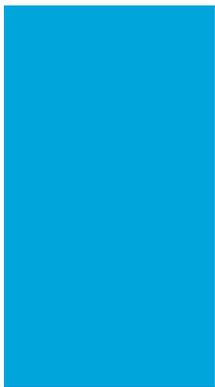


Center for Latin American Studies
University of California, Berkeley



Investigative Journalism and
Access to Information in Mexico

Kate Doyle
Senior Analyst, U.S. Policy in Latin America
National Security Archive

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INTRODUCTION

Transparency advocates champion the passage of freedom of information (FOI) laws as a victory for accountability in transitional democracies. In particular, the laws are seen as necessary and effective tools for monitoring government use of public resources, uncovering corruption, and documenting waste, fraud and abuse.¹ One obvious constituency for newly implemented FOI laws is the independent press, which stands to benefit from a mechanism that provides unprecedented access to government data and formerly secret records. Yet the existence of such laws does not guarantee their use by journalists. In countries where investigative reporting is still a developing art, reporters and editors may be unsure how to exercise their new right to request information, unwilling to commit the resources required to learn, or blocked from publishing damaging information obtained through FOI laws by news media owners who have ties to governing officials.

This paper seeks to evaluate the impact of access to information legislation on watchdog journalism through the case of Mexico, a country in which the emergence of an independent and more aggressive press over the last two decades coincided with a dramatic political transition—when a new president was elected in 2000—and the passage of federal and state FOI laws, beginning in 2002. As Mexico evolved, Mexico's media were beneficiaries of democratic trends, but they also compelled change by pushing hard against the limits of expression, challenging the government through critical reporting, and for the first time providing political dissidents diverse outlets for their ideas and proposals (Preston and Dillon 2004, 426-7). Prominent journalists also played a powerful, central role behind the campaign for a national transparency law, becoming advocates and lobbyists for reforms that promised to provide an important new tool for their professional pursuits. It can be assumed, therefore, that the newly assertive press would have a strong interest in using FOI laws to advance their newsgathering and investigative capacities.

1. For example, Transparency International, *Using the Right to Information as an Anti-Corruption Tool*, September 27, 2006.

The strength and reach of watchdog journalism in Mexico is limited, however. Depending on the news outlet, constraints such as scarce resources, low salaries, poor working conditions, fears about safety, and the lack of professional training inhibit the ability of reporters to do investigative work. The organization may or may not have established a tradition of independent reporting. Government still exerts pressure over some media organizations through cronyism, the control of information and access, and legal intimidation. The new, commercial demands of free-market Mexico have also helped shrink media investment in costly, time-consuming investigations in favor of a tabloid world of entertainment, sports, and crime coverage (Waisbord 2000a, 60). Finally, Mexico has thirty-three separate and widely varying transparency laws—the national law, the federal district law, and the laws of thirty-one states—that function within equally distinct government infrastructures with implications for accessibility, agency responsiveness or resistance, and effectiveness.²

In order to analyze the extent to which Mexican media organizations have used FOI laws to improve investigative reporting, the study focuses on state-level newspapers and the exposure of local instances of corruption. Newspapers are examined rather than television, since Mexico's print media are much more diverse and less beholden to power than the country's vast television duopoly controlled by Televisa and Televisión Azteca.³ State papers are examined rather than the larger, better-known papers with national reach, because national newspapers in Mexico have had more robust and independent editorial policies and more professional reporting practices since the 1980s. They are much better resourced and function in ways that resemble mainstream U.S. newspapers.

The state papers, on the other hand, have long operated as the propaganda organs of the powerful elites that dominate the political arena and the local private sectors. State papers have not been considered forces for exposing local corruption. When they have, they have

2. There have been several excellent comparative studies done measuring Mexico's FOI laws recently; among the most important are Centro de Investigación y Docencia Económicas, *Métrica de la Transparencia 2010*, November 2010 and Article XIX/Fundar, *Índice del Derecho a la Información en México*, April 2010.

3. According to *The Los Angeles Times*, the two companies own a staggering 92 percent of Mexico's television stations. See Deborah Bonella, "Mexico's Media under Scrutiny in Documentary," February 24, 2009.

historically relied on rumors, leaks, or privileged access to obtain information, rather than professional tools of investigative reporting. In addition, state-level newspapers are produced within a more dangerous local context, where state officials can identify, locate, and potentially harm reporters from local papers much more easily than they can target reporters working for nationally renowned media organizations. As a result of these factors, the use of new FOI laws by journalists working in the Mexican states to uncover corrupt or fraudulent practices by local actors should be a stronger measure of the impact of the transparency legislation on investigative reporting in the country overall.

Specifically, this study looks at three regional newspapers to analyze the different ways in which Mexican print media organizations have tried to employ state and federal transparency laws to obtain government information for their reporting on local corruption issues. The three publications—*Noroeste* of Culiacán, Sinaloa (northern Mexico); *a.m.* of León, Guanajuato (central Mexico); and *El Sur* of Acapulco, Guerrero (southern Mexico)—are all important regional outlets, have done some corruption reporting in the past, and represent the breadth of the country. Because the Web archives of regional Mexican papers are poorly organized and virtually impossible to search, the study is built on selected stories on corruption, fraud, and cover-up that use data obtained through FOI laws, as well as interviews with reporters and editors from the newspapers. The study does not include reporting on narco-corruption, since that is a unique and uniquely dangerous topic that poses a distinct set of challenges to newsrooms.

The results of this survey will show that state-level Mexican newspapers do use newly approved state and federal FOI laws to obtain information for reporting, but in strikingly different ways. One newspaper files hundreds of freedom of information requests in an effort to troll for data on government spending and, as a result, frequently publishes news stories revealing corrupt, wasteful, and fraudulent practices in the state. A second paper uses the state law almost exclusively to expose and condemn government secrecy, which remains an impediment to accessing the kind of information that would permit reporting on spending and

financial practices. The third paper examined has not developed the capacity to use the FOI law effectively but has been able to expose corruption in a limited way by drawing on the work of local non-governmental organizations (NGOs) that do use the law to obtain data. The three highly distinct models result from a variety of strong local differences, including the strength of the law in each state, the traditions and aspirations of the newspapers, and the professional capacities of the different newsrooms.

THE PRESS IN MEXICO

Mexico's media wasn't always complicit with power. The Mexican press of the 19th century was a lively and independent force that challenged the oligarchs, questioned the power of the Catholic Church, and opposed the dictatorship of Porfirio Díaz (Fromson 1996). But after the revolution of 1910-20, as the new regime was consolidating its power, the press became subservient to the government for a mixture of political, economic, and ideological reasons. The government created financial incentives for loyalty through subsidies, newsprint, and advertising. It intimidated and punished journalists in select instances, but mostly it wooed and promoted and bought them. By the 1940s, the press had largely become an instrument of the Partido Revolucionario Institucional (Institutional Revolutionary Party, PRI), and it remained so into the 1990s. The extent to which the press served the government wasn't always obvious—there were always diverse and independent voices that could be found on the opinion pages of some papers—but for the most part the media operated within what renowned Mexican reporter and editor Raymundo Riva Palacio called a “culture of collusion” (Riva Palacio 1997).

The media landscape began to change, however, as the regime initiated a series of incremental political and economic reforms in the late 1970s and early 80s designed to address social disillusionment with the one-party system's failure to continue to deliver the peace and economic prosperity that Mexico had enjoyed for decades. A gradual liberalization in the political sphere led to the country's first opposition victories in local campaigns, and the recurring collapse of the peso (1982, 1994) shocked business elites into pushing for an overhaul

of the state-controlled economic model in favor of neoliberal reforms (Preston and Dillon 2004, 198-9, 255-6; Lustig 1992, 28-9). The cracks in the PRI's legitimacy also encouraged the rise of new social movements across the country, with democracy activists joining an array of groups agitating for debt relief and housing as well as environmental, indigenous, and human rights. Within this context of regime failure and social mobilization, some journalists began to experiment with robust, autonomous forms of reporting that were previously unimaginable. A first wave in the creation of new print media (*Proceso* magazine and the newspapers *Unomásuno*, *La Jornada*, and *El Norte* in the 70s and 80s) was followed by a second surge in the 1990s by media outlets with explicitly professional objectives (*Reforma*, *El Financiero*, *Milenio*) (Lawson 2002, 82-5).

The July 2000 election of Vicente Fox, Mexico's first non-PRI president in seventy-one years, signaled the end of an authoritarian regime that had become increasingly controlling, secretive, and hostile to criticism. The dismantling of the PRI government further energized the media and loosened its bonds to power, making room for a critical and more assertive enterprise journalism rarely practiced under the old system. Freedom from regime control was made manifest not only in the development of new media institutions and more professional journalistic norms but in certain collective efforts as well. For example, a group of journalists decided to wrest the national journalism prize—traditionally bestowed by the PRI government on favored reporters and media outlets—out of state hands and reinvent it as a legitimate award given by a panel of professional journalists. The resulting “Citizen Council of the National Journalism Award” was founded in June 2001, with a stated mission of “recognition granted on the basis of autonomy, independence, impartiality, plurality, and responsibility.”⁴

Political scientists and analysts of media studies have developed theories about the practice of journalism designed to address the special circumstances of democratic transition in Latin America. As the region's repressive military and authoritarian regimes gave way to liberal democracies during the late 1980s and 1990s, an autonomous and critical press began to emerge

4. <http://www.periodismo.org.mx/historia.html>.

that challenged the hegemony of the state in ways that the old, subordinate press organizations with their deep ties to power were unwilling or unable to do. Silvio Waisbord calls this newly independent media “watchdog journalism” and contrasts its focus on civic responsibility and the social good with the developed western model of “factual exposure” intrinsic to investigative reporting (Waisbord 2000b, xix). Chappell Lawson links the burgeoning of independent media outlets in Mexico not only to the country’s political and economic opening and rising media competition but to changing journalistic norms that valued professional reporting over allegiance to the regime (Lawson 2002, 86-8). The most resonant theory for post-authoritarian Mexican journalism is Sallie Hughes’s description of the “civic newsroom.” In her 2006 study of the transformation of Mexico’s media, Hughes explains how reporters and editors sought to break out of the static, beholden propaganda outlets represented by the mainstream Mexican media to forge a new journalism with explicit responsibilities to the democratic transition underway in the country.

Hughes looks at the press in Mexico through an institutional lens in order to understand the multiple forces at work in the creation of the diverse, independent media organizations. “Institutions can be regulative structures that impede behavioral change, but can also produce shared visions that empower and enable innovative behavior by conferring rights, responsibilities and duties”(Hughes 2006, 29-30).⁵ According to her reading, journalists perceived their role as an extension of their citizenship in a democracy, a dramatic change from their traditional position as subjects of an authoritarian state. As such, news organizations embarked on a new mission—not only to report accurately and professionally but to contribute through their reporting to civil society’s struggle for information, increased participation, and economic and social justice.

FREEDOM OF INFORMATION IN MEXICO

In a sign of the extraordinary changes underway in Mexico, an unusual alliance of more than 80 publishers, editors, and reporters joined forces with academics, lawyers, and civil society groups from across the country shortly after the 2000 election to launch a campaign for the

5. Also see, more generally, the section in Hughes’s book on “The Civic Media Transformation,” 47-128.

right to information. Named for the city where the coalition's members first met at a conference in 2001, the Oaxaca Group used its access to the press to lobby publicly for a law that would guarantee the right of all Mexicans to government information. Despite resistance from the new Fox administration, the Oaxaca Group drafted an initiative and garnered strong public and congressional support, ultimately compelling Fox to join the fray by offering his own version. A compromise bill was approved unanimously by Congress, and President Fox signed Mexico's federal freedom of information act into law on June 10, 2002 (Luna Pla 2009, 70-6).⁶

Thanks in large part to the intensive engagement of a special commission set up by the Oaxaca Group to track the initiative as it made its way through congress, made up of diverse academics and journalists from three of the country's most important independent newspapers (*Reforma*, *El Universal* and *La Jornada*), the final bill passed was a very good law: well-conceived, well-articulated, and unequivocal in its intent to guarantee of the right of citizens to obtain information about their executive branch. It rested on a premise of disclosure, defining all government information as public (Article 2), and directing government agencies and entities to favor "the principle of publicity of information" (Article 6) over secrecy. It required agencies to publish in a routine and accessible manner all information concerning their daily functions, budgets, operations, staff, salaries, internal reports, and the awarding of contracts and concessions (Article 7). It granted citizens the right to seek the release of information that was not already public through an uncomplicated request process (Article 40), with a right to appeal an agency's decision to deny information (Article 49), and the right to take the case to court in the event that the appeal was denied (Article 59).⁷

The campaign unfolded in an international context of rising interest in the right to information and a broad recognition that transparency is a key element in democratic governance. As one indicator of the momentum that grew since the end of the Cold War for FOI legislation, the number of countries with FOI laws worldwide soared from twelve in 1990 to

6. The state of Sinaloa was the first government to approve a transparency law, on April 27, 2002.

7. *Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental*, June 10, 2002 (<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB68/lawesp.pdf>).

eighty-three in 2010.⁸ In Latin America, the only precursors to Mexico's access to information law were Colombia (1985) and Belize (1994). Mexico's law, however, was generally recognized as the gold standard for the region, and Mexico received high marks in comparison with other developing nations—and some developed countries—in comparative studies of nations with transparency laws.⁹

Not only was the text of the law excellent, but its implementation and use since it went into effect in 2003 have been extraordinary. The law established a new federal oversight body called the Federal Institute for Access to Information (Instituto Federal para el Acceso a la Información, IFAI), charged with ensuring that the government fulfill its transparency obligations as well as with promoting openness, educating citizens, and spreading the word as widely as possible about Mexicans' new right. IFAI held forums around the country to explain the law and answer constituents' questions. The electronic portal created on IFAI's website to receive requests was accessible and relatively easy to use. As a result, requests poured in: in the law's first year in force, IFAI received more than 36,000 requests for information; by November 2010, almost 600,000 requests had been filed, and the "Transparency Portal" created in 2007 by IFAI so that citizens could consult any federal website through the same electronic gateway had received more than 35 million views.¹⁰

The Mexican states followed suit after the federal law was approved, and one by one the state legislatures passed local ordinances, although they differed radically in letter and intent. Some states were singled out by analysts as having strong, meaningful access laws (such as Campeche); others were criticized for a variety of weaknesses and loopholes (such the southern states of Guerrero and Oaxaca). Concerns about the differences led activists at the state and national level to mobilize behind a set of standards for access and implementation in an attempt

8. From Right2Info.org, a project of the Open Society Justice Initiative: http://right2info.org/access-to-information-laws/access-to-information-laws-overview-and-statutory#_ftn1.

9. See, for example, *Transparency and Silence: A Survey of Access to Information Laws and Practices in 14 Countries*, Open Society Justice Initiative, September 2006. Mexico received high ratings compared to thirteen other countries from Latin America, Europe, and Africa in a variety of openness measures.

10. Total requests from June 2003 to November 11, 2010: 597,822. Total consultations of "Transparency Portal" created in 2007: 35,692,533 (Source: *Estadísticas del IFAI*, <http://www.ifai.org.mx/Estadisticas/#estadisticas>).

to impose baselines for transparency. The campaign resulted in the approval in 2007 of a significant reform to Article 6 of the Mexican Constitution, mandating certain principles of openness for all of the country's FOI laws: the principle of maximum publicity, expedited review procedures, a requirement that government records be preserved in archives, and sanctions for non-compliance, among others.¹¹

The media's hunger for information convinced many in the independent press to try their hand at requesting records from the government and publishing the results. Even before the laws were passed, President Fox's decision to open data about presidential spending led to an explosive scandal early on in his administration, when an enterprising reporter from the newspaper *Milenio* uncovered the renovation costs for the residence Fox shared with his wife Martha Sahagún and revealed that the couple had spent \$440,000 of public money on the upgrade, including embroidered towels that cost \$400 each and sheets for \$1,500.¹² Once the FOI laws were in place, Mexico's news organizations began publishing stories about topics that were previously untouchable: from sensitive information about the traditionally secretive Mexican navy, to the diversion of government health care funding to anti-abortion groups, to the cost of the first lady's wardrobe (Hughes 2006, 200-1). Jacinto Rodríguez Munghía, a reporter with the national magazine *Emeequis*, wrote an entire book about the country's repressive, PRI-era intelligence service based on declassified records (Rodríguez Munghía 2005). Daniel Lizárraga, from *Proceso* magazine, wrote one on secret spending in presidential transitions, drawing on 15,000 pages of documents obtained through the federal FOI law (Lizárraga 2009).

Beyond contributing to a constant flow of news stories based on government information, the transparency laws also require a new level of professionalism from the press, as reporters can no longer rely exclusively on leaked information, privileged access, or the cultivation of powerful friends and contacts. The public benefits as well, of course: when the press publishes articles based on information obtained through the law, the result not only exposes issues of

11. Diario Oficial, July 20, 2007, "Se adiciona un segundo párrafo con siete fracciones al Artículo Sexto de la Constitución Política de los Estados Unidos Mexicanos," 2-3; see IFAI <http://www.ifai.org.mx/Eventos/articulo6>.

12. Ginger Thompson, "Pricey Linens Cause a Fray in Mexican Politics," *The New York Times*, June 27, 2001; the *Milenio* reporter was Anabel Hernández García.

importance to citizens about the functioning of government but also raises the public's awareness about the importance of their right to information and thus contributes to the construction of a culture of transparency. But if the national press is using the FOI laws to uncover corruption and fraud, what about the state media? To what extent are local journalists interested in and able to take advantage of the new tool for their own reporting, thereby serving the same kind of social function for their readers as the national media? In order to answer the question, this study examines three regional newspapers with markedly different experiences in trying to use the FOI laws for investigative reporting.

MODELS OF TRANSPARENCY AND INVESTIGATIVE REPORTING

All three newspapers are the products of the democratic opening that took place in Mexico beginning in the late 1970s. All three are run by modern journalists with strong professional aspirations. But each of the three papers operates in a radically distinct environment, depending on the institution's own history and practices, the political and economic conditions in the state, and the sophistication and effectiveness of their particular transparency law.

A.M. OF LEÓN, GUANAJUATO

The newspaper *a.m.* of León, Guanajuato is the most sophisticated and professional media outlet surveyed. It is a strong, profitable paper, part of a chain of ten papers with a broad presence in the state (local editions are printed in six cities). The morning newspaper and a sister tabloid combined have twice the circulation of all ten or twelve of the rest of the state's newspapers.¹³ Its exposure of a government scheme to secretly purchase hundreds of acres of privately held land for the construction of an oil refinery won *a.m.* the 2010 National Journalism Award for investigative reporting.¹⁴ Key to the paper's report were reams of data obtained through the federal transparency law.

13. Telephone interview and email exchanges with José Raúl Olmos Castillo, editorial director for the León edition of *a.m.* The description that follows of the paper's history, current situation, and newsroom policies comes from Olmos.

14. http://www.periodismo.org.mx/Ganadores_antes/2009/ganadores_2009_reportaje.html.

The *a.m.* chain was founded in 1978 by Ernesto Gómez Hernández—a wealthy real estate and construction magnate from Guanajuato with ties to the right-wing Partido Acción Nacional (National Action Party, PAN)—to serve as a media outlet independent of the PRI government. According to the editorial director of its largest edition in the city of León, Raúl Olmos, *a.m.* took as its model the pioneering *El Norte* of Monterrey, Nuevo León. The paper started with very few resources and many institutional weaknesses, one of most acute being its lack of access to power and information because of its owner’s connection to the PAN. Like the rest of Mexico, Guanajuato was ruled for more than fifty years by PRI politicians; the 1988 election in León of a mayor from the opposition gave the paper some advantages. The paper didn’t modify its basic independent posture, however, and continued to critique the government, which brought the same hostile reaction from PAN leaders that *a.m.* used to get from the PRI. In the most recent effort to undermine the paper, for example, the government pulled all its advertising three years ago.

In the story that won Raúl Olmos and *a.m.* the National Journalism Award, the government of Guanajuato sought to entice the state-owned oil company Petróleos Mexicanos (Pemex) to construct a new oil refinery in the state. In order to avoid public scrutiny of the project, the government created a fictitious front company called “Cereal and Fine Pastas” to use hundreds of millions of public dollars to buy up private land from individual owners and agricultural cooperatives as the site for the proposed refinery.

When *a.m.* sought information about the project under the state FOI law, the government denied the request, claiming the records were reserved for five years under a special and very irregular agreement with the Secretary of Sustainable Economic Development that shielded all information related to a massive state development plan that was in the works—even before the plan was implemented and the information generated.¹⁵ The agreement prevented reporters gaining access to documents recording the prices paid by the state for individual land parcels, information about the exact location of the territory, and the contract the government claimed

15. Acuerdo de Clasificación General, signed by Jorge Gabriel Macías Llamas, Coordinador General de la Unidad de Acceso a la Información Pública, de la Secretaría de Finanzas y Administración del Gobierno del Estado de Guanajuato, 17 February 2009. In the author’s possession.

it had signed with the fake company, Cereal and Fine Pastas. The government also denied information regarding other secret projects under the rubric of the same development plan, including the construction of a new train and rail system to cover the state. In all, the government spent 4 billion pesos (\$308 million) over one year to purchase real estate, equipment, and more than 2,000 acres of land for the oil refinery, train, and other projects but refused to release any details about the transactions.

The newspaper eventually obtained the data through a request made under the federal FOI law to the refinery division of the national Pemex headquarters, allowing them to unravel the deception. There, in the files of the Director of Public Property Records, were the lists of the land parcels bought up by the Guanajuato government's shell company for the planned refinery and the names of the previous owners. The reporters also found documents sent from the Guanajuato governor's office to Pemex that falsely claimed that the purchase of 1,750 acres had been completed and that construction of the refinery project could begin. Finally, the investigative team managed to obtain some limited information through the Guanajuato FOI law about government contracts for assessments of the viability of the refinery project and the aggregate amount of pesos invested in purchasing the land parcels.¹⁶

The refinery investigation is only one of numerous stories run by *a.m.* in the past year using data and documents obtained by the paper through the local and federal FOI laws. Other examples of investigations into corruption, fraud, waste, and abuse include:

- a) Government spending on the Independence Bicentennial festivities: reporters documented irregular purchases made through no-bid contracts that violated the contractual laws.
- b) Governor's trips: reporters obtained receipts that revealed the high costs incurred by the governor and his team in their trips abroad, such as a recent tour of Europe where they stayed in the most expensive hotels possible, the kind usually used by royalty or celebrities.

16. *Periódico a.m.*, "Reporte Especial-Cereal y Pastas Finas-El Gran Engaño del Gobierno" ["Special Report-Cereal and Fine Pastas- the Government's Great Con"], September 7, 2009, 8 pp.; email exchanges with reporter Manuel Mora MacBeath.

- c) Crossing data from a variety of sources, reporters found evidence of hundreds of “ghost” teachers¹⁷ in the state’s school system, that is, people who received salaries without actually giving any classes.
- d) A 60-year-old massacre: the paper managed to obtain a case file from the state Supreme Court that revealed details about an infamous 1946 massacre of fifty to 100 people that the Mexican army carried out in León’s central plaza.¹⁸

The newspaper was able to produce such articles because of an institutional decision that its editors made five years ago, when the state transparency law went into effect, to push their reporters to learn how to use the law to go after government records. In order to boost its reporters’ skills, *a.m.* hired a journalist dedicated exclusively to training staff in transparency practices. As Olmos explained, Manuel Mora gives workshops to reporters and editors, guiding them on how to compose their requests and helping them file appeals when information is denied.

Even before Manuel began at the newspaper, we instituted a rule that reporters should file two or three requests a week. That can generate a lot of exclusive and fresh information—we’re always looking for new angles. But we had a real problem—what to do when they denied the information? That’s where Manuel comes in; he sends the appeals, he fights the denials, he follows up each request. Now he is teaching us how to appeal our own requests. I have compared the practices of national papers with ours, and I don’t know many that have the same kind of commitment.

Olmos sees the exercise of the right to information as part of the media’s responsibility to inform the public but also as a way for the newspaper to improve professionalism and journalistic practices. And although the paper has reaped the benefits of transparency, Olmos points out one downside to its success:

Our reporters often write news articles based on data obtained through the FOI laws now. That has created a weakness that we need to overcome because they sometimes fail to find additional sources to strengthen the information they get. The ideal is when they use the responses they get from the government as a way

17. Called “*aviadores*” or “*aviators*” in Mexican Spanish.

18. See bibliography for a list and link to the stories referenced here.

to deepen an investigation. We're working on that. What we ask the reporters is that every time they obtain data through the transparency laws, they cross them or complement them with other sources (such as comments, opinions, or more hard data). That way we can produce more in-depth journalism.

Unlike many media outlets, *a.m.* often gets the satisfaction of public feedback and an official reaction to its stories. As the leading newspaper in León, when the paper runs a report on blatant corruption, says Olmos, “the public complains. They reproach the government, and sometimes the government has to change something in response.” Not always, he admits; *a.m.* has published articles exposing shady financial deals within the business sector with little impact. But in the case of the Cereal and Fine Pastas exposé, the investigation created a national scandal and prompted calls for accountability. Plans for a new oil refinery in Guanajuato have been cancelled, and Pemex is now looking to build in the neighboring state of Hidalgo.

NOROESTE OF CULIACÁN, SINALOA

The *Noroeste* newspaper chain was founded in 1973 by three Sinaloan businessmen, including an iconic figure in the opposition National Action Party, Manuel J. Clouthier del Rincón, who ran and lost to the PRI's Carlos Salinas de Gortari in the 1988 presidential elections. As a PAN-connected media outlet in a state controlled by the PRI for eighty-one years, *Noroeste* has long functioned as a critical voice willing to challenge regime orthodoxies. The paper identifies itself on its website as an independent and “proactive” source of news that “takes up society's causes and leads in the search for solutions to problems, opening paths to civility and collective well-being.”¹⁹

Sinaloa is a complex and difficult place to practice journalism. The state is one of the epicenters of Mexican narco-trafficking, and decades of single-party rule have built a political machine infamous for its secrecy, corruption, and impunity (Gómez 2005). One of greatest obstacles for local reporters has been the lack of public information available about even the most basic aspects of government. Although Sinaloa was the first state in Mexico to approve a

19. “Noroeste: History” at http://72.167.43.212/historia.php?id_seccion=56.

transparency law in April 2002, the absence of political will on the part of all three branches of state government has trapped *Noroeste*'s reporters in a "vicious circle," according to the paper's designated "transparency correspondent," Juan Alfredo Beltrán. As soon as reporters "get wind of something shady going on," says Beltrán, "we send out requests and then the government claims that nothing was documented."²⁰ As a result, *Noroeste* has been forced to use the state FOI law to document the lack of documents, rather than obtaining records for investigations.

Unlike Guanajuato's *a.m.*, the newspaper has no stated institutional policy on transparency; it has not issued a directive to its reporters or created an explicit protocol. The paper's published code of ethics emphasizes *Noroeste*'s promotion of the "human right to information" as part of its journalistic mission, however,²¹ and Beltrán says that *Noroeste* reporters have been the most prolific users of the FOI laws among the region's press. If there is no formal transparency policy at the paper, explains Beltrán, the *Noroeste* company has given "extraordinary" support to its reporters on transparency:

Almost since the laws came into effect, the paper's management has motivated us to learn about them and encouraged us to use them. They have organized training sessions, workshops, public events; they have tried to promote the issue among the reporters. *Noroeste* was the first paper to begin to have a real interest in the issue when the legislation was passed. We started by looking at other states to do a comparison of laws and assess what other media outlets were doing. We are members of an association of journalists and civil society groups in Sinaloa—we organized a kind of community of transparency advocates in order to join forces—and we have brought experts from international NGOs and IFAI into the newsroom to give workshops.

For almost six years after the Sinaloa FOI law went into effect, the government refused to turn over meaningful information in response to requests, claiming that information was classified reserved and confidential. The key problem was that there were no requirements for accountability in the legislation and only minor sanctions for people who denied information

20. Telephone interview with Juan Alfredo Beltrán, reporter and "transparency correspondent" for *Noroeste*; the description that follows of the paper's current situation and newsroom policies comes from Beltrán.

21. Open letter from the paper's General Director, Manuel J. Clouthier Carrillo, September 2002, on the website page introducing the *Noroeste* code of ethics: http://72.167.43.212/codigo_etica.php?id_seccion=55.

improperly. Beltrán calls the Sinaloa experience “paradigmatic” of the lack of government accountability in Mexico at the state level.

The state information commission, CEAIPEs [Centro Estatal para el Acceso a la Información Pública del Estado de Sinaloa, State Center for Access to Information for the State of Sinaloa] has contributed to the problem, keeping information under lock and key. That generates outrage; so we have used the law a lot, but not to document cases of corruption or bad influence. Instead we have used it to expose the opacity of the government, the resistance of the government. We have sent hundreds and hundreds of requests in order to document the institutional resistance of state agencies to transparency—including CEAIPEs! The commission has served as retaining wall for information. It is the guarantor of transparency in the state, and yet in 2003 they classified as secret their own spending, salaries, receipts, checks—all of the information you need to understand how the office functions.

Transparency activists pushed to get the law reformed, but it was not until the constitutional reforms were approved in 2007 that the situation began to change. By 2008, the authorities began to actually respond to the paper’s requests with information. The commission was among those agencies compelled to open records about its own functions. In 2009, CEAIPEs released all its past receipts going back six years. *Noroeste* was able to publish a series of reports about corruption and improper spending by the commission: among the documents released were false receipts, evidence of CEAIPEs functionaries selling their services back to the commission through their private companies, and lists of “ghost” employees—people paid full salaries who were not actually working at CEAIPEs.

In the paper’s most recent investigation into government secrecy, Beltrán summarized six years of “simulated” transparency on the part of PRI governor Jesús Aguilar Padilla.²² Sinaloa has just had a watershed election, resulting in a PAN victory for the first time in the state’s history. Governor-elect Mario López Valdez ran a campaign promising greater openness and accountability, stressing the need to reform the state FOI law, require better oversight of government institutions and restructure the information commission.

22. Juan Alfredo Beltrán, “Gobierno Opaco” [“Opaque Government”], *Noroeste*, November 9, 2010. The sub-head reads: “During six years, Jesús Aguilar Padilla put the brakes on transparency. He avoided accountability about public resources and social programs. He guaranteed transparency agencies because they were ‘in fashion.’ The simulation was constant throughout his administration.”

Beltrán believes *Noroeste* can and should be in the vanguard of those changes. He hopes that soon reporters will be able to send requests and receive information on matters of state, such as government programs, budgets, salaries, staffing, and contracts, rather than using the FOI law only to obtain evidence of the failure of transparency in Sinaloa. The records the paper has gathered over the years documenting state secrecy have been turned over to a group of scholars at the state university and will be used in an academic study on transparency and governance in Sinaloa. “Transparency is very high on the public agenda in Sinaloa right now,” says Beltrán. “Through the combined pressure of the media and civil society, we can raise the level of requests and improve the law.”

EL SUR OF ACAPULCO, GUERRERO

El Sur was launched in 1993 by a group of journalists, many of them from *La Jornada*, committed to producing the new, critical style of reporting that was connected to the country’s democratic transition (Lawson 2002, 68; Hughes 2006, 120). From the beginning, the paper adopted independent news practices that quickly got it into trouble with the state government.²³ *El Sur*’s founding director, Juan Angulo Osorio, calls the paper’s relationship to the local authorities “prickly and confrontational,” not only during its initial years when the PRI controlled Guerrero politics but also since the 2004 election of the state’s first opposition governor from the leftist Partido de la Revolución Democrática (Party of the Democratic Revolution, PRD). Angulo links the tensions between *El Sur* and the government with the kind of civic journalism the paper espouses:

The newspaper has always been uncomfortable for the government. We are independent and provide critical space to inform our readers about social movements, forms of resistance from the society. This is a state with so much poverty, so many problems and conflicts. We try to discuss these conflicts, not hide them.²⁴

23. Another founding member of the newspaper, Rafael Menjivar Ochoa, recalled one of *El Sur*’s first important reports, when it discovered that the murderers of a European tourist in Acapulco were not two accused fishermen, already in prison for the crime, but agents of the state police. As a result of the paper’s reporting, the fishermen were freed, the policemen jailed, and “we earned the reputation of being ‘communists.’” Menjivar pointed out that many on the paper were from the left, “but that wasn’t important, not really, because we were doing what we had always wanted to do: real journalism.” From Rafael Menjivar Ochoa’s blog *Tribulaciones y Asteriscos*, posting called “*Dos Momentos*,” July 6, 2007 (http://rmenjivar.blogspot.com/2007_07_01_archive.html).

24. Telephone interview with Juan Angulo Osorio, director of *El Sur*. The description that follows of the paper’s current situation and newsroom policies comes from Angulo.

El Sur's reporting takes place within the context of one of Mexico's poorest, most violent and most isolated states. The acute inequities that plague Guerrero are reflected in the newspaper's own constraints: it is under-resourced, under-staffed, and frequently under threat. One year ago, the paper's coverage of the assassination of the leader of the state's legislature, implicating people close to the governor, led to Angulo's arrest for questioning by the state attorney general.²⁵ In another incident last November, a group of armed men entered the paper's offices and fired shots inside the newsroom, ripped out the telephones and threatened to burn the building down.²⁶ Most recently, the paper has been sued for exposing a contract-fixing scheme that implicated the governor's brother. Part of the problem, points out Angulo, is that the newspaper and its reporters are easy targets in a small, remote state like Guerrero.

In the states the risks are much, much greater for reporters. There's no comparison with the national press. If we question officials, they can find us in any street, in the restaurant where we are eating—it's a very physical threat. Politics here are personal. We try to coexist with the politicians in a professional way—for example, we see them to ask for information or request an interview, but never to hang out with them. And that's not well received. It's also still the norm here for reporters to receive bribes. Journalists earn terrible salaries because of the neglect of the owners, so government officials complement the salaries with money.

If Guerrero's harsh realities make independent reporting difficult, the weakness of the state's transparency law dramatically inhibits access to information. Angulo frankly admits his paper doesn't use the law, "because it's a terrible law, very weak." The press in Guerrero was one of the sectors that called for transparency legislation when it was originally being considered in 2005; it quickly became disenchanted. Problems include the government's refusal to promote and explain the right to information, the continued opacity of state agencies, the lack of sanctions for failure to comply, the costs charged for photocopies (three pesos a page, when the commercial cost is thirty cents), and the onerous requirement that people appealing denials must do so within

25. Frontera NorteSur, "Mexican Editor Detained by a Tyrannical State Government," January 4, 2010 (<http://mexidata.info/id2512.html>).

26. Committee to Protect Journalists alert, "Gunmen attack newspaper in Acapulco," November 12, 2010 (<http://cpj.org/2010/11/gunmen-attack-newspaper-in-acapulco.php>).

three days of receiving them and present them in person (difficult if you live in one of the remote municipalities that are eight to ten hours by bus from the state capital, Chilpancingo).²⁷ National studies measuring the strength and effectiveness of Mexico's transparency laws consistently rank Guerrero's as the worst in the country (See for example Gómez Gallardo and Villanueva 2007, 27-8).²⁸

In lieu of filing its own FOI requests, *El Sur* publishes a biweekly column called "Transparent Guerrero," written by Marcos Méndez Lara, head of an NGO that promotes the right to know. The column provides a public space for tracking and analyzing developments in transparency. The paper has also used the investigative work and findings of local civil society groups that do use the FOI laws and published articles about them. In 2007-08, for example, community activists living near Zihuatanejo Bay—a tourist zone but still small and relatively protected—launched a successful campaign to stop a federal construction project aimed at dredging the bay to create a pier for giant cruise ships. Though the pier threatened the livelihood and surroundings of thousands of residents in the nearby fishing town of José Azueto, the municipal president and officials from the national Communications and Transportation Secretariat negotiated the terms of the project in secrecy.

When activists filed an FOI request with the municipality seeking information about the plan, the mayor claimed there was no record of it at all, although shortly after his denial the *Official Gazette of Mexico* published a notice announcing the awarding of a license to a marine construction firm. The group sent a new request, this time to the federal agency, and months later received a file with a complete record of the project. As one activist explained, "The information allowed us to know the magnitude of the pier, the damage that it would cause, how much they planned to dredge... we were convinced all the more of our struggle. That document was definitive in halting the construction of the pier."²⁹ Local papers refused to cover the story as

27. Interview with Marcos Méndez Lara, director of the NGO *Comunica AC*.

28. Regarding Guerrero's rock-bottom ranking in a more recent study, the authors conclude: "In the case of this legislation, all indices of measurement produced reprehensible results." Article XIX and Fundar, *Index of Right to Information in Mexico*, April 2010, see in Results: "Results disaggregated by state," pp. 10-11 (www.checatuley.org/resultados.pdf).

29. Interview with activist María de Lourdes Armenta Solís in Méndez Lara 2009, 58-9.

it unfolded. *El Sur*, though it was not able to organize its own investigation of the Zihuatanejo project, covered the story extensively and even gave regular space to one of the activists, who wrote numerous stories about the campaign and the records obtained under the national FOI law.

Not everyone agrees with *El Sur*'s decision to ignore the transparency mechanism, even given the Guerrero law obvious deficiencies. One former reporter from *La Jornada Guerrero*, Marlén Castro, whose investigations of corruption in the state congress revealed a fraudulent auditing system of local budgets used to hide the improper use of public monies, managed to use the FOI law to obtain records proving the incompetence of the state auditing agency. Castro ascribes the local media's failure to engage on transparency to cronyism among the media owners and editors, as well as the poor quality of journalistic training.

I think the professional capacity of our journalists is the biggest obstacle. Maybe the law has loopholes, but we have a law... I recommend to my colleagues in the profession that they file as many requests as they can about whatever records they want so that the agencies realize they are *obliged* to put the information on their websites, as the law mandates. So many of these government offices have portals that say "transparency" but which have absolutely no information inside them.³⁰

Castro's investigative series on the corrupt auditing agency led to a clash with the new director of *La Jornada Guerrero*, who arrived in the job after serving a term as mayor of Acapulco. Her reporting directly implicated his own spending practices, and he refused to continue publishing her articles on the subject. She was fired from the paper nine months later.

CONCLUSION

Mexico's state newspapers are engaged on transparency and have used the FOI laws to pursue information for their investigations into corruption and fraud but in very different ways. In Guanajuato, *a.m.* of León put into place internal policies encouraging reporters to use the state law to expose local corruption and hired a journalist to serve as a transparency coordinator for

30. E-mail exchange with Marlén Castro, former reporter for *La Jornada Guerrero*, now member of NGO Colectivo de Espacio Abierto (Open Space Collective).

the newspaper. In Sinaloa, *Noroeste* reporters had little success using the law to obtain records about government business but were aggressive requesters in using it to reveal a pattern and practice of government secrecy. And in Guerrero, the paper *El Sur* gave up on using what it perceived as a failed law, though it has run stories revealing corrupt or secret government practices by relying on civil society groups that exercise their right to information.

All three newspapers clearly identified themselves as the kind of “civic” media organizations described by Sallie Hughes: in interviews, their editors and reporters repeatedly emphasized their commitment to addressing government secrecy, social injustice and economic inequities as part of their journalistic mission. All three are also concerned with professional norms, and have active strategies for trying to improve the training of their correspondents and the quality of their reporting. However, factors such as institutional resources and conditions, journalistic capacity, the safety of the reporting environment and, above all, the strength of the state FOI laws impacted their ability to actually use the transparency tools available to them to publish reports on corruption.

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Government spending on the Independence Bicentennial festivities: Reporters documented irregular purchases made through no-bid contracts that violated the contractual laws.

Gasta Estado \$39 millones en escultura. *a.m.* <http://www.am.com.mx/Nota.aspx?ID=396514>.

La Macroplaza, contrato ‘por excepción.’ *a.m.* <http://www.am.com.mx/Nota.aspx?ID=414293>.

Rentan carpas en \$8 millones. *a.m.* <http://www.am.com.mx/Nota.aspx?ID=432811>.

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60-year-old massacre: The paper managed to obtain a case file from the state Supreme Court that revealed details about an infamous massacre of 50-100 people that the Mexican army carried out in 1946 in the central plaza of León.

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