

Mexico (2013)

In 2011, Mexico's Internet penetration rate was 36 percent, placing it on par with regional neighbors such as Peru and the Dominican Republic.¹ A lack of effective regulation of the country's largely monopolized telecommunications market is reported to have slowed Mexico's Internet penetration rate and allowed consumers to be overcharged by tens of billions of dollars each year since 2005.² Federal programs to support e-learning and digital communications centers in small towns and rural areas, along with a steady increase in cell phone use, have led to an increase in Internet use, but the country still lags behind Argentina, which has GDP per capita similar to Mexico's but an Internet penetration rate of over 47 percent.³

For decades, endemic corruption among political and law enforcement institutions has generated a difficult climate for journalists in the country. In recent years, these challenges have been compounded by drug-related violence. The drug war has also prompted the government to modify constitutional laws in order to legalize certain forms of electronic surveillance. Independent and citizen media are gaining popularity and credibility in Mexico, particularly among young Internet users, but the murders of several journalists and social media activists have led to an increase in self-censorship within the media. ONI testing revealed no evidence of Internet filtering.

Background

Mexico is a federal republic led by President Enrique Peña Nieto of the PRI. Peña Nieto's election in 2012 marked an unexpected resurgence of Mexico's Partido Revolucionario Institucional (Institutional Revolution Party or PRI), which ruled the country for over seventy years until the election of Vicente Fox in 2000.⁴ Many historians attribute Mexico's tradition of corrupt governance to the PRI. Shortly before his election in July of 2012, it was reported that Peña Nieto had paid journalists a total of approximately US\$2.4 million for "mentions" during his tenure as governor of the State of Mexico.⁵

Under the leadership of the PRI, decades of corruption and impunity in government agencies led to increased violations of civil liberties and human rights in Mexican society. While the Fox administration enacted several reforms that attempted to address these problems, widespread political corruption has persisted, particularly at the state level.⁶ Felipe Calderón, who served as president between the administrations of Fox and Peña Nieto, maintained these reforms, but introduced new policies to curb drug cartel activities that many believe have led to an increase in drug violence, particularly in the country's northern states.

Mexico possesses a robust environment for print and digital news sources that reflect a wide range of political positions. During the 1980s and '90s, investigative reporting at left-leaning newspapers in Mexico City, most notably the independently-owned *La Jornada*, played a significant role in uncovering the corrupt practices of the PRI, which helped to bring about the party's defeat in 2000.⁷ While some of the nation's more prominent publications are independently owned, the majority are owned by large media conglomerates. Grupo Reforma, the largest such corporation in the country, owns three of the nation's most widely circulated dailies, in addition to several smaller regional

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newspapers.⁸ Grupo Mexico, another prominent owner of multiple of media outlets, has been a leader in developing electronic news sources and engaging citizen journalists in online reporting.⁹

Broadcast media ownership is heavily concentrated in two companies, Televisa and TV Azteca, which as of 2010 owned approximately eighty percent of television and radio stations in the country.¹⁰ In 2007, the Mexican Supreme Court declared unconstitutional the so-called “Televisa Law,” which would have allowed Televisa and TV Azteca to offer telephone and Internet services without paying for a license, using the spectrum freed by the transition from analog to digital broadcasting.¹¹ The ruling, which struck a blow to the broadcast duopoly, was part of a series of pro-competition business reforms supported by the Calderón administration.

For decades, the telecommunications sector has been controlled by billionaire Carlos Slim, owner of América Movil, one of the largest providers of wireless phone service in Latin America. Its Mexican subsidiary, Teléfonos de México (Telmex), provides service to over 70 percent of landlines and 75 percent of cellular phones through its affiliate, Telcel.¹²

The drug war has had adverse effects on national and local news media. In 2010, the Inter-American Commission on Human Rights (IACHR) issued a special report on freedom of expression in Mexico that documented numerous cases of harassment, threats of violence and death, disappearance, and assassination of journalists by criminal organizations, the majority of which were connected with the drug trade.¹³ From 2006 until 2012, 14 journalists were killed for reasons related to their coverage of organized crime; an additional 27 were killed in cases where a motive has not been confirmed.¹⁴ The Comisión Nacional de Derechos Humanos (National Commission on Human Rights), an autonomous organization, has followed trends in media persecution since the early nineties, and in 2007 heard 87 cases of journalists who were threatened, kidnapped, or murdered.¹⁵ The Commission has also made annual recommendations to the state governors’ association and to the judiciary regarding human rights abuses against journalists.¹⁶ The IACHR has noted, however, that there is no public institution that oversees these cases and thus no official public record of these numbers.

Journalists who have borne the brunt of this assault are those working in areas most heavily affected by the drug war, including the states of Chihuahua, Michoacán, Sinaloa, Tamaulipas, and Veracruz, which lie mostly along the Mexico-US border. It is estimated that ninety percent of cocaine consumed in the US transits through Mexico.¹⁷ Authorities have more frequently failed to investigate drug-related crimes and protect journalists in these states, either out of fear of retribution by organized crime groups, or out of allegiance to cartel leaders who have offered them bribes or physical protection in return. As a result, many news organizations in these areas have limited their coverage of drug-related violence. The media freedom advocacy group Article 19 also reports that a significant proportion of recent attacks on journalists have been perpetrated by public authorities.¹⁸ Since 2011, attacks on the offices of newspapers and radio stations have been on the rise; in July 2012, the headquarters of three news organizations in northern Mexico were attacked by gunmen and individuals wielding hand grenades.¹⁹

In early 2011, hundreds of news organizations and civil society groups signed the controversial “Agreement to Cover Violence in Mexico,” a pact intended to strengthen media coverage of organized crime and violence in the country and to protect the rights of journalists reporting on these topics. Among other items, the agreement states that journalists are not to become “involuntary spokes[people] for organized crime,” and as such they are to “avoid using the language

used by delinquents,” and to prevent perpetrators of organized crime from being portrayed as “victims or public heroes.” It also requires that they “specifically attribute responsibility for crimes,” and that they not put at risk criminal investigations by police or government officials.²⁰ Prominent newspapers including *Proceso*, *Reforma*, and *La Jornada* did not sign the agreement, stating that it would stifle free expression, and arguing that it insinuated that journalists who report on government corruption are effectively aiding the drug cartels by removing the focus from their activities.²¹

Internet in Mexico

Mexico’s first connection to the Internet was established in 1986 at the Instituto Tecnológico y de Estudios Superiores de Monterrey, which now houses the Network Information Center - Mexico (NIC Mexico), the national administrator of the .mx domain.²² Academic, government, and professional institutions began using the Internet in the early 1990s, and private connections became available soon after.²³ In 2011, Mexico’s Internet penetration rate was 36 percent, leaving it slightly behind regional allies such as Colombia and Chile; 23 percent of households had an Internet connection, and over 82 percent of Mexicans owned a cell phone, though only eight percent of these phones were Internet capable.²⁴ A 2008 survey by the Instituto Nacional de Estadística y Geografía (National Institute of Statistics and Geography) showed that most Mexicans (62 percent) who connect to the Internet do so outside of their homes, most commonly from educational institutions, places of work, and Internet cafés.²⁵

In 2000, the government began building the e-Mexico National System, a multi-faceted policy initiative geared towards improving Internet connectivity and access and providing digital education opportunities for the entire population. The program has established 7,500 Digital Community Centers that have dramatically increased access opportunities for indigenous and impoverished communities. Program officials report that the centers serve approximately sixty percent of the Mexican population.²⁶ A separate branch of e-Mexico has developed a series of websites and online tools devoted to education, healthcare, finance, and government services that are intended to improve public understanding of social programs and state policy. The government also supports Arteenautas, a digital education program for children.²⁷

Pressing social concerns such as education, health care, and poverty, however, have frustrated Mexico’s attempt to narrow the “digital divide.” Almost half of Mexico’s population lives below the poverty line and has at best severely restricted access to communications technology. The wide use of mobile devices may one day enable Mexico’s poor to connect more consistently to the Internet, but Telmex’s current market dominance makes calls prohibitively expensive for the poor.²⁸

Mexico witnessed one of the first social movements in the world to use the Internet as a tool for activism. In 1994, the Ejército Zapatista de Liberación Nacional (Zapatista National Liberation Army or EZLN) took up arms against federal military forces after the government failed to respond to the group’s demands for improved living conditions and social programs for impoverished and systematically marginalized indigenous communities in the state of Chiapas.²⁹ During the long conflict, EZLN leaders sent emails to a large global network of followers, describing the situation on the ground, the ideals behind the movement, and the demands that the Zapatistas made of the government. These were widely distributed throughout Mexico and the world and brought a dramatic increase in popular support for the movement in Mexico City and throughout Latin America.³⁰

May 2012 marked the beginning of “Yo Soy 132,” an ongoing social movement calling for protections for freedom of expression and the right to information in the context of alleged media bias in coverage of the 2012 general election. Yo Soy 132, which began on May 11 as a student protest against Peña Nieto’s candidacy for president, gained traction nationwide when a protest video went viral on YouTube. Since then, the conscious use of social media as an alternative to mainstream media has been a salient feature of the movement.³¹

Citizen journalism has become increasingly popular in Mexico and is currently gaining ground through the use of digital technologies such as camera phones and SMS messaging. Yet these networking techniques also help to facilitate the work of drug cartels and organized crime groups. In 2008 Mexico experienced a wave of cell phone-based scams, including “virtual kidnappings,” in which victims received calls from criminals who would pretend to have kidnapped a relative in order to obtain a ransom. Over 30,000 cases have been reported since December 2007, including 12 targeted at members of Congress.³² The national legislature has also been the target of virtual crime. In May of 2009, hackers from Argentina and Chile attacked the official website of Congress, posting anti-government messages and political cartoons.³³

As news organizations have decreased their coverage of the drug war, citizen journalists and social media users have worked to fill this gap by reporting on violent acts that they witness first hand or learn of by word-of-mouth. Although Twitter has been a popular platform for this type of reporting, a number of independent sites have become important hubs for crowdsourcing reports of violence. Sites such as Narco News³⁴ offer independent journalistic coverage of narcotics-related crime, while blogs such as Estado Fallido³⁵ and Blog del Narco³⁶ [contains graphic images] allow citizen witnesses to report on drug-related violence and to engage in discussion of these events.

Unfortunately, this trend has led to an overall increase in threats against citizen and social media users by drug cartels. In 2011, María Elizabeth Macias, a professional journalist who reported on drug crimes under a pseudonym, was found decapitated on a road in Nuevo Laredo. Attached to her body was a message explaining that she was killed because of her activities online.³⁷ In the months following her death, three more established social media users in the area were killed in a similar fashion, with assailants leaving clear signs that the victims had been killed because of their online reporting.³⁸ In late 2012, blogger Ruy Salgado, known online as “el5antuario,” was reportedly kidnapped by an unnamed drug cartel due to coverage of drug-related violence on his blog. Salgado reappeared briefly to address his readers and explain that he planned to stop writing online in order to protect himself and his family from future threats.³⁹

As video and photo documentation of this sort of gratuitous violence become more common online, government officials have expressed concern that these media only serve to reinforce the image of criminal organizations as powerful entities that are capable of undermining the rule of law.⁴⁰

Legal and Regulatory Framework

Mexico is a member of the United Nations, the Organization for Economic Cooperation and Development, and the Organization of American States. It has signed the American Convention of Human Rights and its Protocol and the International Covenant on Civil and Political Rights. Article 16 of the Mexican Constitution protects privacy.⁴¹ Constitutional judicial reforms passed in 2008

guarantee that those accused of breaking the law are presumed innocent until proven guilty and prohibit the system from holding suspects indefinitely without trial.⁴² These reforms also instituted a requirement that all trials and court records be open to the public, working in conjunction with Mexico's 2002 freedom of information law (Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental).⁴³ The Mexican Freedom of Information Program, part of the National Security Archive at Georgetown University, monitors official compliance with this regulation.⁴⁴

In April 2007, former president Calderón signed a bill repealing defamation, libel, and slander as criminal offenses at the federal level. The legislation was regarded as an affirmation of freedom of expression, but 17 out of 31 states in Mexico still have criminal libel laws under which journalists may be imprisoned for up to four years.⁴⁵

In May 2009, approaching federal congressional elections that were to take place on July 5 of that year, the Instituto Federal Electoral (Federal Elections Institute or IFE), an autonomous organization that oversees Mexican elections, ordered YouTube to remove a video which they determined contained defamatory statements about incumbent senatorial candidate Fidel Herrera during his re-election campaign.⁴⁶ The IFE stated that if necessary, the government would continue to eliminate content from YouTube that “slanders and defames” participating political parties and possible candidates. YouTube Latin America executives said that the company would be willing to cooperate with the Mexican government to enforce this policy.⁴⁷

Mexico has been invited to join negotiations on the Anti-Counterfeiting Trade Agreement (ACTA), a multilateral trade agreement spearheaded by the US that seeks to establish international standards for intellectual property rights enforcement.⁴⁸ Mexico established itself as an opponent to the agreement in June 2011, when the senate overwhelmingly approved a resolution asking that the president refuse to sign ACTA, citing its concern for Internet freedom and accessibility as one of the reasons to reject the treaty.⁴⁹ However, Mexico's ambassador to Japan nevertheless signed the agreement in July 2012, causing uproar among civil society and members of Congress alike.⁵⁰ The senate must ratify the treaty before it can be put into force in the country; as of April 2013, it had yet to be submitted to the senate for ratification.⁵¹

In 2012, Congress passed a constitutional amendment making attacks against journalists a federal crime. The legislation was applauded for its broad definition of the term “journalist,” validating prosecution of any entity committing attacks “against journalists, people, or outlets that affect, limit, or impinge upon the right to information and freedom of expression and the press.” However, there is currently little evidence that the law has been put to use by prosecutors.⁵²

Lawmakers in the state of Veracruz are currently considering a bill that would punish individuals for “crying wolf” or making false claims about violence on social media platforms with one to four years in prison. Many fear that if passed, the law would leave citizens afraid to report crimes online.⁵³

Surveillance

Federal communications law in Mexico protects the confidentiality of data transfer.⁵⁴ The disclosure, interception, or use of any information not available for the public and received by radio waves is generally prohibited, but the Ley Federal Contra la Delincuencia Organizada (Federal Law Against Organized Crime) allows for the interception of private communications and electronic surveillance in certain circumstances.⁵⁵ This law contradicts Article 16 of the Constitution, which states that

private communications are inviolable.⁵⁶ Electronic surveillance is only permissible with judicial authorization, and all personnel involved in acts of surveillance must keep the content of such investigations confidential.

Although the law protects against unauthorized interceptions, searches, and seizures, authorities do not always respect this prohibition. In 2008, Juan Trujillo Limones and Raúl Romero Gallardo, two reporters from the aforementioned independent media outlet Narco News, claim to have been subjected to spying and unlawful entry into their Mexico City apartment on two occasions after they criticized constitutional reforms.⁵⁷ Increased measures of surveillance in efforts to combat drug violence may result in further disregard for this law.

In 2007, the US State Department announced the implementation of the Mérida Initiative, a multilateral security cooperation plan designed to combat criminal organizations, mostly related to drug trafficking, in Mexico, Central America, and parts of the Caribbean.⁵⁸ The Mérida Initiative is largely focused on providing inspection and surveillance technologies that could aid in identifying and arresting cartel workers, but could also infringe on the civil liberties of other citizens.⁵⁹ In 2013, the US government had spent approximately \$1.9 billion dollars on the effort. Peña Nieto has given signs that he wishes to decrease US involvement in the drug war, but it remains to be seen how this might take effect.⁶⁰

In March 2012, the Mexican legislature passed surveillance legislation allowing police to track user location in real time without a warrant. The bill garnered 315 votes in support, while six opposed it and seven abstained. Supporters of broader surveillance powers argue that the laws will aid authorities in combating crime. Critics hold that the legislation has inadequate safeguards against abuse and violates fundamental privacy rights.⁶¹

ONI Testing Results

The ONI carried out partial testing on three of Mexico's ISPs in August 2011 but was unable to obtain sufficient data for analysis. Previous ONI testing on Mexico's largest ISPs (Mentored, Avantel, Telmex, and Alestra/AT&T) in multiple states found no blocked sites or filtered information in Mexico.

Conclusion

Although few formal or technical controls of online expression exist in Mexico, freedom of expression, both online and off, is threatened by endemic violence and a weakened rule of law. In the media, reporting on issues involving powerful people is both difficult and dangerous, and self-censorship has increased as journalists face violent threats from political and drug-related sources. As Mexicans have begun utilizing social media to disseminate information about violence, Internet users, too, have exposed themselves to the threat of violent retribution. Despite the dangers to journalists and citizen reporters, however, the Internet remains a relatively free and open space for those who are able to access it.

Notes

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- ⁶⁰ Randal C. Archibold, Damien Cave, and Ginger Thompson, “Mexico’s Curbs on U.S. Role in Drug Fight Spark Friction,” *New York Times*, April 30, 2013, http://www.nytimes.com/2013/05/01/world/americas/friction-between-us-and-mexico-threatens-efforts-on-drugs.html?pagewanted=all&_r=0.
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