno, who publicly accused police officers of kidnapping and murdering his teenage son in 2012, was also a vocal critic of organized crime, human rights abuses committed by police forces and the government’s unsuccessful crime suppression policies. Despite Moreno’s well known involvement in the anti-violence cause and having participated in the January 2011 “Dialogue for Peace” attended by former President Felipe Calderon, the Sonora State prosecutor’s office failed to follow-up on leads indicating the political nature of the case, instead attributing Moreno’s murder to his previous involvement in organized crime.
- 3.4** On February 15 and 16, 2011, civil society activists Maria Luisa Garcia Andrade and Sara Salazar, both of whom worked with the organization Return our Daughters (*Nuestras Hijas de Regreso a Casa*), experienced yet another act of targeted harassment when their respective homes were set on fire. *Return our Daughters*, founded in 2001, has

been a leading voice in the campaign to raise awareness and pressure the government to resolve cases of women killed or disappeared in Ciudad Juarez and Chihuahua states. Garcia and Salazar had been staging a hunger strike to highlight the continued impunity for those responsible for the murder and harassment of their families when their respective houses were attacked. Salazar's daughter, Josefina Reyes Salazar, also a human rights defender, was killed in January 2010. García's sister, Lilia Alejandra, was raped and murdered in February 2001.

4. (D) Concerns regarding freedom of expression and journalists

- 4.1** Articles 6 and 7 of the Mexican Constitution guarantee freedom of speech and the press. However, despite these legal guarantees, the operating environment for independent journalists, investigative reporters and “netizens” remains one of the most dangerous in the world. Harassment, intimidation, and killings of journalists and online activists committed by both criminal gangs and state security officials remains rife. It is of great concern that these attacks continue unabated and with impunity, fostering a culture of fear and mass self-censorship among the media.
- 4.2** Journalists who report on sensitive topics, including organized crime and drug trafficking or expose government corruption and other malfeasance, have increasingly been subjected to harassment and attacks. From 2000 to July 2012, it is reported that 82 journalists were killed and 16 others disappeared. In 2011 alone nine journalists were killed, making Mexico one of the most dangerous places in world for journalists.
- 4.3** In March 2011, Luis Emmanuel Ruiz Carrillo, photographer for the Monclova-based newspaper *La Prensa* and José Luis Cerda Meléndez, a Televisa-Monterrey television host, were abducted and killed after leaving Televisa’s studios in Monterrey. Carrillo had been sent to Monterrey on assignment to report on a former drug addict who had overcome addiction to become a well-known TV personality. Graffiti found near the scene of the crime read, “stop cooperating with the Zetas,” a recognized crime syndicate in the region.
- 4.4** Moreover, citizens using social media and microblogging platforms to report on or identify suspected criminals or illegal acts committed by criminal organizations are increasingly becoming targets of violence. In a spate of violence aimed at silencing such online reporting, from September to November 2011 four people were killed in the city of Nuevo Laredo. On October 27, the body of Maria Elisabeth Macias, a journalist and blogger, was discovered accompanied by a message linking her death to online writings on the popular website Nuevo Laredo en Vivo. Moreover, on 9 November 2011 the fourth victim was found along with a note reading: “This happened to me for not understanding that I shouldn’t report things on social networks”.
- 4.5** While the government has recently introduced legislation providing for greater protections for journalists, including a 2012 constitutional amendment endowing the federal government with the power to investigate crimes committed against journalists, investigations of attacks against journalists and netizens remain largely unsolved. In 2006, the government established a special prosecutor’s office with the authority to

investigate crimes against freedom of expression. However, while 630 attacks on the press were reported from 2006 through mid-2012, the special prosecutor was only able to secure one criminal sentence.

4.6 In response to the recent escalation in attacks and harassment, self-censorship among media houses and journalists has risen considerably. Fear of reprisals from the government and criminal gangs has led local media outlets operating in high-violence zones to increasingly refrain from publishing stories on organized crime. Furthermore, journalists who have exposed issues deemed sensitive by the government have faced undue repercussions. In February 2011, MVS Radio journalist, Carmen Aristegui was temporarily dismissed from her position after forwarding requests to President's Felipe Calderon's office regarding opposition claims that he regularly abused alcohol.

5. (E) Concerns regarding freedom of assembly

5.1 Article 9 of the Constitution of Mexico guarantees its citizens the right to freedom of peaceful assembly. Furthermore, Article 21 of the International Covenant on Civil and Political Rights (ICCPR) to which Mexico is party, guarantees the freedom of peaceful assembly. However, on several occasions from 2009-2012 these rights were undermined by the use of disproportionate, excessive and sometimes lethal force employed by government forces to disperse demonstrations.

5.2 On 12 December 2011, approximately 600 high school students from a rural teachers' college in Guerrero State staged a protest demanding that State Governor, Angel Aguirre Rivero, fulfil a promise to increase the daily food subsidy in the region. Following attempts to disperse the protests, which occurred on a major highway, security forces open fired on the demonstrators. Two high school students were reportedly shot and killed by police while 20 others were arrested.

5.3 Moreover, on 3 December 2012 thousands of demonstrators in Mexico City led by YoSoy#132, a protest movement advocating for greater democratization and media reforms, staged a protest highlighting Mexico's democratic deficits on the eve of President Enrique Peña Niet's inauguration. During the protests, security forces arrested over 100 demonstrators, injuring nearly 90 others. Mexico City's Human Rights Commission later released a report stating that police had overstretched their discretion during the protest and had arbitrarily detained at least 22 demonstrators.

6. (F) Recommendations to the government of the United Mexican States:

CIVICUS calls on the government of Mexico to create an enabling environment for civil society to operate in accordance with the rights enshrined in the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

6.1 Regarding restrictions on the freedom of association

- Amendments to the *Federal Labour Law* should be repealed or suitably amended to ensure that restrictions on the freedom of association are removed.

6.2 Regarding harassment and attacks against human rights defenders and journalists

- Attacks on and threats to journalists and human rights defenders should be publicly condemned by senior government officials to ensure protection by law enforcement agencies;
- Impartial and effective investigations should be conducted into all cases of attack, harassment and intimidation of civil society activists and journalists, and perpetrators brought to justice;
- Police and security officials as well as other government representatives implicated in the abuse of journalists should be held accountable under the law.

6.4 Regarding restrictions on freedom of assembly

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which call for simple notification rather than explicit permission to assemble;
- Recourse for judicial review and effective remedy should be provided, including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities;
- Security forces in charge of crowd control should be equipped with non-lethal weapons and provided training across the board on humane means of crowd control as well as on the UN Basic Principles on the Use of Force and Firearms;
- Every case of injury caused to protestors by security forces should be subjected to mandatory and transparent investigation by an independent commission;
- The use of live ammunition on peaceful protesters should be immediately stopped.