

## **TECHNOLOGY AND COUNTER-TERRORISM:**

Mapping the impact of biometric surveillance  
and social media platforms on civic space

# **CASE STUDY MEXICO**

This case study was researched and written by Miguel de la Vega, Executive Secretary of Unidosc, with ECNL's contribution being only editorial input and summarising for the purposes of the report. Unidosc is a collective of civil society organizations and academics that work for the promotion and protection of human rights in Mexico and Latin America based on research, strengthening and advocacy processes.

## Notable uses of biometric technology

In Mexico, the banking industry has implemented the collection of biometrics as a means to prevent terrorism financing and money laundering, despite the most recent governmental National Risks Assessment (2020) that considered CSOs as low risk for terrorism financing and medium risk for money laundering.<sup>1</sup> Procedures to open bank accounts and/or acquiring new credits oblige clients to provide their biometric data. They also require consent to share their private data for accessing financial services, under the rationale of preventing identity fraud.<sup>2</sup> The information on service contracts related to data management advises that the bank is authorised (by the client) to share information upon request with governmental institutions, and even for “commercial purposes” with associates.

Until April 2022, mobile phone companies were also obliged to request biometric information of phone users as a tool to combat organised crime. As in the banking sector, there was a risk that the information could be shared with public and private institutions. Eventually, this law was deemed unconstitutional by Mexico's Supreme Court.<sup>3</sup> due to risks to privacy and misuse of personal information.<sup>4</sup>

Smart city initiatives are introducing facial recognition cameras in Aguascalientes, Coahuila, and Mexico City.<sup>5</sup> This has the potential to be used against demonstrators, such as the case of protestors' facial images in the Coahuila Feminist march.<sup>6</sup> A research project developed by “El Economista” journal and “Quinto Elemento” Lab revealed that on 27 September, 2020, the first local women's march since the start of the pandemic was recorded by security cameras equipped with facial recognition technology. Since 2019, the system developed by

1 Anonymous. (2016, October 26). FIU – National Risk Assessment. Ministry of Finance and Public Credit. Government of Mexico. <https://www.gob.mx/shcp/documentos/uif-evaluacion-nacional-de-riesgos>

2 Gobierno de Mexico, Comisión Nacional Bancaria y de Valores, disposiciones de carácter general aplicables a las instituciones de crédito. <https://www.cnbv.gob.mx/Normatividad/Disposiciones%20de%20car%C3%A1cter%20general%20aplicables%20a%20las%20instituciones%20de%20cr%C3%A9dito.pdf>

3 Supreme Court Judgement: Suprema Corte Acción de inconstitucionalidad 82/2021. (2021, April 16). <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=6863>

4 Anonymous. (2022, May 25). SCJN removes register of biometric data in cell phones; Panaut is unconstitutional, he says. Sinembargo.mx. <https://www.sinembargo.mx/25-04-2022/4170138>

5 Flores, N. (2021, November 11). Three surveillance systems with facial recognition operate in Mexico. Contra Linea.com.mx. <https://contralinea.com.mx/interno/semana/en-mexico-operan-tres-sistemas-de-vigilancia-con-reconocimiento-facial/>

6 Villoror, P, F. & Robles, P. (2020, November 11). Biometric surveillance: Coahuila's tortuous path to facial recognition. <https://quintoelab.org/project/vigilancia-biometrica-reconocimiento-facial-coahuila>

the Chinese corporation Dahua Technology had captured 44.7 million images of faces in Coahuila.<sup>7</sup> Furthermore, in 2017, cybersecurity ReFirm Lab revealed that Dahua's system had "backdoors" that were used to leak information to anonymous addresses in China, thus casting doubts about confidence in and security of the system.<sup>8</sup>

Among the captured images in Coahuila was the face of Mena Dyaha Yousif. Mena was wanted by the U.S. authorities for her involvement in acts of vandalism during anti-racist protests. The U.S. shared information with Mexican intelligence agencies. In consequence, Yousif's face was tagged in the facial recognition system of Coahuila as a possible terrorist.

There are currently plans to establish a national ID biometrics database.<sup>9</sup> The threats to civil society are high considering that the database could potentially be cross-checked with the Tax Contributors database, which could facilitate the identification of persons working for CSOs. There's a risk that private information of activists, journalists and other vulnerable groups becomes exposed.

There is proof of biometric data sharing between government agencies<sup>10</sup>. As new passports issued in recent years now include biometric data, the Secretary of Foreign Relations (the entity in charge of issuing passports) has developed its own database. The case of Marcela Turatti, a journalist who was researching cases of persons that had been reported as disappeared, revealed that her biometric data and all the related private information was shared, on demand, by the Secretary of Foreign Affairs with the Federal Police who, it turned out, were investigating her professional activities. This could explain the times where Turatti was harassed by anonymous people in her private residence and through private channels to disincentive her own research.

## Notable uses of online content moderation and social media surveillance

Mexico has a high rate of requests for users' data and content restrictions.<sup>11</sup> In a 2020 report, Article 19 cautioned that those requests are issued by a diverse array of actors, from governments to private corporations and even organised criminal groups.

7 Note: This firm had been blacklisted by the US Department of Commerce due to their participation related to repression of Muslim minorities in China.

8 Villoror, P. F. & Robles, P. (2020, November 11). Biometric surveillance: Coahuila's tortuous path to facial. Quinto Elemento. <https://quintoelab.org/project/vigilancia-biometrica-reconocimiento-facial-coahuila>

9 Anonymous. (2021, September 22). The single digital identity card included in the General Population Law threatens human rights | R3D: Network in Defense of Digital Rights [https://r3d.mx/2021/09/22/la-cedula-unica-de-identidad-digital-incluida-en-la-ley-general-de-poblacion-amenaza-los-derechos-humanos/?utm\\_campaign=meetdgar&utm\\_medium=social&utm\\_source=meetdgar.com](https://r3d.mx/2021/09/22/la-cedula-unica-de-identidad-digital-incluida-en-la-ley-general-de-poblacion-amenaza-los-derechos-humanos/?utm_campaign=meetdgar&utm_medium=social&utm_source=meetdgar.com)

10 Turati, M. (2021, November 25). Opinion Marcela Turati: Despite judicial harassment, we only seek to unearth the truth in Mexico. The Washington Post. <https://www.washingtonpost.com/es/post-opinion/2021/11/25/investigacion-espionaje-pgr-san-fernando-marcela-turati/>

11 Cortés, V., Tudón, M. & Ruiz, P. (2020, December). Freedom not available. Article 19. <https://articulo19.org/wp-content/uploads/2021/02/LIBERTAD-NO-DISPONIBLE-single-page.pdf>

There is an emblematic case related to censorship attempts by high level authorities. In April 2021, activist Carla Erika Ureña received notice from Twitter that Mexico City's Attorney General had issued a request to remove a tweet denouncing the President, whose actions at the time, she claimed, were in violation of the Electoral law. Twitter decided not to remove the content, considering there was not any misdoing and kept the content online.<sup>12</sup>

## Relevant laws and legal precedents

A few citizens filed a lawsuit to contest the mandatory biometric registry for mobile phone access.<sup>13</sup> The Supreme Court delivered its final ruling<sup>14</sup> in April 2022, confirming that the Law for the mandatory biometric registry of mobile phone users was indeed unconstitutional.

As background for the final ruling of the Supreme Court, it's relevant to consider the declaration of Judge Juan Pablo Gómez Fierro, head of the Second District Court for Administrative Matters, when the Amparo claiming unconstitutionality was granted. Judge Gómez issued a declaration on 22 April, 2021, revealing the arguments against the delivery of personal and biometric data to register a mobile phone line. It stated that the measure "could not be suitable or proportional, considering there is no direct or causal relationship between the existence of that registry and a better investigation and prosecution of crimes, that is, the degree of achievement of the end pursued will not necessarily be greater than the impact on the previously mentioned rights."<sup>15</sup>

Activists and journalists who denounced cases of corruption in social media were sometimes subject to strategic lawsuits against public participation (SLAPPs) In cases where these actors were sued, their legal defence, usually based on freedom of expression grounds, achieved

12 Tweets: <https://twitter.com/CarlaEUrenaA/status/1384190897793900554>; <https://twitter.com/ferbelaunzaran/status/1424845256869257223>

13 Accion de Inconstitucionalidad 82/2021 y su Acumulada 86/2021 Institute of national transparency, access to information and protection of personal data and several senators of the Mexican republic members of the LXIV. [https://www.scjn.gob.mx/sites/default/files/acuerdos\\_controversias\\_constit/documento/2021-05-28/MI\\_AccInconst-82-2021.pdf](https://www.scjn.gob.mx/sites/default/files/acuerdos_controversias_constit/documento/2021-05-28/MI_AccInconst-82-2021.pdf)

14 Diario Oficial de la Federación. (2022, December 12). ACCIÓN DE INCONSTITUCIONALIDAD 82/2021 Y SU ACUMULADA 86/2021 <https://dof.gob.mx/index.php#gsc.tab=0>

15 Galindo, S. J. (2021, April 20). Judge Gómez Fierro does it again: he grants provisional suspension against registration of biometric data. El Economista.com.mx. <https://www.eleconomista.com.mx/opinion/El-juez-Gomez-Fierro-lo-hace-de-nuevo-concede-suspension-provisional-contr-registro-de-datos-biometricos-20210420-0065.html>; Mexico, Poder Judicial de la Federacion, Incidente de suspension 271/2021, p. 18, [http://sise.cjf.gob.mx/SVP/word1.aspx?arch=1302/1302000027907395006.pdf\\_1&sec=Luis\\_Hern%C3%A1ndez\\_Plata&svp=1](http://sise.cjf.gob.mx/SVP/word1.aspx?arch=1302/1302000027907395006.pdf_1&sec=Luis_Hern%C3%A1ndez_Plata&svp=1)

mixed results. Some judges overruled the demands in favour of freedom of expression,<sup>16</sup> but there are also cases where they ruled in favour of the plaintiff. For instance, the most famous case was that of Former Chihuahua Governor against Sergio Aguayo, a long-time activist and former director of “Alianza Civica,” one of the main CSOs working for participative democracy and governance in Mexico during the 1990s. In this case, Aguayo was condemned to pay half a million dollars for denouncing corruption in a piece published on social media.<sup>17</sup> The judgement was appealed, and public expectation is high due to rumours that the decision by the judge could have been motivated by private interests.

16 Privacy International. (2021). Leyes del Silencio. Privacy International. <https://seguridadintegral.articulo19.org/wp-content/uploads/2021/05/INFORME-LEYES-DEL-SILENCIO-Final.pdf> May, 2018. Roberto Saucedo, lawyer and member of an organization for transparency called “Ciudadanos hartos” who is also a collaborator of the Collective for the Freedom of Expression in the State of Guanajuato (Central Mexico), and Arnoldo Cuellar, fellow activist and journalist committed to the same subjects.

The case documents Saucedo and Cuellar’s research into practices committed by the Rodriguez Rocha family, which implied illegal activities such as “influence peddling, illicit enrichment, bankruptcy of the municipal coffers and nepotism”. Silvia Rocha, at the time councilor in Guanajuato Mayoralty, granted the exemption to pay local taxes to private Guanajuato TV Chanel 8, whose proprietor is her husband Jorge Rodríguez. The tax evasion amounted 87 million pesos (more than 4 million USD). Saucedo and Cuellar engaged in a research to document the case and made it public via Facebook publications.

As a result, Rocha and Rodriguez, issued a judiciary demand against Saucedo for moral damage. Cuellar and his media “Zona franca” also received a similar judiciary denounce. The amount that the demandant’s lawyers requested, as compensation for moral damage, through six different judiciary demands, totaled almost the same amount that was revealed as an evasion attempt.

The case was attracted by a local magistrate, its relevant to point out that her decision was based on international standards for freedom of expression thus she overruled the demand on the following premises:

- 1) The posts in Facebook were not offensive or incited violence
- 2) They dealt with issues of public interest that are relevant to society, thus they are protected by freedom of expression
- 3) The expressions made by the activist and the journalist are founded on a factual basis
- 4) The plaintiffs are people with public projection, therefore they must tolerate a greater degree of intrusion into their personal deeds

17 Sheridan, M. (2020, January 30). A Mexican Columnist Suggested a Governor was Corrupt a Court Fined him Half a Million Dollars. The Washington Post. [https://www.washingtonpost.com/world/the\\_americas/a-mexican-columnist-suggested-a-governor-was-corrupt-a-court-fined-him-half-a-million-dollars/2020/01/30/d65a7c12-42da-11ea-99c7-1dfd4241a2fe\\_story.html](https://www.washingtonpost.com/world/the_americas/a-mexican-columnist-suggested-a-governor-was-corrupt-a-court-fined-him-half-a-million-dollars/2020/01/30/d65a7c12-42da-11ea-99c7-1dfd4241a2fe_story.html)



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