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Security Policy in Mexico:

Recommendations for the 2018 Presidential Election

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AFI	*Agencia Federal de Investigación* (Federal Investigative Police)
AML	Anti-money laundering
APEAM	*Asociación de Productores y Empacadores Exportadores de Aguacate de México*
BANSEFI	*Banco de Ahorro Nacional y Servicios Financieros* (National Savings and Financial Services Bank)
BCDS	Bulk Currency Detection System
CARSI	Central American Regional Security Initiative
CCF	Continuous combat function
CCISJP	*Consejo de Coordinación para la Implementación del Sistema de Justicia Penal* (Coordinating Council for the Implementation of the Criminal Justice System)
CCLEO	UN Code of Conduct for Law Enforcement Officials
CISEN	*Centro de Investigación y Seguridad Nacional* (Center for Research and National Security)
CNDH	National Commission on Human Rights
CNPP	National Code of Criminal Procedure (*Código Nacional de Procedimiento Penal*)
COFIPE	Federal Code of Institutions and Electoral Procedures
CONEVAL	*El Consejo Nacional de Evaluación de la Política de Desarrollo Social* (National Council for Evaluation of Social Development Policy)
COPARMEX	*Confederación Patronal de la República*
DEA	Drug Enforcement Administration
DNI	Director of National Intelligence
DOJ	U.S. Department of Justice
DPH	Directly participates in hostilities
DTO	Drug trafficking organization
ECOWAS	Economic Community of West African States

ENVIPE	National Survey on Victimization and Perceptions of Public Safety
FEADLE	Special Prosecutor for Crimes Against Freedom of Expression
FIU	Financial Intelligence Unit
GDP	Gross Domestic Product
HRC	UN Human Rights Committee
IAC	International armed conflict
IACHR	Inter-American Commission on Human Rights
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESI	Instituto Ciudadano de Estudios
ICJ	International Court of Justice
ICRC	International Commission of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
IFE	Electoral Federal Institute
IHL	International Humanitarian Law
IMCO	Mexican Institute for Competitiveness
INE	National Federal Institute
MBML	Merchant-based money laundering
MOOC	Massive Open Online Course
NAIC	Non-international armed conflict
NGO	Non-governmental organizations
OCG	Organized criminal groups
ODNI	Office of the Director of National Intelligence
OECD	Organization for Economic Cooperation and Development
PAN	*Partido Acción Nacional* (a Mexican political party)
PF	*Policía Federal* (Federal Police)

PFM	*Policía Federal Ministerial* (Federal Ministerial Police)
PGR	*Procuradoría General de la Républica* (Attorney General)
PJF	*Policía Judicial Federal* (Federal Judicial Police)
PRD	*Partido de la Revolucion Democratica* (a Mexican political party)
PRI	*Partido Revolucionario Institutional* (a Mexican political party)
PRP	Policy Research Project, at the LBJ School of Public Affairs
RICO	U.S. Racketeer Influenced and Corrupt Organizations Act
SEDENA	*Secretaría de la Defensa Nacional* (Secretariat of National Defense)
SEGOB	*Secretaría de Gobernación* (Secretariat of the Interior)
SEMAR	*Secretaría de Marina* (Secretariat of the Navy)
SEP	*Secretaria de Educación Pública* (Secretariat of Public Education)
SESNSP	*Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública* (Executive Secretariat of the National Public Security System)
SETEC	*Secretaría Técnica del Consejo de Coordinación para la Implementación del Sistema de Justicia Penal* (Technical Secretariat of the Coordination Council for the Implementation of the Criminal Justice System)
SHCP	*Secretaría de Hacienda y Crédito Público* (Secretariat of Finance and Public Credit)
SSP	*Secretaría de Seguridad Pública* (Secretariat of Public Security)
TBML	Trade-based money laundering
U.S.	United States of America
UN	United Nations
UNDOC	UN Office on Drugs and Crime
UNESCO	United Nations Educational, Scientific, and Cultural Organization
USAID	United States Agency for International Development
WAN-IFRA	World Association of Newspapers and News Publishers
WOLA	Washington Office on Latin America

Foreword

The Lyndon B. Johnson School of Public Affairs has established interdisciplinary research on policy problems as the core of its educational program. A major element of this program is the nine-month policy research project, in the course of which one or more faculty members direct the research of ten to twenty graduate students of diverse disciplines and academic backgrounds on a policy issue of concern to a government or nonprofit agency. This "client orientation" brings the students face to face with administrators, legislators, and other officials active in the policy process and demonstrates that research in a policy environment demands special knowledge and skill sets. It exposes students to challenges they will face in relating academic research, and complex data, to those responsible for the development and implementation of policy and how to overcome those challenges

The curriculum of the LBJ School is intended not only to develop effective public servants, but also to produce research that will enlighten and inform those already engaged in the policy process. The project that resulted in this report has helped to accomplish the first task; it is our hope that the report itself will contribute to the second.

Finally, it should be noted that neither the LBJ School nor The University of Texas at Austin necessarily endorses the views or findings of this report.

Angela Evans
Dean

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The ideas in this report were also sharpened by trips across Texas. In El Paso, Angela Kocherga met on short notice with three students to explain the dynamics of the U.S.-Mexico border. Also, the CARA project accepted a group of students to volunteer for several days in the Residential Detention Center with detained Central American and Mexican asylum-seekers.

Finally, the course's spring break trip to Mexico City was made possible by the many people who generously shared their time and insights with our group. At the National Security Commission and Federal Police, Renato Sales, Manelich Castilla, Luis Esteban Islas, Jorge Bates, and Nestor Guerrero explained their agencies' roles, objectives, and latest analyses. At the U.S. Embassy in Mexico City, Roberta Jacobson and her team provided an excellent and informative briefing on the United States' perspective and cross-border programs. Leonel Fernandez Novelo, from the Observatorio Nacional Ciudadano, shared civil society's view on Mexico's security agenda, while Eric Martin, Dudley Althaus, Jude Webber, Karla Zabludovsky, and Ambassador Antonio Garza all discussed their perspective on journalism and security issues over dinner. Finally, Gema Santamaria, Sandra Ley, and Cecilia Farfan presented their academic research and crime data on our last morning in Mexico City. A special thanks to the other experts who met individually with the PRP students and to Carolyn Dockery at the Strauss Center for making sure that we all got to and from Mexico City safely and smoothly.

In the report's final stages, we drew on the vast expertise here at the University of Texas at Austin. Ariel Dulitzky, Ken Greene, Chandler Stolp, Ricardo Ainslie, Rosental Alves, Jake Dizard, and German Petersen all stopped by to listen to student briefings and offer feedback in the critical final stages. In addition, Professors Bobby Chesney and Paul Pope also sat in on an expert briefing, asking pointed questions that helped shape and solidify the policy recommendations.

Finally, thanks to the Strauss Center's Mexico Security Initiative (MSI) and to the generous support of Kansas City Southern and former U.S. Ambassador to the United States Antonio

Garza, which made so much of this report a reality. We owe additional gratitude to MSI Fellow Stephanie Leutert for organizing the trips and reading every word of this report multiple times, and to Cesar Martinez, who led the class and pushed the students to constantly seek a better security policy framework for Mexico. Lauren R. Jahnke copyedited and formatted the manuscript for publication.

Introduction

For over ten years, Mexico's security situation has been a consistent public concern and policy priority. Since the 2000 democratic transition, the country's criminal landscape has changed dramatically. The dissolution of implicit organized-crime political agreements, a move toward more confrontational security strategies, and intra- and inter-group fighting have shattered criminal groups, pushed criminal activity into new industries and exploitative practices, and forced the Mexican government to rethink and continuously adjust its security strategy.

The result of these changes is that today's organized criminal groups look different from their historic predecessors, which dedicated their time and energy primarily to transporting and cultivating drugs and keeping a low profile. Today's groups experiment with a range of illicit revenue-generating activities and have adopted shockingly brutal and violent tactics. These profits are then funneled into corrupting political institutions at every level, weakening the government's ability to fulfill its mandate and decimating public trust. The overall insecurity also hurts the country's economy, with estimates that it slashes 1.25 percent off the country's GDP every year.[1]

In July 2018, Mexico will elect its next president for the following six years. In the backdrop, the country's homicide level is once again on the rise after a two-year drop. Further, almost 60 percent of the population reported in 2016 that insecurity or delinquency was Mexico's principal problem.[2] These ongoing challenges and concerns will ensure that public security features prominently in the upcoming presidential campaigns and will be a central issue for the incoming administration.

To address some of these issues, this Policy Research Project on Mexico's security policy—sponsored by the Robert Strauss Center for International Security and Law—will address Mexico's major security challenges and offer a series of policy recommendations. The report is divided into four chapters, focusing on the overall security strategy, important domestic and international security issues, illicit economic markets, and civil society efforts. Within each chapter, the authors identify the current policies, evaluate their effectiveness, and provide steps for a path forward to a safer and more secure Mexico.

[1] Intituto Nacional de Estadistica y Geografia (INEGI), "Boletín de Prensa: Encuesta Nacional de Victimización de Percepción Sobre Seguridad Pública (ENVIPE) 2016," September 27, 2016, http://www.inegi.org.mx/saladeprensa/boletines/2016/especiales/especiales2016_09_04.pdf.

[2] INEGI, "Principales Resultatos: Encuesta Nacional de Victimización de Percepción Sobre Seguridad Pública (ENVIPE) 2016, " September 27, 2016, http://www.beta.inegi.org.mx/contenidos/proyectos/enchogares/regulares/envipe/2016/doc/envipe2016_presentacion_nacional.pdf.

Chapter 1.
Improving Mexico's Security Strategy

Military Reform

On December 1, 2006, President Felipe Calderón gave his presidential acceptance speech and announced his plan to deploy the military against organized crime, setting the tone for his administration. President Calderón deemed the country's organized criminal groups to be a national security threat and saw the military as the only effective course of action. To employ the military, Calderón declared a national emergency—in compliance with Article 29 of the Mexican Constitution—to temporarily involve the military in a public security role. Yet, ten years later, the approach resembles a stratagem of attrition.

The Secretariat of Defense (SEDENA) and the Secretariat of the Navy (SEMAR) are hierarchal institutions designed to defend Mexico's territories from foreign invaders or an internal uprising. Yet, drug trafficking reflects a black-market business motivated by financial profit over territorial gain. The military's cultural mindset to destroy the enemy and hold territory is ill-advised against an adversary that does not wish to overthrow the state. Further, confronting organized crime requires extensive intelligence and police work to apprehend and try citizens who partake in criminal activity, activities for which the military is not well suited.

This section will focus on Calderón's strategy and the challenges that have resulted from a lack of clear communication between civil officials and the military. We recommend that the long-term security strategy should place the SEDENA and the SEMAR under a Ministry of Defense with the intention to override military groupthink. In doing so, it could foster interagency cooperation between a Ministry of Defense and the Secretariat of the Interior (SEGOB) to achieve a clear strategy that shapes the military's honorable exit.

The Current Legal Parameters

President Calderón deployed the military by using two legal precedents: the Law against Organized Crime and the National Security Law.[3] The former provides a public safety policy, with the Attorney General (PGR) assuming the lead role and the police acting as the enforcement mechanism.[4] However, Calderón's declaration of war against organized crime enabled the National Security Council, presided over by the military, to also assume the lead role in public security. Since Calderón's policy announcement, there has not been a coherent strategy between the military and the civilian government, hindering the transfer of responsibility. The civilian

[3] Juan Carlos Montero, "La Estrategia Contra El Crimen Organizado En México: Análisis Del Diseño De La Política Pública," *Perfiles Latinoamericanos*, June 1, 2012, accessed April 18, 2017, http://www.scielo.org.mx/scielo.php.
[4] Under President Vicente Fox, Congress passed the National Security Law on January 31, 2005, which provided the framework for Mexico's federal agencies to identify what constituted as threats to national security and allocating responsibilities to such threats (article 6). Estados Unidos Mexicanos, Camara De Diputados Del H. Congreso De La Union, Secretaria De Servicios Parlamentarios, *Ley De Seguridad Nacional*, DOF ed., vol. Ultima Reforma, 26-12-2005 (Ciudad Mexico: Secretaria De Servicios Parlamentarios, 2005).

government has not correctly assigned the military a proper role nor clearly defined an adversary.

Civilian leadership should determine the benchmarks for strengthening civil institutions that would justify the military's withdrawal from public security operations. The lack of political will to make these determinations has resulted in a strategy that stresses the relationship between the armed forces and the police in civil-military operations. This mistrust further complicates the evaluation mechanisms to determine when the military believes that the police can function autonomously. The lack of a civilian-led Ministry of Defense prevents the federal government from establishing consistent long-term counter-narcotics strategy and metrics of success beyond the number of captured or killed kingpins.

The Calderón Era

Under President Calderón, the armed forces executed his strategy against organized crime, which by 2009 had evolved to include deploying joint police-military operations to Mexico's most violent areas, pursuing criminal financial networks, and dismantling their political protection. The military carried out direct targeting of criminal group leadership and middle management, known as the "kingpin strategy."[5] Yet joint operations between the military and the police never fully appeared. According to John Bailey, a Wilson Center fellow, the military would plan the operations and submit them to the Secretariat of Public Security (*Secretaría de Seguridad Pública,* SSP) and the PGR, but the police refrained from working under the military apparatus. Due to organized criminal groups' past police infiltration, joint efforts fizzled.

Ciudad Juárez proved a challenging battleground for President Calderón's strategy. The city's proximity to the U.S. made it a vital smuggling corridor, and criminal syndicates penetrated the city's police to protect their supply chains. However, the removal of previous political oversight and protection led to rival criminal groups fighting over routes and municipal-level protection.[6] Although Calderón deployed the military to Ciudad Juárez to address the violence and purge the corruption, the military did not address the economic and political forces at play.

Subsequently, the strategic concept for employing the military was to purge the police-mafia nexus and enable the police to stand alone against organized crime. Yet there were problems with this approach. According to Vanda Felbab-Brown, a senior foreign policy fellow at the Brookings Institution, Mexico's military did not understand this strategic concept at the operational and tactical levels.[7] The military did not grasp how its personnel were to approach the challenge of policing. The lack of clear orders caused confusion regarding whether the military had the legal authority to detain criminals or deny them the ability to operate in the city, affecting their operations.

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[5] Eric L. Olson, "Combatting Organized Crime and Drug Trafficking in Mexico: What Are Mexican and U.S. Strategies? Are They Working?" in *Shared Resonsibility: U.S.-Mexico Policy Options for Confronting Organized Crime*, eds. David A. Shirk and Andrew Selee (Woodrow Wilson International Center for Scholars, 2010), 331-334.
[6] Tom Wainwright, *Narconomics: How to Run a Drug Cartel*, First ed. (New York: PublicAffairs, 2016), 31-36.
[7] Vanda Felbab-Brown, "Calderón's Caldron," Brookings, September 2011, accessed April 18, 2017, https://www.brookings.edu/research/calderons-caldron, 9.

Civil-military operations in Juárez turned sour as support for Calderón's crusade against organized crime plummeted. During the March 2008 military intervention, the homicide rate in Juárez quintupled from over 300 murders in 2007 to 1,607 in 2008, and public opinion began to turn against the president.[8] In February 2010, President Calderón's public statement regarding the Villas de Salvárcar massacre, in which he wrote off the 15 children casualties as gang warfare, led to immediate political backlash.[9] Many channeled their frustration over the rising violence in Juárez toward the president's strategy of militarization. According to statisticians Valeria Espinosa and Donald B. Rubin, military intervention in Juárez did indeed correlate to the drastic spike in homicides. However, this result is an outlier from all cases in Mexico.[10]

Peña Nieto Era

Enrique Peña Nieto took office in 2012, and while his administration focused its initial policy efforts on a series of economic reforms, it continued the previous administration's decapitation strategy in targeting organized criminal group leadership. The lack of civilian guidance allowed SEDENA to seek out institutional reforms such as upgrading its officer development—professionalization of the force—and upgrading its military equipment and technological capacity, e.g. cyberwarfare and space. This emphasis on military modernization reflected the government's desire to match its economic status with military strength.[11] Yet President Peña Nieto's laissez faire approach with the military reflects its influence over the civil government rather than reinforcing the military's role as a subservient bureaucracy.

Over-reliance on military support to law enforcement is a continuation of the past two administrations' security policies. Under President Vicente Fox (2000-2006), there were 19,293 troops deployed annually in support of civil-military operations; whereas Calderón escalated this trend by deploying 45,000 troops annually in counter-narcotics operations.[12] Under Peña Nieto, the current administration has tweaked particular operations with more SEDENA-led patrols

[8] Nathaniel Parish Flanery, "Calderón's War," *JIA SIPA*, April 17, 2013, accessed April 18, 2017, https://jia.sipa.columbia.edu/calderons-war/.

[9] Fifteen *sicarios* attacked a birthday party, where 60 attendees were children between the ages of 9-13 and were mostly students and soccer players. Authorities did not understand the cause of the murders or why organized crime would target the party, but the emotional turmoil came to a tipping point as the president denounced the slain children as gang members. Unidad Editorial, "Matan a 16 Futbolistas En Una Fiesta En Ciudad Juarez," *Elmundo.es*, January 31, 2010, accessed April 18, 2017, http://www.elmundo.es/america/2010/01/31/mexico/1264959349.html.

[10] "The estimate of the average intervention effect excluding these regions is still positive, 5.78, and its estimated 95% interval is (−0.29, 8.92). The lower bound is only slightly below zero, therefore still suggesting that the interventions lead to an increase in homicide rates the year after." Valeria Espinosa and Donald B. Rubin, "Did the Military Interventions in the Mexican Drug War Increase Violence?" *The American Statistician* 69, no. 1 (September 25, 2014): 25, accessed November 11, 2016, doi:10.1080/00031305.2014.965796.

[11] Iñigo Guevara Moyano, "A Bond Worth Strengthening: Understanding the Mexican Military and U.S.-Mexican Military Cooperation," Wilson Center, Mexico Institute, October 2016, https://www.wilsoncenter.org/publication/bond-worth-strengthening-understanding-the-mexican-military-and-us-mexican-military, 55.

[12] George W. Grayson, *The Impact of President Felipe Calderon's War on Drugs on the Armed Forces: The Prospects for Mexico's "Militarization" and Bilateral Relations* (Carlisle Barracks, PA: U.S. Army War College, Strategic Studies Institute, 2013), 3.

while decreasing SEMAR's operations to combat organized crime.[13] Nonetheless, Peña Nieto strove to change the narrative in crime and violence reduction through enhancing coordination efforts across the three levels of government. Unfortunately, bureaucratic infighting has hampered this desire, and Peña Nieto has continued to rely on military efforts to keep the peace.

SEDENA and SEMAR have the autonomy to make defense policy decisions. According to the human rights group the Washington Office on Latin America (WOLA), the Peña Nieto Administration has not enforced its stance in returning the military to the barracks. WOLA's assessment is that the lack of civilian pushback on the National Defense Plan for 2013-2018 solidifies the military's involvement in public security throughout the president's term.[14] Felbab-Brown's assessment portrays the lack of political will as a critical obstacle in the government's coordination efforts. Political infighting among all braches, especially the military's refusal to transfer troops into the gendarmerie depicts a polemic situation.[15] Yet the Wilson Center's assessment is that the lack of civilian oversight diminished SEDENA and SEMAR's ability to demand a budget that supports a common North American defense posture.[16] Either way, political infighting and the ability for the military to sway the government toward its strategy reinforces the need for civilian oversight of the armed forces.

The Military's Legality

Mexico's constitution strictly defines the armed forces role as defending the country's sovereign territory from invaders, insurgencies, and controlling the use of explosives and firearms, under the government-approved National Defense Plan (DN-III), which provides the military with its five core missions, DN-III-A thru DN-III-E. In the case of counter-narcotics, DN-III-B and DN-III-D authorize the military to conduct counter-insurgency operations. However, the Constitution lacks clear language over criminality and its relation to national security as an internal uprising. For this reason, the military appears to be on shakier ground as it fulfills a policing role against organized criminal groups.

According to Marcos Pablo Moloeznik, author of "The Debate over the Participation of the Armed Forces in Peace Missions under the Command of the United Nations Organization," the military's primary role in the Public Security Cabinet contradicts the notion that its involvement is not to remedy exceptional circumstances, but to remain involved with a direct role in public safety.

The Mexican Supreme Court has ruled in favor of military auxiliary support to public safety, but it did not provide a legal framework for guiding the military's role in support of SEGOB nor did it demand a legislative response. Mexico's legislature also has not established civil-military metrics to define success or a timeline for the military's withdrawal from public security

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[13] Vanda Felbab-Brown, "Changing the Game or Dropping the Ball?: Mexico's Security and Anti-Crime Strategy Under Enrique Peña Nieto," Brookings, November 2014, https://www.brookings.edu/wp-content/uploads/2016/06/mexico-security-anti-crime-nieto-v2-felbabbrown.pdf, 19.

[14] Maureen Meyer, "Mexico's Police: Many Reforms, Little Progress," *Washington Office on Latin America,* May 2014, https://www.wola.org/analysis/mexicos-police, 20.

[15] Felbab-Brown, "Changing the Game or Dropping the Ball," 20-22.

[16] Moyano, "A Bond Worth Strengthening," 10, 56-57.

operations. With increasing allegations that the military committed human rights abuses, crimes against civilians, and incidents of corruption, SEDENA's secretary, General Cienfuegos Zepeda, has made public statements criticizing the government for the militarization of the fight against organized crime.

SEDENA commanders have demanded legal parameters to protect their troops involved in civil-military operations. According to Moloeznik, the military has responded to executive decrees by establishing an auxiliary corps designed to "restore public order and security, [combat organized crime] or acts that threaten national security."[17] Yet this has only led to a transfer of military personnel into police ranks or civilian postings. In turn, allocation of budgetary expenses perpetuated the over reliance of military muscle at the detriment of law enforcement.

Further, federal laws and judicial decrees have not resolved the process for how to try military-related crimes. In July 2011, Mexico's Supreme Court used Article 129 of the Mexican Constitution to rule that soldiers alleged to have committed human rights abuses or criminal acts in times of peace be tried in civilian courts. In response, General Guillermo Galvan, the head of SEDENA, acknowledged that the army and air force had made errors but requested that the civilian leadership clarify the legal framework for civil-military operations. To add further complications, the senate amended the military's code of justice by removing the military's ability to try its own personnel. Many commanders are now demanding that the Mexican Senate resolve the debate by enacting a new Interior Law that protects and empowers the military in a public security role.

Policy Recommendation

- **Establish a Ministry of Defense.** The Mexican government should create incentives for the military to cede its autonomy to civilian oversight. The Mexican government should follow the example of other Latin American countries by establishing a Ministry of Defense. This would have several positive effects, as it would reinforce Mexico's democratic transition, rebuild public confidence in the public security fight, and establish a precedent for government transparency and accountability. Civilian oversight would also close a civil-military divide between the executive branch and congress and allow the military to focus on its core mission.

  There would also be challenges. Civilian oversight would require a heavier investment in government personnel that are well versed in military affairs. Further, there would be pushback from synergizing SEDENA and SEMAR efforts under SEGOB and collaboration to also allocate limited resources toward strengthening weak institutions. Lastly, civilian oversight would require legal counsel to establish metrics for allowing the military to achieve its specified mission and retire from its involvement in public security with honor. In doing so, the military could return to its original mission: securing Mexico's borders and aiding public agencies during times of natural disasters.

[17] Marcos Pablo Moloeznik, "The Militarization of Public Security and the Role of the Military in Mexico," in *Police and Public Security in Mexico*, ed. Robert A. Donnelly (San Diego: University Readers, 2010), 65-92.

Civilian oversight would also break military groupthink on public security issues. Military culture is hierarchical and sees its missions as akin to a battle plan, emphasizing retaking territory and eliminating the enemy. Following this mindset, the war against organized crime won't be completed in the short or medium term. A civilian Ministry of Defense can push back on this mindset and shape the operational environment in favor of political objectives. By changing the analysis of the public security problem, the military can learn to work with vetted SEGOB units to tackle the core security and political challenges.

Civilian oversight would support a whole government approach. The military has the size and firepower to overwhelm powerful organized criminal groups. Yet the fighting has no return on investment if it cannot allow the state governments the ability to rebuild their civilian institutions. Military commanders can learn what tactical strategies may assist civilian government at the local and state levels to prevent organized crime from retaking institutions. This would entail attacking and weakening the illicit networks by enabling SEGOB units to attack the shadow network's supply and financial hubs to effectively disrupt their capacity to bribe officials.

Lethal Force Reform

Mexico currently has no clearly articulated international law framework for the operations it carries out against organized criminal groups (OCG).[18] Without an established framework, Mexico risks breaching its international obligations (see Appendix A for more details on treaties and the legal basis for the use of force.) These breaches would diminish the credibility of Mexican institutions and could invite international meddling in Mexico's domestic affairs. To maintain sovereign control of a comprehensive and effective solution to organized crime, as well as to increase the perception of the rule of law, Mexico must develop a comprehensive international law framework for its operational strategies.[19]

The Consequences of Failing to Develop and Follow an International Law Framework

As mentioned above, failing to develop and follow an international law framework for security operations risks breaching international obligations and compromising Mexico's rule of law. Breaching international obligations carries severe consequences. First, the UN Charter empowers the General Assembly to discuss and make recommendations to the Security Council or Mexico on the current crisis because it touches and concerns international economic, social, cultural, and

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[18] Mexico has long utilized its military to address the transnational criminal organization crisis without articulating a clear framework for its actions. See, e.g., David Agren, *Mexican Military not Meant to Serve in Drug Cartel Crackdown, Top General Says*, *Guardian,* December 9, 2016, https://www.theguardian.com/world/2016/dec/09/mexico-military-drug-cartel-salvador-cienfuegos (discussing the failings of the military and police in addressing the OCG crisis). For a discussion on the war rhetoric used by Mexican and U.S. officials, see Andrea Nill Sánchez, *Mexico's Drug "War": Drawing a Line Between Rhetoric and Reality*, 38 Yale J. Int'l L. 466 (213):474-478.

[19] The scope of this section is limited accordingly. It will not analyze violations that may occur at the regional level, nor draw on decisions of regional bodies for the primary analysis. The legal framework provided will thus be sufficient at the international level, but it may not satisfy stricter standards created by regional bodies, such as the Inter-American Court of Human Rights.

humanitarian problems.[20] If the OCG crisis were to worsen to the degree that significant violence began spilling over borders, it could potentially lead to the UN Security Council taking action with which Mexico would be bound to comply.[21] While the UN Security Council taking action is unlikely, it is important to consider the worst-case scenario. Mexico would be legally bound to comply with international dictates, possibly including the direction of its armed forces.[22] Any scenario involving armed, international intervention would bolster the claim that Mexico is a weak or failed state.

Second, because Mexico is subject to the reporting requirements under the First and Second Optional Protocols (the "First Optional Protocol" and "Second Optional Protocol," respectively) to the International Covenant on Civil and Political Rights (the "ICCPR"), the General Assembly and the Security Council may officially receive and consider issues regarding human rights violations.[23] This international review could subject Mexico to the same scenario as described above: Mexico might be legally obligated to comply with international dictates regarding its approach to the OCG crisis. Because of this, Mexico should take care to ensure that no such violations occur or, if they do occur, the violations are minimal and do not garner significant international attention.[24] Third, while the UN will most likely not act strongly in response to the economic, social, or cultural elements of the OCG crisis, it is likely that humanitarian or violent consequences of the OCG crisis will meet with some form of concerted international response.[25] Regional bodies have already condemned several of Mexico's actions related to the OCG crisis.[26] Perhaps more direly, U.S. President Donald Trump based a large part of his election campaign rhetoric on Mexico's perceived instability.[27]

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[20] See U.N. Charter art. 10 (empowering the General Assembly to discuss and make recommendations to the Security Council or member states on matters within the scope of the UN Charter's purposes).

[21] U.N. Charter arts. 41 & 42.

[22] See U.N. Charter art. 43, para. 1 (requiring member states to "undertake to make available" its armed forces to the Security Council).

[23] U.N. Charter arts. 41-43.

[24] In other words, Mexico should avoid perceptions of complicity by mal- or nonfeasance, similar to those perceptions after the 2014 Iguala Massacre. See, e.g., Kirk Semple, "Missing Mexican Students Suffered a Night of 'Terror,' Investigators Say," *New York Times*, April 24, 2016. This is not to say Mexico should participate in or permit human rights violations so long as they are on a minimal scale. Mexico should, instead, focus on creating an atmosphere in which the potential for large-scale human rights violations is minimal.

[25] An important issue to note is that Article 51 of the U.N. Charter allows a member state to act in "individual or collective self-defense if an armed attack occurs" against that member state. U.N. Charter art. 51. The member state attacked makes the determination of whether an armed attack occurred. Specific to the OCG cisis, the U.S. could arguably respond militarily if violence emanating from the crisis began to spill over the U.S.-Mexico border in a significant manner. Given President Trump's campaign rhetoric regarding Mexico, such a response is not beyond the realm of possibility.

[26] Inter-American Commission on Human Rights, "The Human Rights Situation in Mexico," 2015, http://www.oas.org/en/iachr/reports/pdfs/mexico2016-en.pdf.

[27] See, e.g., Katie Reilly, "Here Are All the Times Donald Trump Has Insulted Mexico," *Time*, August 31, 2016, http://time.com/4473972/donald-trump-mexico-meeting-insult/.

Fourth, the International Court of Justice (the ICJ) has recognized that individuals, not just states, breach international law.[28] This puts Mexican officials in jeopardy of being hauled before international courts when breaches occur.[29] The International Criminal Court (the ICC), long accused of African bias and now losing member states, is undoubtedly eager to hear cases from other regions.[30] Mexico should not give the ICC cause to examine its actions. Finally, the First and Second Optional Protocols permit individuals to submit complaints of human rights violations to the UN Human Rights Committee (HRC) for review.[31] This complaint mechanism allows the HRC to review a state's compliance with international law and pursue a case against the state for human rights violations.

International review of Mexico's potential breaches of international law is not the only risk that Mexico runs. The failure to develop and follow an international law framework implicitly decreases the rule of law within Mexico. Without such a framework, security operations occur within a legal void. If Mexican security forces (both military and law enforcement) operate without clear lawful authority, they must operate just as Mexican OCGs do: unlawfully. The absence of a clearly articulated international law framework defeats the very purpose of security operations against Mexican OCGs and weakens Mexico's international and domestic legitimacy.

Accordingly, Mexico must immediately create and follow an international law framework to guide its operations against OCGs.

Mexico's Regulation of the Use of Lethal Force

There are three principal documents that regulate Mexico's use of lethal force by state actors. The first is the *Manual del Uso de la Fuerza, de la Aplicación Común a las Tres Fuerzas Armadas* produced by the *Secretaría de Marina* (SEMAR). The manual requires that the use of force be timely, proportionate, rational, and legal. It establishes four levels of force: (1) dissuasion by presence; (2) persuasion by verbal orders; (3) the use of non-lethal force; and (4) the use of lethal force. Numbers (2) through (4) should be used, respectively, in response to (1) non-aggressive resistance; (2) aggressive resistance; and (3) grave aggressive resistance. The use of force may be used when acting in support of civil authorities; in resisting non-aggressive, aggressive, or grave aggressive resistance; to stop a crime; to protect legal rights; in self-defense; and to control a person who is resisting detainment.

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[28] See Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bos. & Herz. v. Serb. & Mont.), 2007 I.C.J. 43, para. 173, February 26, 2007 (acknowledging the "duality of responsibility" shared by both states and individuals for internationally wrongful acts).

[29] Rome Statute of the International Criminal Court, July 1, 2002, art. 25(4), 2187 U.N.T.S. 3.

[30] See, e.g., "Does the ICC Target African States?: South Africa Plans to Quit the International Criminal Court Which Is Accused of Bias Against African Countries," *Al Jazeera*, Oct. 22, 2016, http://www.aljazeera.com/programmes/insidestory/2016/10/icc-target-african-states-161021202033792.html (noting accusations that the International Criminal Court is biased against African states).

[31] First Optional Protocol art. 5; Second Optional Protocol art. 5. There are two important restrictions to the complaint mechanism: (1) The matter communicated to the Human Rights Committee may not be under examination by another international entity; and (2) the complaining individual must have exhausted all available domestic remedies. First Optional Protocol art. 5(2)(a–b); Second Optional Protocol art. 5.

The second is the *Manual para el Uso de la Fuerza* published by the *Secretaría de Gobernación* and the *Comisionado Nacional de Seguridad*. The manual recognizes four basic principles regulating the use of force and the use of firearms: legality, rationality, necessity, and proportionality. Police should only use force when all other measures have been ineffective (necessity) and the use of force is justified (proportionality) in relation to a legitimate objective (legality). The manual also creates a six-tiered system to respond to various actions undertaken by a suspect. The use of lethal force is the last response. Lethal force should only be used when a suspect employs lethal aggression, such as brandishing a knife or other weapon that could cause grave injury. The use of lethal force by firearms should only occur (1) when it is strictly unavoidable; (2) when the security agent or others are in imminent threat of loss of life or grave injury; (3) in order to stop a crime that poses a grave threat to life; or (4) as a last resort. Additionally, a security agent may use lethal force by firearms to prevent a suspect's escape or with the intention of stopping a person who poses a lethal threat.

The third is the *Ley que Regula el Uso de la Fuerza de los Cuerpos de Seguridad Pública del Distrito Federal*, which regulates the use of lethal force by federal security forces in Mexico City.[32] Mexico City police are possibly the only relatively local police entity to publish their restrictions on the use of force. Under the law, police may only use force:

1) When it is legal; the use of force complies with enumerated domestic laws.

2) When it is rational; the use of force is justified by the specific circumstances. In other words, when it seeks to obtain a legitimate objective, when it is strictly necessary, when other means besides the use of firearms have been tried, and when no other means have been effective.

3) When it is congruent; the use of force is equivalent to the injury desired.

4) When it is timely; the use of force is used to immediately end or neutralize an actual or imminent harm that threatens physical integrity, the rights or property of others, liberties, citizen security, or public peace.

5) When it is proportional; when the use of force is adequate and corresponds to the threat posed.[33]

The Mexico City police are authorized to use force in order to suppress a person resisting arrest, when lawfully ordered to do so, to prevent illicit conduct, to protect or defend legal rights, and in self-defense.[34] The use of force is categorized into four tiers: (1) verbal commands; (2) physical restraint; (3) use of incapacitating non-lethal force; and (4) use of lethal force.[35] The police are prohibited from using force for vengeance or intimidation.[36] When force is used, the Mexico City

32 Ley que Regla el Uso de la Fuerza de los Cuerpos de Seguridad Pública del Distrito Federal [LRUFCSPD], Diario Oficial de la Federación [DOF] 22-4-2008 (Mexico).

33 Ibid., art. 8.

34 Ibid., art. 9.

35 Ibid., art. 10.

36 Ibid., art. 11 (I).

police must file a report.[37] Notably, state police have largely not publicized their regulations for the use of lethal force.

There exists a possible fourth document relevant to the use of lethal force: the proposed *Ley de Seguridad Interior*. While this proposed law arguably designates the use of military forces to be the last resort, its opponents note that the Mexican government may expand the scope of internal security matters where the military is the first resort.[38] Indeed, while the Ley de Seguridad Interior would only allow military forces to intervene where other federal forces are inadequate to resist a threat to internal security, the proposed law does not establish clear parameters for when federal forces are inadequate.[39] The military will likely remain the leading force in Mexico's OCG crisis, given there is a general consensus that other federal forces are underfunded and understaffed.[40] Moreover, the federal forces and military are authorized to use the same operational tactics in confronting threats, including whatever they deem necessary.[41] The *Ley de Seguridad Interior* thus appears to make little legal distinction between the military and other federal forces, in addition to what appears to be practical irrelevance.

Even with these few standards on the use of lethal force, international law violations still occur with some frequency. The Inter-American Commission found numerous violent instances involving Mexican agents. The most egregious instances were:

1) June 2014: The murders of 22 persons in Tlatlaya, Mexico State. Some of the executions were allegedly carried out by the army, leading to first-degree murder charges.

2) September 2014: The murders, woundings, and disappearings of students in Iguala.

3) January 2015: The murders of civilians in Apatzingan, allegedly by agents of the Federal Police.

4) May 2015: Attacks on civilians by soldiers in Ostula.

5) June 2015: The murders of 42 civilians in Ecuandereo.[42]

Consequently, Mexico should do more to ensure that it has a unified international law framework regarding the use of lethal force by state actors. Mexico should also take steps to ensure such a framework meets with compliance. Additionally, it should be obvious that each security force has a different set of standards and criteria by which they are authorized to use lethal force even

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37 Ibid., art. 29-30.

38 Deborah Bonello, "Proposed Law in Mexico Could Expand Military Role in Drug War," *Insight Crime*, November 25, 2016, http://www.insightcrime.org/news-analysis/proposed-law-in-mexico-could-expand-and-regulate-military-in-drug-war.

39 Ley de Seguridad Interior [LSI] art. 19, http://sil.gobernacion.gob.mx/Archivos/Documentos/2016/11/asun_3441153_20161104_1478014676.pdf.

40 Personal interviews by authors, Mexico City, Mexico, March 13-15, 2017.

41 Ley de Seguridad Interior [LSI] art. 3.

42 Inter-American Commission on Human Rights., "The Human Rights Situation," para. 35.

though these security forces are often tasked with the same objectives. Mexico could potentially simplify training and increase compliance with uniform standards for its security agencies.

The International Law of Kill Orders

"Kill orders" are orders permitting armed forces or law enforcement agents to use deadly force in an operation without qualifications. When a kill order is issued, it results in a "targeted killing." Targeted killings typically have five common elements: (1) There is a use of lethal force; (2) there is the intent, premeditation, and deliberation to kill; (3) targeted persons are individually selected; (4) there is a lack of physical custody; and (5) the targeted killing is attributable to a state or non-state actor.[43] A kill order is thus an order directing either law enforcement or military agents to deliberately use lethal force against specific persons during an operation.

Under international law, every person has the inherent right to life, which shall not be arbitrarily deprived.[44] There are exceptions, however, in armed conflict and in law enforcement. The use of deadly force by armed forces engaged with enemy combatants is permitted in international law.[45] But the criteria for when the use of deadly force by the armed forces is permissible is very high. Complications also arise when issuing kill orders during a law enforcement operation. Two different regimes govern operations by the armed forces and by law enforcement agencies: (1) International humanitarian law (IHL); and (2) international human rights law (IHRL). This and the following sections will make a distinction between what is permissible by the armed forces and what is permissible by law enforcement agents, where appropriate.[46]

Armed Forces

Analyzed in the armed-forces context, the basic rule, known as the "principle of distinction," is that in all armed conflicts armed forces must "at all times distinguish between civilian populations and combatants and civilian objects and military objectives and accordingly shall direct their operations only against military objectives."[47] In other words, armed forces may lawfully target persons engaged in hostilities during armed conflicts. Lawful targeting thus depends on three criteria: (1) whether there is an armed conflict; (2) whether the target is an enemy "combatant" or is otherwise targetable; and (3) whether the target is engaging in "hostilities."

Existence of an Armed Conflict

Common Articles 2 and 3 of the Geneva Conventions establish the two types of armed conflict in international law: (1) international armed conflict (IAC); and (2) non-international armed

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43 Nils Melzer, *Targeted Killing in International Law* (Oxford: Oxford University Press, 2008), 3-5.

44 ICCPR art. 6(1).

45 AP I art. 48.

46 It should be noted that this distinction may be blurring in using armed forces to combat OCGs abroad. See Eliav Lieblich, "Quasi-Hostile Acts: The Limits on Forcible Disruption Operations Under International Law," *Boston U. Int'l L. J.* 32 (2014):101, 103-104. This distinction most likely still holds for the domestic use of armed forces.

47 AP I art. 48; AP II art. 13(2).

conflict (NIAC), respectively.[48] An IAC occurs whenever there is an armed conflict among two or more state parties, irrespective of whether a state of war is acknowledged between the two parties.[49] While Common Article 2 does not define "armed conflict," there is wide recognition that "an armed conflict exists whenever there is a resort to armed force between States."[50] Moreover, "it makes no difference how long the conflict lasts, or how much slaughter takes place."[51] Additional Protocol I of the Geneva Conventions (AP I) includes peoples' fights against colonial domination and racist regimes as an exercise of their right to self-determination, within the scope of IAC armed conflicts.[52]

By contrast, a NIAC occurs in "the case of armed conflict not of an international character occurring in the territory of one of the [state parties]."[53] The definition of an armed conflict under Common Article 3 differs from the definition under Common Article 2. The armed conflict must reach a certain degree of intensity before being characterized as a NIAC.[54] This requirement is commonly called the intensity threshold. Additionally, the non-government actor in the Common Article 3 armed conflict must have some sort of organized military capable of respecting the Geneva Conventions.[55] This requirement is commonly called the organizational requirement.

Whether or not an armed conflict has crossed the intensity threshold depends upon the specific facts, though there exists no central international authority to make this determination.[56] The 1952 Commentary to the Geneva Conventions (the "1952 Commentary") notes the critical idea is to distinguish "a genuine armed conflict from a mere act of banditry or an unorganized and short-lived insurrection."

Notably, Additional Protocol II of the Geneva Conventions ("AP II"), which supplements Common Article 3, excludes "situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed

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48 The articles are called "Common Article 2" and "Common Article 3" because they are the same for the four Geneva Conventions. GC I, arts. 2 & 3; GC II, arts. 2 & 3; GC III, arts. 2 & 3; GC IV, arts. 2 & 3 [collectively hereinafter Common Art. 2 and Common Art. 3, respectively].

49 Common Art. 2.

50 This definition comes from a case before the International Criminal Tribunal for the Former Yugoslavia. Prosecutor v. Tadić, Case No. IT-94-1-I, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, para. 70 (Int'l Crim. Trib. For the Former Yugoslavia Oct. 2, 1995). This definition has been recognized by other courts and the ICRC. Tristan Ferraro and Lindsey Cameron, Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Commentary of 2016 § 218 (Int'l Comm. of the Red Cross 2016).

51 Ibid. § 236 citing Commentary on the Fourth Geneva Convention 20-21 (Jean Pictet, ed., International Commission of the Red Cross, 1952).

52 AP I art. 1(4).

53 Common Art. 3.

54 Ferraro and Cameron, Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, § 387

55 Commentary of 1952, 49-50.

56 Ibid., § 392.

conflicts."[57] It should be noted that Common Article 3 armed conflicts are, at times, considered distinct from AP II armed conflicts.[58] For example, AP II armed conflicts are only those that occur between a state's armed forces and "dissident armed forces or other organized groups which, under responsible command, exercise such control over a part of [a state's] territory as to enable them to carry out sustained and concerted military operations and the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia (ICTY) has typically been used to supplement understandings of armed conflict.[59] In the *Prosecutor v. Tadić* decision, the ICTY provided an expanded definition of what constitutes a NIAC: "[A]n armed conflict exists whenever there is… protracted armed violence between governmental authorities and organized armed groups or between such groups within a State."[60] The ICTY later interpreted "protracted" to be synonymous with the intensity of the conflict rather than actual duration.[61] In *Prosecutor v. Haradinaj*, the ICTY noted the relevant, non-sufficient factors for determining whether a conflict satisfies the *Tadić* intensity test: (1) The number, duration, and intensity of individual confrontations; (2) the types of weapons and other military equipment used; (3) the number and caliber of munitions fired; (4) the number of persons and types of forces participating in the fighting; (5) the number of casualties; (6) the extent of material destruction; and (7) the number of civilians fleeing combat zones.[62]

Satisfying the organizational requirement is trickier. As noted above, the Commentary to GC I implies that the government actor must have "an organized military force, an authority responsible for its acts, acting within a determinate territory and having the means of respecting and ensuring respect for the Convention."[63] The ICTY's jurisprudence establishes "the principle that an armed conflict can exist only between parties that are sufficiently organized to confront each other with military means."[64] Once again, there are several non-sufficient factors: (1) The existence of a command structure and disciplinary rules and mechanisms within the group; (2) the existence of a headquarters; (3) control over certain territory; (4) the ability of the group to

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57 AP II art. 1(2). The ICRC has further interpreted "disturbances" to typically mean "acts of public disorder accompanied by acts of violence" and "tensions" to mean situations with "no violence, but [where] the State may resort to practices such as mass arrests of opponents and the suspensions of certain human rights, often with the intention of preventing the situation from degenerating into a disturbance." International Commission of the Red Cross, Violence and the Use of Force, 19 (2011).

58 International Commission of the Red Cross, Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977: Commentary of 1987 § 4447 (1987).

59 See, e.g., Andrea Nill Sánchez, "Mexico's Drug 'War': Drawing a Line Between Rhetoric and Reality," *Yale J. Int'l L.* 38 (2013):467, 480. ("The ICTY essentially helped fill the definitional gap left by international legal instruments, and its interpretation has since arguably become 'the most authoritative formulation of the threshold associated with Common Article 3.'") quoting Anthony Cullen, The Concept of Non-International Armed Conflict in International Humanitarian Law 122 (2010).

60 Prosecutor v. Tadić, Case No. IT-94-1-I, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, para. 70 (Int'l Crim. Trib. for the Former Yugoslavia Oct. 2, 1995).

61 Ibid.; Prosecutor v. Tadić, Case No. IT-94-1-T, Opinion and Judgment, paras. 561–562 (Int'l Crim. Trib. for the Former Yugoslavia May 7, 1997).

62 Prosecutor v. Haradinaj et al., Case No. IT-04-84-T, Judgement, para. 49 (Int'l Crim. Trib. for the Former Yugoslavia Apr. 3, 2008).

63 Commentary of 1952 49–50 (Jean Pictet ed., Int'l Comm. of the Red Cross 1952).

64 Prosecutor v. Haradinaj et al., para. 60.

gain access to military weapons, military equipment, recruits, and military training; (5) the ability to plan, coordinate, and carry out military operations, including troop movements and logistics; (6) the ability to define a unified military strategy and use military tactics; and (7) the ability to speak with one voice and negotiate and conclude agreements such as cease-fire or peace accords.[65]

Combatants and Other Targetable Persons

Whether a person is a combatant under IHL is critical for determining whether that person can be targeted. Combatants may be lawfully targeted, and thus may be lawfully killed. The definition of a combatant differs depending upon the type of armed conflict that exists. While the OCG crisis in Mexico is undoubtedly not an IAC, it is still useful to contrast the definitions of combatants in order to inform operational options. "Combatant status" also activates a protection regime beyond the targeting decision under IHL.[66] While the combatant status of an individual in an IAC is fairly straightforward, in NIAC the term "combatant" has a colloquial meaning that does not entitle that person to the rights of a person with combatant status.[67]

In IAC, GC III provides combatant status and its protections to members of other militias and volunteer corps, including organized resistance movements, belonging to a party to the conflict if four conditions are met: The militia or volunteer corps (1) is commanded by a person responsible for his or her subordinates; (2) has a fixed distinctive sign recognizable at a distance; (3) carries its arms openly; and (4) conducts its operations in accordance with the laws and customs of war.[68] Combatant status also applies to inhabitants of a non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist invading forces without organizing themselves into regular armed units, provided they carry their arms openly and respect the laws of war.[69] Combatant status and its protections may be lost where the actor does not carry his or her arms openly during each military engagement or, while carrying arms, fails to distinguish himself or herself from civilians preceding a military engagement.[70]

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65 Ibid.

66 *Customary IHL: Rule 3. Definition of Combatants*, International Commission of the Red Cross, accessed February 13, 2017, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule3.

67 Ibid.

68 GC III art. 4. "The idea underlying these definitions is that regular armed forces fulfil these four conditions *per se* and, as a result, they are not explicitly enumerated with respect to them." *Customary IHL: Rule 4. Definition of Armed Forces*, International Commission of the Red Cross, accessed February 13, 2017, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule4. While AP I provides an additional requirement that such groups have an internal disciplinary system that shall enforce compliance with international humanitarian law, this requirement does not alter the GC III's four factors. Ibid. It is important to note that these factors determine combatant status post-capture in order to determine the applicable protection regime. These categories may not suffice to distinguish civilians from armed forces during a conflict. It would be counterintuitive for an irregular armed group that failed to distinguish itself from the civilian population to be afforded broader protections (under the civilian-protections regime) than an irregular armed group that fulfilled these four factors. See Nils Melzer, International Commission of the Red Cross, Interpretive Guidance on the Notion of Direct Participation in Hostilities Under International Humanitarian Law 22 (2009) (discussing the implicit contradiction).

69 GC III art. 4(a)(6). This scenario is known as a "levée en masse."

70 AP I art. 44(3).

Moreover, AP I defines a combatant as members of the armed forces of a party to the conflict.[71] This definition has been adopted by the ICRC.[72] Armed forces consist of all organized armed forces, groups, and units under the command of a party to the conflict, irrespective of whether that party is represented by a government unrecognized by an adverse party.[73] "As a result, a combatant is any person who, under responsible command, engages in hostile acts in an armed conflict on behalf of a party to the conflict."[74] Perhaps one of the most important rights is "combatant immunity," the right to be free of criminal prosecution for lawful acts committed during armed conflict.

In NIAC, the legal definition of a combatant is less clear and it can blur with the definition of a civilian. Common Article 3 and AP II both refer to armed forces.[75] AP II includes "dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement [AP II]."[76] "While State armed forces may be considered combatants for purposes of the principle of distinction…, practice is not clear as to the situation of members of armed opposition groups." This definition means that persons fighting for a non-state entity in a NIAC may be considered civilians.[77] Civilian status prohibits the state armed forces from directly targeting such persons as a military objective, but does allow the state to criminally prosecute those persons for their actions during a NIAC because they do not have combatant immunity. "Practice does indicate, however, that persons do not enjoy the protection against attack accorded to civilians when they take a direct part in hostilities."[78]

The definition of a civilian similarly depends on the type of armed conflict that exists. In IAC, civilians are persons who are not members of the armed forces nor participants of a levée en masse, and the civilian population comprises all persons who are civilians.[79] As mentioned above the definition of a civilian blurs with that of a combatant under NIAC. While the draft of AP II defined a civilian as "anyone who is not a member of the armed forces or of an organized armed group," this definition was dropped prior to adoption.[80] Though there is insufficient state practice to provide a clear definition, it can be argued that AP II implicitly defines civilians as those who

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71 AP I art. 43(2). This definition excludes medical personnel and chaplains, but can include paramilitary or armed law enforcement agents when they are incorporated into the armed forces.

72 *Customary IHL: Rule 3. Definition of Combatants*, Int'l Comm. of the Red Cross, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule3 (last visited Feb. 13, 2017).

73 AP I art. 43(1).

74 *Customary IHL: Rule 4. Definition of Armed Forces*, Int'l Comm. of the Red Cross, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule4 (last visited Feb. 13, 2017).

75 Common Art. 3; AP II art. 1(1).

76 AP II art. 1(1).

77 Civilian status inhibits the government from targeting the participants as a military objective, but does allow the government to criminally prosecute those persons for their actions.

78 *Customary IHL: Rule 3. Definition of Combatants*, Int'l Comm. of the Red Cross, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule3 (last visited Feb. 13, 2017).

79 AP I art. 50(1–2); *Customary IHL: Rule 5. Definition of Civilians*, Int'l Comm. of the Red Cross, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule5 (last visited Feb. 13, 2017).

80 *Customary IHL: Rule 5. Definition of Civilians*.

are not members of "dissident armed forces or other organized armed groups…under responsible command."

A civilian loses protection from a direct attack when a civilian directly participates in the hostilities (also known as DPHing).[81] The loss of this protection only occurs for such a time as the civilian DPHs.[82] This phenomenon has been called the "revolving door of protection."[83] In other words, a civilian is protected until he or she takes up arms, but regains protection when he or she lays down those arms. The prototypical example is the farmer who farms the fields by day, but attacks a state's military outpost by night.[84] Even if the military knows the specific farmer attacking their outpost, it cannot target the farmer when the farmer is plowing the fields. The military may only target the farmer when the farmer is attacking the military. The revolving door does not, however, protect the farmer from arrest as a criminal.

DPH is not specifically defined under IHL, but the ICRC's *Interpretive Guidance on the Notion of Direct Participation in Hostilities Under International Humanitarian Law* is a useful guide. It is important to note at the outset that the DPH determination is a specific-act-based consideration, not a status-based consideration.[85] In other words, whether an act constitutes DPH is determined irrespective of the actor's status either as a civilian, a member of an organized armed group, or a member of the armed forces of a party to the conflict. The ICRC asserts that DPH only occurs during armed conflicts and is thus distinct from acts occurring during internal disturbances, riots, or other similar situations.[86] Whether an act constitutes DPH depends on DPH's three factors: The act must (1) be "direct;" (2) constitute "hostilities;" and (3) constitute "participation."[87] The ICRC considers these requirements to be met when the following occur, respectively: (1) There is "direct causation" between the act and the harm likely to result from the act (2) the act satisfies a "threshold of harm," meaning the act will likely adversely affect the military operations or capacity of a party to the conflict or will likely inflict death, injury, or suffering on protected persons or objects; and (3) the act has a "belligerent nexus," meaning it must be specifically designed to support one party to the conflict in a manner detrimental to another party to the conflict.

DPH status occurs in the preparation, deployment, and return stages of the specific act.[88] The preparation stage must be of a specifically military nature and must be so closely linked to the execution stage that it constitutes an integral part of the act, but it need not be temporally close to the execution stage.[89] The deployment stage occurs when an individual is physically displaced

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81 AP I art. 51(3); AP II art. 13(3); *Customary IHL: Rule 6. Civilians' Loss of Protection from Attack*, Int'l Comm.

82 AP I art. 51(3); AP II art. 13(3).

83 Nils Melzer, Int'l Comm. of the Red Cross, Interpretive Guidance on the Notion of Direct Participation in Hostilities Under International Humanitarian Law 70 (2009).

84 Ibid.

85 Ibid.

86 Ibid., 41.

87 Ibid., 43-44.

88 Ibid., 65.

89 Ibid., 65-66.

with the intent of carrying out the specific operation.[90] The return stage, which is conceptually distinct from a tactical retreat, terminates when an individual has physically separated from the specific operation.[91]

A civilian who DPHs is distinct from a member of an organized armed group who has a continuous combat function (CCF). The member of an organized armed group is constantly targetable as a result of his or her CCF, while a civilian who DPHs is only targetable for as long as the DPH occurs. To distinguish the two concepts, CCF requires "lasting integration into an organized armed group acting as the armed forces of a non-State party to an armed conflict."[92] Persons who plan, execute, or command an organized armed group's acts or operations that amount to direct participation in the hostilities take on a CCF.[93] Individuals who merely support an organized armed group generally do not have a CCF.[94] The principle distinction between DPHing and a CCF is whether "a person has repeatedly directly participated in the hostilities in support of an organized armed group in circumstances indicating that such conduct constitutes a continuous function rather than a spontaneous, sporadic, or temporary role assumed for the duration of a particular operation."[95] Thus, only the person whose CCF is DPHing may be targeted at all times by state armed forces during a NIAC.[96]

Underlying each of the above status determinations exists the presumption that a person is a civilian and thus is not targetable.[97] In other words, "in case of doubt whether a person is a civilian, that person shall be considered to be a civilian."[98] While this presumption emanates from AP I, and thus exists only in the IAC context, the ICRC has argued that the presumption logically extends to the NIAC context.[99]

Law Enforcement

The analysis changes in the law-enforcement context. Law enforcement agents have the obligation to respect every persons' right to life.[100] The right to life is absolute—it is non-derogable even in times of public emergencies.[101] Bound by the Second Optional Protocol,

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90 Ibid., 67.

91 Ibid.

92 Ibid., 34.

93 Ibid..

94 Nils Melzer, Int'l Comm. of the Red Cross, Interpretive Guidance on the Notion of Direct Participation in Hostilities Under International Humanitarian Law 34-35 (2009).

95 Ibid., 35.

96 Ibid., 36.

97 AP I art. 50(1).

98 AP I art. 50(1).

99 *Customary IHL: Rule 6. Civilians' Loss of Protection from Attack*, INT'L COMM. OF THE RED CROSS, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule6#Fn_60_23 (last visited Mar. 5, 2017).

100 ICCPR art. 6.

101 ICCPR art. 4.

Mexico cannot even enforce a death penalty.[102] In other words, Mexico must respect the right to life even after due process of law.

The ICCPR states: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."[103] The HRC, the interpretive body for the ICCPR, argues that this right to life should not be interpreted narrowly.[104] "The expression 'inherent right to life' cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures."[105] Specifically, the HRC interprets the ICCPR to require states to take measures to ensure that their law enforcement agencies do not engage in arbitrary killings.[106] "The law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities."[107] Additionally, the HRC considers that states have "a supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life."[108]

It is important to note that the ICCPR prohibits only the "arbitrary" deprivation of life. The drafters of the ICCPR intentionally left the exact definition of "arbitrary" vague rather than providing a list of exceptions to the right to life, as was done in the European Convention for the Protection of Human Rights.[109] The HRC has variously interpreted an arbitrary deprivation of life to be a killing that was justified neither through due process of the law—such as in a death sentence issued by a tribunal—nor by the specific circumstances—such as self-defense or to prevent escape.[110] In other words, "[a] deprivation of life is 'arbitrary' when lethal force is used without legal basis, or based on a law which does not strictly control and limit the circumstances in which a person may be deprived of his life by the authorities of a State."[111]

The use of lethal force by law enforcement agents must also meet the requirements of necessity and proportionality. The necessity requirement means that no more force may be used than "is necessary to maintain, restore, or otherwise impose, law and order in the circumstances of the

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102 Second Optional Protocol art. 1.

103 ICCPR art. 6(1). The remaining sections of article 6 qualify this right to life for states that have the death penalty, most notably the United States. *Id.* art. 6(2)–(6). As an interesting note, the HRC asserts that the right to life is an *erga omnes* right, which means it is owed to the individual and to other states. In other words, the violation of the right to life is a violation of an individual's rights as well as the rights of other states. Human Rights Committee, CCPR, *General Comment No. 31: The Nature of the Legal Obligation Imposed on States Party to the Covenant*, para. 2, U.N. Doc. CCPR/C/21/Rev.1/Add. 13 (May 26, 2004).

104 Human Rights Committee, CCPR, *General Comment No. 6: Article 6 (Right to Life)*, para. 1, U.N. Doc. HRI/GEN/1/Rev.1, at 6 (Apr. 30, 1982). While the Human Rights Committee general comments are not binding, they are generally considered highly persuasive by international tribunals.

105 Ibid., para. 5.

106 Ibid., para. 3.

107 Ibid.

108 Ibid., para. 2.

109 Nils Melzer, Targeted Killing in International Law, 92–93.

110 See Nils Melzer, Targeted Killing in International Law 93-95 (citing Husband of Maria Fanny Suarez de Guerrero v. Colombia, Human Rights Comm'n, U.N. Doc. Supp. No. 40 (A/37/40) (1982) and Baboeram et al. v. Suriname, Human Rights Comm'n, U.N. Doc. Supp. No. 40 (A/40/40) (1985)).

111 Nils Melzer, Targeted Killing in International Law, 100.

case."[112] The proportionality requirement means that force may not be used in a manner that is disproportionate to the danger presented by the circumstances.[113]

All of the above requirements imply that law enforcement agents have both a negative and positive obligation under IHRL: Law enforcement agents may not infringe an individual's right to life and must narrowly tailor their responses so as to minimize the use of lethal force to circumstances that truly warrant its use.[114]

Aside from the ICCPR, two other sources should inform the decision to issue kill orders in the law enforcement context: The UN Code of Conduct for Law Enforcement Officials (CCLEO) and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles). The CCLEO adopts both the proportionality and necessity requirements: "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty."[115] The CCLEO also adopts the ICCPR's standards for human rights.[116] Moreover, the CCLEO notes "that the use of force by law enforcement officials should be exceptional," meaning that "[i]n general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender."[117]

The Basic Principles elaborates on the CCLEO's provisions. It provides that the "intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life."[118] The Basic Principles also state that "[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of and firearms."[119] Critically, the use of intentional lethal use of firearms may only be used when "strictly unavoidable in order to protect life."[120]

The Recommended International Law Framework

Despite the dangers of an unarticulated international law framework, current international law provides a high degree of flexibility for operations. Under existing international law, the default assumption will be that kill orders cannot be given unless Mexico establishes that certain criteria have been met. These criteria differ based on whether Mexico uses its armed forces or its law enforcement agencies to carry out the operation. Issuing kill orders will be uncontroversial where Mexico uses its armed forces, but the requirements for the lawful use of the armed forces are high. Conversely, issuing kill orders to law enforcement agencies will be highly controversial, but the requirements for the lawful use of law enforcement agencies are low. The more

112 Ibid., 101.
113 Ibid.
114 Ibid., 118.
115 CCLEO, art. 3.
116 Ibid., art. 2, cmt. (a).
117 Ibid., art. 3, cmts. (a) & (c).
118 *Basic Principles* art. 1.
119 *Basic Principles*, art. 4.
120 *Basic Principles*, art. 9.

controversial actions taken, the less likely Mexico is to avoid international scrutiny and to weaken its rule of law. Mexico should thus tailor the tool it selects to the specific operational goals it wishes to achieve for its actions to remain uncontroversial.

- **Mexico should primarily use law enforcement agencies to carry out operations against OCGs.**

  a) Law enforcement should use the least-restrictive means to achieve their operational goals.

  b) Law enforcement should ensure that killing is not the only feasible outcome of an operation.

Because the use of law enforcement agencies will generally be less controversial, Mexico's default operational tool should be its law enforcement agencies.[121] This strategy will prohibit the use of the armed forces unless the situation absolutely necessitates military action. This restricted use of the armed forces will reduce the international and domestic political capital that Mexico currently expends through the broad use of its military in law enforcement contexts. Moreover, the general assumption is that law enforcement agencies should address issues of organized crime that does not satisfy the NIAC intensity threshold.[122]

- **Mexico should only use its armed forces where a NIAC exists.**

  a) The armed forces should only target persons with a CCF or who are DPHing during the operation.

  b) Mexico should be prepared to assert that a NIAC exists.

Several commentators have argued that the OCG crisis does not amount to a NIAC because the majority of the conflict occurs among OCGs and not between the Mexican government and OCGs.[123] The cited evidence was the relatively small size of OCG members compared to OCGs in other states; the comparable murder rate in other Central American states; the decreasing presence of "wild urban gun battles;" the use of non-military-grade weaponry; the non-systematic nature of OCG-related murders.[124] Moreover, Mexican OCGs "are structured more like businesses than armies."[125] They outsource enforcement and violence to loosely-affiliated organizations.[126] Some have theorized that the OCGs' leaderships are unable to control the

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121 See, e.g., Internaltional Commission of the Red Cross, Violence and the Use of Force 41 (2011) ("In view of their training and equipment, and also in terms of appearances, it is questionable whether armed forces should be given the task of enforcing the law and maintaining law and order.").

122 See, e.g., Nils Melzer, International Commission of the Red Cross, "Interpretive Guidance on the Notion of Direct Participation in Hostilities Under International Humanitarian Law, 2009, 24 ("[O]rganized armed violence failing to qualify as an international or non-international armed conflict remains an issue of law enforcement, whether the perpetrators are viewed as rioters, terrorists, pirates, gangsters, hostage-takers or other organized criminals.").

123 Sánchez, "Mexico's Drug 'War'," 466, 481.

124 Ibid., 481-484.

125 Ibid., 485.

126 Ibid.

violence that their members create, reflecting "multiple incidents of micro-violence at local levels rather than macro-violence at the strategic level."[127]

But such arguments are incomplete. There is a systematic reticence to release statistics about the OCG crisis, particularly those involving OCG-related murders, and the general intensity of the violence is the best argument for the existence of a NIAC.[128] There is at least some evidence that OCGs possess relatively organized command structures and exercise some territorial control.[129]

The absence of official information is to Mexico's advantage in asserting the existence or non-existence of a NIAC. On the one hand, Mexico would be able to release data concerning a specific, limited situation in claiming the existence of a NIAC. On the other hand, Mexico can stave off accusations that it is incapable of preventing OCG-related violence by not releasing that information. This practice allows Mexico to legitimately claim a NIAC, backed by its own data, and lawfully use armed forces with kill orders while expanding the role of law enforcement agencies in less-critical areas. Key to this flexibility is that a NIAC need not be declared before the lawful use of armed forces. Rather, the existence of a NIAC can be asserted as a type of defense if Mexico is ever accused of unlawful military action.

There are other notable weaknesses in the NIAC argument, particularly in considering the ICTY organizational factors. Mexican OCGs are likely to have a loose command structure; to be unable to plan military operations insofar as they include troop movements and logistics; to not have a unified military strategy; and be incapable of speaking with one voice. A critical defect in the arguments against the existence of a NIAC overcomes these weaknesses. Mexican OCGs, unlike other armed groups for which there exists jurisprudence, are not motivated entirely by politics or aims typical of other revolts. OCGs reap economic rewards be subverting governmental authority, not by overthrowing government. There is little economic incentive for OCGs to govern, but there is much to gain by infiltrating and debilitating the enforcement arms of government authority. Moreover, OCGs thrive in open economies, which can only be created by legitimate governments. Without the Mexican government to create and legitimize political and economic connections with other states, Mexican OCGs would likely be significantly less profitable than they are today.

The ultimate motivation of OCGs is the subversion of government authority to allow for unimpeded profit maximization. This motivation differs from that of the ordinary criminal, who strives merely to elude the law rather than to destroy the rule of law. It is difficult to assert that an organization, whose goal is the destruction of the rule of law within a state, does not attack that state's sovereignty in a manner necessitating some action beyond criminal law enforcement. Consequently, OCGs represent a lacuna in existing IHL.

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127 Phil Williams, "The Terrorism Debate over Mexican Drug Trafficking Violence," *Terrorism & Pol. Violence* 24 (2012):259, 270.

128 Sánchez, "Mexico's Drug 'War'," 483-484.

129 Colleen W. Cook, "Mexico's Drug Cartels," Congressional Research Service, RL34215, October 2007, http://www.fas.org/sgp/crs/row/RL34215.pdf, 8; and Cory Molzahn, Viridiana Rios, David A. Shirk, "Drug Violence in Mexico: Data and Analysis Through 2011," University of San Diego Trans-Border Institute, 2012, http://justiceinmexico.files.wordpress.com/2012/03/2012-tbi-drugviolence.pdf, 25.

In sum, while the transnational nature of OCGs garners much attention, the root of OCGs' capabilities and power lies in the subversion of domestic authorities. Kill orders given to the armed forces will be effective in operational disruption and domestic political victories, but will fail to address the underlying problem. Additionally, whether the use of armed forces against OCGs is lawful is controversial. Mexico should rely primarily on its domestic law enforcement agencies to address the OCG crisis. The lawful use of force by law enforcement agencies will increase their legitimacy and the legitimacy of operations against OCGs. Most importantly, overt compliance with uncontroversial international law will inhibit efforts to subject Mexico to international scrutiny.

While relying on law enforcement agencies limits the ability to issue kill orders, it does not preclude it. Law enforcement agents will only be required to assess whether least-restrictive means will suffice in any given operation. This determination will be context dependent, giving law enforcement agencies operational flexibility. Additionally, as noted above, the use of the police will not preclude the use of the military in certain extreme situations.

- **Mexico should make its policy on the use of lethal force public and prosecute violators in civilian courts.**

Intelligence Reform

Organized criminal organizations operate clandestinely and maintain relatively strict discipline through coercion and corruption, requiring intelligence collection, analysis, and application to effectively counter their operations. While criminal groups operating in Mexico may do so openly, with little fear of repercussions, the same principles apply. To mitigate the threat posed by organized criminal groups, law enforcement must appreciate their structure, players, resources, and environment. As such, a robust intelligence apparatus should be integrated into any successful strategy against organized crime.

Responsibility for intelligence gathering that targets organized criminal groups is divided among three sets of actors: law enforcement, the military, and the *Centro de Investigación y Seguridad Nacional* (CISEN). Federal law enforcement agencies, and, to a lesser extent, state agencies maintain intelligence sections for investigative purposes and to inform their overall law enforcement strategies. Both the Army and Navy also possess organic intelligence capabilities for tactical, operational, and strategic purposes. CISEN is charged with gathering both foreign and domestic intelligence on strategic and existential threats to national interests and security. These three groups each play a role in the intelligence efforts against organized crime and they must work together to effectively carry out this mission. As such, intelligence reform must address all three groups and emphasize greater inter-agency trust and cooperation.

Law enforcement reform has been a central policy initiative for the last two presidential administrations in Mexico, and has included police intelligence. However, despite these broad reaching reforms, public confidence in Mexico's police is low and the rate of impunity remains high. These are symptomatic of ongoing challenges facing law enforcement in general, and police intelligence activities more specifically. Indeed, continued reforms without a definite end may be exacerbating the very problems that they are meant to correct.

Perhaps the most fundamental problem facing intelligence collection and operationalization in Mexico is intelligence organizations' professional culture. For police intelligence organizations, this is partially tied to the persistent issue of low pay, which makes it difficult to attract and retain skilled and motivated candidates and to discourage corruption. Low levels of professionalization may also be in part due to the changing nature of policing, particularly in Mexico, as to combat ever more sophisticated organized crime, Mexican police forces have had to incorporate more investigative and intelligence apparatuses into what have traditionally been preventative agencies.

Intelligence, and indeed law enforcement in general, also suffer more broadly from politicization, which adversely affects the organizations' ability to develop robust cultures of professionalism and expertise, or even survive from one administration to the next. The contentious relationship between Mexico's major political parties and a desire to make a difference in the battle against the *narcotraficantes* jeopardizes the type of long-term planning and sense of political detachment necessary for effective intelligence work.

Intelligence services in Mexico must also contend with a general lack of public trust. This is in no small part due to a history of police infiltration and corruption by organized criminal groups, and the PRI's use of police forces and CISEN as its enforcement arm during its long period of political dominance, the latter used to gather incriminating information on political opponents and the former to crack down on them. This lack of trust is particularly crippling for law enforcement intelligence, as fewer informants are likely to come forward, either from the general public or from within the ranks of organized criminal groups themselves, for fear of being targeted by organized crime or eliminated by the very police forces that they have turned to for help.

Part of this lack of trust is fostered by the distance between intelligence services and the lives of Mexican citizens. Investigative services and intelligence work have been largely removed from the local level and concentrated with either state or federal authorities, creating a lack of immediacy that contributes to both Mexican citizens' distrust of intelligence agencies and hampering the ability of these agencies to effectively interface with the civilian population. This problem is further exacerbated by the Mexican intelligence system's fragmented nature, over and above the periodic reworking of federal-level law enforcement organization. As it stands, there is no effective intelligence clearinghouse or system for coordinating the different agencies, spread across separate ministries. When agencies do work together, they are frequently mistrustful of one another due to fears of corruption, infiltration, or more mundane bureaucratic concerns regarding maintaining their individual agency's resources.

This section reviews the history of intelligence efforts over the last two administrations, arriving at a description of the current state of intelligence capabilities in Mexico. It then reviews and discusses the challenges facing intelligence collection, analysis, and utilization under this system. It concludes by offering recommendations for policymakers.

Background

While policing, and therefore police intelligence, has existed in Mexico for decades, they have long suffered from politicization and a lack of resources. Founded by then-President Plutarco

Elías Calles as the *Partido Nacional Revolucionario* in 1928, the PRI maintained its grip on Mexican politics until the election of Vicente Fox of the National Action Party (*Partido Acción Nacional*, PAN) in 2000. With effectively no oversight from either the legislature or the judiciary, Mexican intelligence services functioned as the PRI regime's secret police, being compared to the East German Stasi both because of their use by the ruling party and in their comprehensive efforts to surveil and blackmail dissidents.[130] The worst offender, the Federal Security Directorate (*Dirección Federal de Seguridad*), was disbanded in 1985 after particularly onerous abuses during the 1970s, and replaced in 1989 by the Center for Research and National Security (*Centro de Investigación y Seguridad Nacional,* CISEN).[131] This new agency, while still lacking oversight, is Mexico's premier civilian intelligence agency operating against drug-trafficking organizations (DTOs) and other organized criminal groups. CISEN's mandate is broad: "To produce strategic intelligence for decision-making, in order to preserve National Security, Governance and the Rule of Law [in Mexico]."[132] As such, CISEN has taken a prominent role in the fight against organized criminal groups.

In addition to CISEN, the federal government has organized and launched a succession of law enforcement agencies with integrated intelligence divisions over the last several decades. These have, however, historically suffered from corruption and infiltration by organized criminal groups, driving in part the cycle of establishing and disbanding these high-level agencies. This pattern has contributed to a persistent suspicion of federal level law enforcement and has made it difficult to establish a strong institutional ethos of professionalism.

Particularly illustrative of this phenomenon is the development of the Federal Ministerial Police (*Policía Federal Ministerial, PFM*). The organization's roots lay in the 1980s when its antecedent, the Federal Judicial Police (*Policía Judicial Federal, PJF*), was a relatively small federal agency under the purview of the Attorney General's office (*Procuradoría General de la Républica, PGR*). In the 1990s, it received expanded resources and was put in charge of coordinating federal anti-narcotics efforts.

The PJF suffered from pervasive corruption and was disbanded in 2001 by President Vicente Fox. He reorganized the agency as the Federal Investigative Police (*Agencia Federal de Investigación, AFI)* and followed up with new freedom of information measures in 2002 in an effort to increase accountability.[133] Despite purges of tainted personnel, the AFI succumbed to the same fate as its predecessor eight years later under President Calderón, following an investigation that cast corruption suspicions over as many as 25 percent of the agency's employees, with some even accused of acting as informants or operators for the Sinaloa Cartel.[134] This included the AFI's second highest official, Rodolfo de la Guardia Garcia, who

[130] Peter Gill, "Kosovo and Amexia: A Tale of Two Countries," Presentation, International Association for Intelligence Education Conference, Breda, Netherlands, June 22-24, 2016, http://c.ymcdn.com/sites/www.iafie.org/resource/collection/BBA50897-60CA-4A1B-B829-21B77A1CDAF4/paperGill.pdf, 9.
[131] Ibid.
[132] Centro de Investigación y Seguridad Nacional (CISEN), "Mission and Vision," December 19, 2014, http://www.cisen.gob.mx/ingles/cisenMissionVision.html.
[133] Global Security.org, "Federal Judicial Police (Policia Judicial Federal)," accessed November 25, 2016, http://www.globalsecurity.org/intell/world/mexico/pjf.htm.
[134] Cook, "Mexico's Drug Cartels," 9.

supposedly sold information to the Sinaloa organization in return for monthly payments.[135] Calderón responded with arrests, purges, and the reorganization of the AFI into the PFM in 2008.[136] This new agency assumed responsibility, among other things, for maintaining Mexico's first national crime information system, used to track and disseminate data such as fingerprints across Mexican law enforcement.

Also, operating at the federal level are the Federal Police (*Policía Federal,* PF), reorganized out of the older Federal Preventative Police formed by President Ernesto Zedillo from several smaller federal agencies of disparate jurisdictions with the intent of streamlining national-level anti-narcotics enforcement. Unlike the PFM, the PF fall under the authority of the Secretariat of the Interior. Since its establishment, the PF has broadened its scope across several areas, incorporating elements of treasury, migration, and transportation security, as well as operating an in-house intelligence apparatus and gaining a gendarmerie division. President Calderón and his successor Enrique Peña Nieto identified a need for more professional, better coordinated, and better equipped civilian law enforcement at the federal level to combat organized crime, making the PF an important focus of reforms and putting them front and center in their fight against criminal groups.

In 2006, Calderón increasingly turned to the most trusted instruments of Mexican federal power, the armed forces, to contain organized criminal groups. Mexico's armed forces, now represented by the Army, including the Air Force, under the Secretariat of National Defense, and the Navy and Marines under the Secretariat of the Navy, have been among the most respected state institutions. They played a key role in the modern state's foundation and, due to their high degree of independence afforded by the constitution, have largely remained out of the political infighting. Furthermore, their previous lack of involvement and relatively good pay have historically kept the military "cleaner" than civilian law enforcement in public perception. The military brought with them their own organic intelligence capabilities, bolstered by ongoing partnerships with U.S. military and law enforcement agencies. Native capabilities include the ability to perform aerial and ground-based reconnaissance in both rural and urban areas, as well as socio-political monitoring.

Below the federal level, each of Mexico's 31 states maintains its own law enforcement apparatus, operating under its respective governor. The Federal District also maintains its own preventative and investigative police under the Mexico City mayor. These state agencies have both investigative and preventative mandates, meaning that they work both in direct enforcement and in the intelligence gathering and analysis that is necessary to prevent crimes and bring about successful prosecutions. Operating under the state level are municipal law enforcement agencies. Most, but not all towns in Mexico have some local police presence, tasked mainly with keeping the peace. These municipal departments are not typically required, or equipped, to conduct intelligence operations themselves. This leaves an operational gap in intelligence collection, as police intelligence is often generated through local contacts and undercover work.

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[135] CNN, "Mexico's Corruption Inquiry Expands to Ex-police Official," Novenber 7, 2008, https://web.archive.org/web/20081108162118/http://www.cnn.com/2008/WORLD/americas/11/07/mexico.violence.ap/index.html .
[136] Jorge Ramos Pérez y María de la Luz González, "Surge la Policía Federal Ministerial," *El Universal*, May 30, 2009, http://archivo.eluniversal.com.mx/nacion/168545.html.

Prior the Calderón Administration, delineation of enforcement jurisdiction between the various levels of government was unclear. Under his administration, the passage of the National Public Security System Law established a National Public Security Council, chaired by the president and comprising representatives from federal, state, and local law enforcement, for the purpose of designing, establishing, and coordinating the implementation of law enforcement strategies, practices, and standards across all levels of government. Its decisions are implemented and monitored by the Executive Secretariat of the National Public Security System (*Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública,* SESNSP), housed in SEGOB.[137] Even with the SESNSP, however, tensions remain among agencies and services.

Both the Calderón and Peña Nieto Administrations have made intelligence-led policing essential elements of their public security platforms. The Calderón Administration emphasized the targeting of high-level members of organized criminal groups, the so-called "kingpin strategy." This approach is predicated on a certain understanding of the organization and operation of organized criminal groups, facilitated by intelligence gathering and analysis. Furthermore, identifying targets for the strategy requires useful intelligence. Calderón's administration also oversaw the promulgation and implementation of a new anti-organized crime law, similar to the United States' RICO statutes, allowing for individuals to be prosecuted for affiliation with organized crime. In order to secure verdicts in such cases, extensive corroborating evidence is necessary, further increasing the importance of effective intelligence to the Mexico's overall strategy against organized crime.

Challenges

Mexico's intelligence establishment—police and military intelligence sections in particular, with CISEN in a more general support role—faces three essential challenges when confronting organized criminal groups: lack of institutional stability and professional culture, politicization, and low interagency coordination. Each of these factors is interrelated with the others, and each represents a hindrance to the intelligence community's ability to perform its function in gathering, analyzing, and passing along intelligence in an effective manner.

Institutional Stability. Federal-level law enforcement in Mexico has been subject to a series of reorganizations, disbandings, purges, and re-brandings over the course of the last several administrations. As such, few agencies have had the opportunity to develop strong cultures and institutional stability. While this strategy was intended to visibly remake untrustworthy organizations and combat corruption, it may have exacerbated the problem by not allowing successor agencies to correct their mistakes and develop their own identities and reputations. In fact, constant restructuring leaves new organizations open to being painted with the same brush as their predecessors.

In addition, forming and disbanding agencies on a regular basis may drive away desirable applicants by making an intelligence career seem less viable over the long term. After all, why invest time in an organization that may not exist after the next presidential election? This lack of

[137] Cesar Alfredo Martinez Espinoza, "Mexico's National Security Framework in the Context of an Interdependent World: A Comparative Architecture Approach," Doctoral dissertation, The University of Texas at Austin, 2007, 137-138.

stability also negatively impacts institutional memory as employees seek more lasting careers elsewhere. Ultimately, this weakens law enforcement agencies by not allowing them to build up the respect necessary to operate effectively or attract qualified, dedicated recruits, opening the door to further corruption and creating a feedback loop that saps the agency's ability to perform its function. This is not to say that there are not honest, professional officers working for these intelligence services, but rather that the uncertainty as to the continued existence of a given organization could discourage more career and service-minded individuals.

Politicization. This cycle has been fueled in part by the overall politicization of the fight against organized criminal groups, and the efficacy of policing organizations. As noted above, Mexican law enforcement agencies and intelligence services acted as the PRI's enforcement arm during its period of political dominance. This led to an implicit politicization of these and legitimized the various restructurings that subsequent administrations undertook. When an organization is politicized, it will have difficulty carrying out its functions, either due to mistrust from potential collaborators or recruits due to political misgivings or concerns, or again due to the lack of perceived institutional stability as agencies' survival becomes tied to the political process.

Interagency Trust. Finally, a general lack of trust among the various intelligence services continues to degrade their overall effectiveness. This issue is again rooted in agencies' perceived corruption, weak traditions of professionalism, and histories of infiltration and cooption. This friction is evident when the military intelligence services are asked to interface with their civilian counterparts, the former considering the latter to be a risk for leaks to organized criminal groups, as well as between SEDENA and SEMAR due to these same corruption concerns and bureaucratic competition.[138]

While the National Public Security Council and the establishment of both federal and regional "fusion centers" (wherein different agencies from across the various levels of government work together in intelligence collection and analysis) has facilitated greater interagency intelligence-sharing and cooperation, less has been done to address the fundamental mistrust among agencies themselves. So long as a perception of working at cross-purposes exists, intelligence collection and use will continue to be less effective.

Policy Recommendations

While there are operational areas in which the Mexican intelligence community may improve, the most fundamental challenges facing the Mexican intelligence community are structural and cultural. As such, efforts to improve their efficacy should focus on addressing the structural and cultural factors in both the short and long term, in addition to building operational capacities on the ground, such as informants. To address these issues, Mexico's federal government should commit to building institutional stability, de-politicizing law enforcement and intelligence services, strengthening and streamlining interagency relationships and communications, and building a more robust network of informants and undercover operatives. To capture the

[138] Tracy Wilkinson and Ken Ellingwood, "Mexico Army's Failures Hamper Drug War," *Los Angeles Times* (Los Angeles, CA), December 29, 2010; and Tim Johnson, "Navy Has Become Mexico's Most Important Crime-fighting Force," *McClatchy DC Bureau*, October 23, 2012, http://www.mcclatchydc.com/news/nation-world/world/article24739117.html.

necessarily ongoing nature of intelligence reform, this section is organized into short-term and long-term recommendations.

Short-term Recommendations

- **Continue to promote and develop *Plataforma México***. Mexico's federal government should build on the successes of regional fusion centers—such as in Ciudad Juárez—by reversing the trend of cutting funding for the *Plataforma México* law enforcement information database and, if possible, expanding its support. Support for *Plataforma México* should include infrastructure development and further integrate and familiarize municipal and state law enforcement with the system, including workshops and seminars on its use and benefits. *Plataforma México* has the potential to function as a "virtual" fusion center on a nationwide scale, allowing for the sharing of useful information across all levels of government and geographic space.

  There will be, however, some challenges. These include getting law enforcement, particularly municipal and state police, to use the system. To accomplish this, the federal government should consider methods to incentivize the use of *Plataforma México*, perhaps in the form of block grants to police departments that demonstrate the system's effective integration into their work. Yet the two-primary challenge will be ensuring that all users are thoroughly vetted and not compromised by organized criminal elements and also locating the funding necessary to fully support the program.

- **Create a Director of National Intelligence and Office of the Director of National Intelligence.** Currently the Mexican intelligence community's activities are coordinated by the Secretariat of the Interior though the National Security Commission, helmed by the National Security Commissioner. The federal government should build on this framework to create an independent position, with staff, that has the sole purposes of collating the intelligence agencies' output across the country at the federal, state, and municipal levels; coordinating their activities; promulgating best practices across the intelligence community; and providing oversight for intelligence agencies and activities. This official should report directly to the president, rather than through the Secretariat of the Interior as an intermediary.

  The Director of National Intelligence (DNI) and the associated Office of the Director of National Intelligence in the United States provide the most obvious models for the organization and responsibilities of this proposed office, with its emphasis on coordination, collation, and enabling, while providing oversight for intelligence-gathering. A Mexican DNI should incorporate these features, along with the statutory requirement for either the DNI or the principal deputy DNI to be a commissioned military officer with experience in military intelligence operations. This would allow for the new office to draw on the institutional knowledge and respect of the Mexican Army and/or Navy to provide a firm foundation for the intelligence community going forward. Furthermore, military involvement in the ODNI should lend to the new institution some measure of the popular support and respect enjoyed by the Mexican military, thereby helping to cement its legitimacy during its early years. However, the emphasis should be on civilian oversight, with the staff and bulk of the leadership drawn from outside the active duty military.

A Mexican DNI and ODNI should have extensive authority to investigate complaints against or corruption in the intelligence community, coupled with the ability to recommend prosecution or dismissal of agents found to be corrupt or abusing their power. Challenges to the establishment of a DNI for Mexico include potential political problems with separating intelligence operations oversight from the Secretariat of the Interior, and institutional distrust among agencies, particularly among military intelligence and civilian agencies. While these are not trivial issues, the establishment of a DNI should be regarded as a first step toward effectively integrating these services, rather than an end state.

- **Continue to leverage a professional working relationship with U.S. intelligence agencies.** While the Mexican intelligence community should continue solidifying its native capabilities, the federal government should also continue to leverage existing relationships with U.S. intelligence and law enforcement agencies in the short term. The DEA's extensive network of informants and undercover operatives provide an intelligence capability that Mexican agencies cannot currently match. Challenges to this approach include the politically sensitive nature of U.S.-Mexico cooperation on both sides of the border, particularly following the accession of U.S. President Donald Trump. However, the professional relationships developed by officers and agents from both counties should provide a foundation for ongoing cooperation while the Mexican intelligence community improves its institutional stability and capabilities.

Long-term Recommendations

- **Establish a culture of institutional stability and accountability**. The Mexican intelligence community's work is complicated both by citizens' longstanding mistrust of the federal government and a dearth of institutional knowledge caused by the periodic disbanding and restructuring of federal intelligence and law enforcement bodies. As such, the federal government should make it a priority to maintain current institutions and reform them, rather than disbanding them over corruption charges or abuse. New organizations lack the institutional memory to be effective in their mission, the trust of international partners, and an established partnership with the Mexican people. The responsibility and authority for addressing complaints and intelligence agencies failings should rest with the president or the DNI under the president's direction and should strive to maintain organizational continuity, to allow for the development of a culture of accountability and professionalism.

- **Establish networks of informants and undercover operatives**. Both confidential informants and the use of undercover operatives have proven successful for U.S. intelligence agencies and law enforcement in their efforts to combat the American mafia, outlaw motorcycle gangs, and other groups. The Mexican intelligence community should work to develop networks, both through federal agencies and state or municipal police departments, to provide both strategic intelligence and tactically actionable information to combat DTOs. This will require extensive vetting of potential undercover officers to protect against potential corruption and infiltration by organized crime. Furthermore, a system should be developed for credibly protecting the identities and persons of confidential informants, to encourage citizens to cooperate with the Mexican intelligence community without fear of reprisal.

Penitentiary System Reform

Properly functioning prisons serve as an indicator of a country's ability to confront insecurity, and Mexico's prison conditions fail to demonstrate adequate institutional capacity. The Mexican Congress passed a prison reform law in 2016 aimed at drastically reforming the justice system and prison practices.[139] Yet, there remain serious concerns such as inadequate prison conditions, violations of prisoners' rights, and an increase in violence and organized criminal operations within the penitentiary system. This section analyzes current Mexican prison conditions, recent policy interventions in the prison system, and policy recommendations. These include ensuring equal rights for all incarcerated individuals, reducing prison official complicity, emphasizing restorative justice, eradicating sentencing for minor crimes, better allocating resources for prison officials and institutions, and eventually reducing extradition.

Organization of Mexican Penitentiary System

Mexican prisons are divided among federal, state, and municipal entities. As of 2016, roughly three-fourths of all prisons are state centers, with only 17 federal prisons.[140] The number of federal prisons has increased by 30 percent since 2012, when there were only 13 federal prisons, and two additional federal prisons are currently under construction (see Table 1.1).[141] In the last five years, the number of state prisons increased only marginally.

Table 1.1
Number of Prisons in Mexico, 2012

Prisons	Total Prisons	Total Capacity
Federal	13	18,684
State	315	165,419
Municipal	91	4,044
Total	419	188,147

Source: Secretaría de Seguridad Pública, "El Sistema Penienciario Mexicano," SSP, 2012.

Prison efficacy varies drastically by state. Yet one of the largest issues facing all Mexican prisons is overcrowding (see Table 1.2). Some 50 percent of the prison population resides in only 30 of the more than 400 prisons nationwide.[142] However, overcrowding numbers are improving with the construction of new prisons. In 2012, the maximum capacity for all prisons was just over 188,000 people, compared to a real prison population of over 237,000 individuals—an overcapacity rate of approximately 26 percent. However, by 2016, Mexico had capacity for over 209,000 individuals, and a prison population of approximately 233,000, meaning only a 12 percent overcapacity rate.[143] In short, the overcapacity rate decreased by half in five years.

[139] Mike LaSusa, "Mexico Senate Unanimously Approves Prison Reforms," *Insight Crime*, August 2016, http://www.insightcrime.org/news-briefs/mexico-senate-unanimously-approves-prison-reform.
[140] Comisión Nacional de Seguridad, "Cuaderno Mensual de Información Estadística Penitenciaria Nacional," 2016.
[141] Secretaria de Seguridad Publica, "El Sistema Penitenciario Mexicano," SSP, 2012.
[142] Ibid.
[143] Comisión Nacional de Seguridad, "Cuaderno Mensual de Información Estadística Penitenciaria Nacional."

Table 1.2
Prison Capacity of Mexican Prisons, 2013

	Prison Capacity	Actual Population	Percentage
State/Municipal	169,326	217,902	129%
Federal	25,951	24,854	96%
Total	195,277	242,756	124%

Source: Guillermo Zepeda Lecuona, "Situación y desafíos del sistema penitenciario mexicano," *Centro de Análisis de Políticas Públicas*, 2013, http://mexicosos.org/descargas/dossier/estudios/situacion_y_ desafios_del_sistema_penit enciario.pdf.

Most incarcerated individuals reside in state prisons, making it important to focus resources and policies on these penitentiaries. Yet, the prison budget currently targets federal centers, meaning that state prisons do not receive the resources necessary to fully operate.[144] The prison budget itself is roughly stable, with funding for state centers staying steady for the last few years. Between 2014 and 2015 the budget decreased, before increasing again by roughly 5 percent in 2016 (see Table 1.3).[145] This increase in the penitentiary system continued to target federal prisons, but future prison budget increases could also target state prisons.

Table 1.3
Mexican Prison Budget, 2014-2016

Federal, state, and local combined, in millions of pesos

2014	2015	2016
16,953.40	16,991.43	17,972.74

Source: Cámara de Diputados, "El Presupuesto Público Federal para la Función Seguridad Publica," 2015, http://www.diputados.gob.mx/sedia/sia/se/SAE-ISS-22-15.pdf.

Current Conditions in Mexico

Inadequate Prison Living Conditions

The primary complaint among non-governmental organizations (NGOs) and prisoners alike is the lack of adequate living conditions within the prison system. Aside from violating prisoners' rights, this complaint presents significant concerns for the security and stability of both Mexico's prison and justice institutions. In October 2016, the National Commission on Human Rights (CNDH) published a report that urged the Mexican government to allocate resources to state and municipal jails that lack primary supplies and funds.[146] The concern, coming from both Mexican

[144] Secretaria de Seguridad Publica, "El Sistema Penitenciario Mexicano."
[145] Cámara de Diputados, "El Presupuesto Público Federal para la Función Seguridad Publica," 2015, http://www.diputados.gob.mx/sedia/sia/se/SAE-ISS-22-15.pdf, 25.
[146] UniMexicali, "CNDH llama a remediar irregularidades en cárceles de los estados," *UniMexicali*, October 19, 2016, http://www.unimexicali.com/noticias/mexico/443256/cndh-llama-a-remediar-irregularidades-en-carceles-de-los-estados.html.

and U.S. officials, is that the international standard of prisoners' living dignified lives is not being met in the majority of Mexican prisons.[147]

According to a 2014 CNDH report, primary materials for protection and sanitation rank among the basic necessities that are least often available to prisons.[148] The only areas where Mexican federal prisons consistently meet the "dignified life" standard are the dining halls, kitchens, and patio spaces.[149] The inability to adequately provide the prison population with services such as access to medical care, basic hygiene products, or a proper space to live forces prisoners to seek assistance through fellow prisoners or organized criminal groups. At a minimum, prisons and prison personnel should be responsible for providing basic services as a means of maintaining prison control.

Mistreatment of the Prison Population

Another concern for the penitentiary system is the mistreatment of the prison population, which manifests in three primary fashions: accusations of human rights violations, imprisoning pre-trial detainees alongside the sentenced population, and a failure to provide prisoners with social reinsertion services.[150] In 2015, there were over 3,000 human rights complaints in Mexico. More than 2,000 of the formal complaints came from prisons within the Federal District, and the other 1,000 formal human rights complaints occurred throughout the rest of the country (see Figure 1.1). This data only encompasses formal human rights complaints filed by inmates and received by CNDH, not necessarily all human rights abuses committed within Mexican prisons.

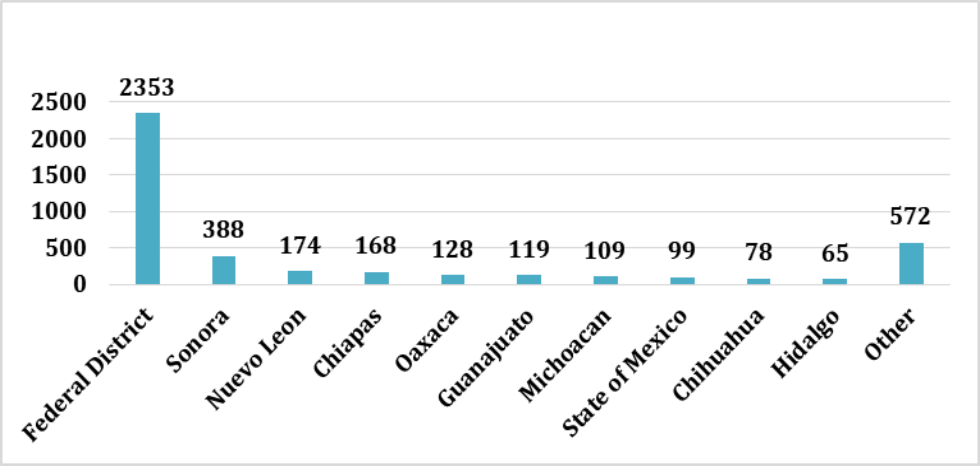
In addition, 42 percent of Mexico's prison population is currently awaiting a trial date.[151] The 2008 judicial reforms, among other conditions, required that individuals charged with a crime have the right to be released on bail until their trial date decision. While the judicial reform was to be fully implemented by the end of 2016, almost half of all current incarcerated individuals remain in custody without a conviction. More striking, over 100 prisons nationwide do not distinguish housing facilities between their accused and sentenced populations.[152]

One overarching complaint is Mexico's failure to produce a reintegration plan for released prisoners. Not only do Mexico's Constitution and the 2016 National Penal Law afford this right to Mexican nationals, but the lack of a reintegration plan also undermines the goal of reducing recidivism.[153] The federal government should provide services such as job training, education, and psychological assistance, among others.[154] Certain readaptation centers exist throughout the country, but these facilities are underfunded and understaffed. Social reinsertion is certainly not

[147] Department of State, "Country Reports on Human Rights Practices for 2015: Mexico," *Bureau of Democracy, Human Rights, and Labor*, 2015, https://www.state.gov/documents/organization/253239.pdf, 6-8.
[148] CNDH, "Aspectos que garantizan una estancia digna." *Diagnosticos Nacional de Supervisión Penitenciaria*, 2015, http://www.cndh.org.mx/sites/all/doc/sistemas/DNSP/DNSP_2015.pdf.
[149] Ibid.
[150] Comision Nacional de Derechos Humanos, "Diagnostico Nacional de Supervision Penitenciaria 2015: Ceresos, Ceferesos y Prisiones Militares," CNDH, 2016, http://www.cndh.org.mx/sites/all/doc/sistemas/DNSP/DNSP_2015.pdf.
[151] Daniel Beccerril, "México: Saturación en Caréceles Agrava Los Motines y El Descontrol," *RT*, 2016.
[152] Comision Nacional de Derechos Humanos, "Diagnostico Nacional de Supervision Penitenciaria 2015."
[153] Constitución Mexicana, "Articúlo 21," http://www.ordenjuridico.gob.mx/Constitucion/articulos/21.pdf.
[154] Interview, Reinserta NGO, March 13, 2017.

offered on a systemic basis for inmates. As a result, NGOs and individual citizens try to fill the gap to aid ex-convicts in social reintegration, but their services do not necessarily assist to the full extent of the law nor do they cover all inmates.

Figure 1.1
Number of Complaints in Mexican State Prison Centers, 2015



Source: Comision Nacional de Derechos Humanos, "Diagnóstico Nacional de Supervision Penitenciaria 2015: Ceresos, Ceferesos y Prisiones Militares," CNDH, 2016, http://www.cndh.org.mx/sites/all/doc/sistemas/DNSP/DNSP_2015.pdf.

Also often overlooked is the overwhelming percentage of incarcerated individuals being held for petty crimes versus violent crimes. The Wilson Center found that a majority of incarcerated individuals committed property crimes valued at less than US$20.[155] Mexican judges may feel pressured to sentence individuals on crimes, regardless of severity, to demonstrate institutional capacity, especially when facing high impunity rates. Yet, efforts to decrease impunity should target all crimes, especially grave crimes, not simply minor crimes for the sake of incarceration.

Increase of Prison Violence and Organized Criminal Activity

An increase in violence and organized criminal activity inside Mexico's prisons continues to afflict the penitentiary system (see Table 1.4). Not only do accused individuals share space with the greater prison population, but convicted individuals from different organized criminal groups are forced into close quarters.[156] In 2008, a riot broke out in the La Mesa State Prison in Tijuana that left 19 dead and led to the transfer of more than 200 prisoners.[157] The riots were thought to be sparked by unspecified quarreling among organized criminal organizations and continued as inmates were not given food or water as punishment. More recently, in February 2016, a conflict between Los Zetas and other gangs from around Nuevo León broke out in the Topo Chico State

[155] Ibid.
[156] RPP Noticias, "México: Video Muestra Violencia en el Motín del Penal Topo Chico," 2016, http://www.excelsior.com.mx/nacional/2016/02/24/1077066.
[157] Associated Press, "19 Killed in second Tijuana prison riot in days," *Tucson Citizen*, September 2008, http://tucsoncitizen.com/morgue/2008/09/18/97098-19-killed-in-second-tijuana-prison-riot-in-days/.

Prison outside of Monterrey, leaving 49 dead.[158] Criminal groups' ability to self-select housing and remain in close contact to their group members is problematic for riots, among other crimes.

Table 1.4
Number of Violent Incidents in Mexican Prisons, 2013-2015

	Homicides	Fights	Riots
2013	83	1,631	11
2014	49	1,435	5
2015	54	1,382	6

Source: Comision Nacional de Derechos Humanos, "Diagnóstico Nacional de Supervision Penitenciaria: Ceresos, Ceferesos y Prisiones Militares," CNDH, 2013, 2014, 2015.

These are not the only examples of instability within Mexican prisons. In prisons surrounding Mexico City, officials found more than 21,000 cell phones in the last ten years.[159] Many of these phones provide prisoners with a means of continuing organized crime—mainly extortion—from inside prisons. This lack of institutional capacity includes cases of prison guard complicity, prisoner-to-prison guard violence, and the extortion of prisoners' relatives by prison guards.[160] If prison officials cannot handle their prisoners, or worse, are active actors in illicit behavior, then there is little to suggest that illicit behavior will not continue inside and outside the prison walls. The intermingling of criminal groups, together with the forced recruitment of nonaffiliated prisoners, presents a serious efficacy concern within Mexican prisons.

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Finally, Joaquin "El Chapo" Guzman's high-profile escape, despite his eventual recapture, demonstrated Mexico's failure to create stable and secure prisons.[163] Though prison breaks are not common in Mexico, the government's inability to hold its most wanted criminal demonstrates a strong lack of institutional capacity. Unfortunately, there is little to no public

[158] RPP Noticias, "México: Video Muestra Violencia en el Motín del Penal Topo Chico."
[159] Arturo Angel, "Quien Debe Bloquear Los Celulares en la Cárcel? Gobierno Federal y de CDMX Se Echan La Bolita," *Animal Politico*, 2017, http://www.animalpolitico.com/2017/03/celulares-carcel-cdmx/.
[160] Formato Siete, "En Cárceles en México, la Corrupción Absoluta," *Formato Siete*, February 2016, http://formato7.com/2016/02/18/en-carceles-en-mexico-la-corrupcion-absoluta/.
[161] Angel, "Quien Debe Bloquear Los Celulares en la Cárcel?"
[162] Formato Siete, "En Cárceles en México, la Corrupción Absoluta."
[163] David Gagne, "Nearly 50 Dead in Mexico Prison Riot," *Insight Crime*, February 12, 2016, http://www.insightcrime.org/news-briefs/over-50-dead-mexico-prison-riot.

information about prison guards working in Mexico's penitentiary system.[164] CNDH requested information regarding prison employees' identities in 2016, but the government has not produced any public information beyond publicly documenting CNDH's request.

Previous Policies and Legal Structural Framework

Prisons at the municipal, state, and federal levels must meet specific legal standards. Through the Mexican Constitution and international law, there is historical legal precedent for Mexico to provide prisoners with dignified living standards, adequate prison conditions, and rehabilitative programs aimed at reducing recidivism.

First, Article 22 of the Mexican Constitution states that any penalty must be proportional to the crime and well-tried within the judicial system.[165] This means, for example, that a homicide cannot be punished by community service and a minor theft should not result in a multi-year prison sentence. Initially, prison sentencing only considered punishment in relation to the seriousness of the crime, but the definition expanded to require both just and humane treatment within prisons.[166] Finally, a third constitutional principle requires the adequate social reinsertion of the incarcerated population upon release.[167]

This section will not fully address the international legal framework for Mexico's penitentiary system. Yet, Mexico is a signatory to all primary international treaties concerning the rights of prisoners, and international law precedent suggests that Mexican prison conditions do not meet most international law standards.[168] The international legal community guarantees a prisoner's dignity, the protection of human rights, and the right to trial, among other standards. These rights apply to all prisoners regardless of gender, age, race, or the accused crime.[169] Mexico has an obligation, or better said a responsibility, to meet the quality of prison conditions outlined by international standards.

Recent Policy Modifications for Prisons

Since 2008, there have been two major legislative changes and one constitutional modification to Mexico's penitentiary system. These changes include the 2008 judicial reforms, the 2011 modification to Article 1 of the Constitution, and the 2016 National Penal Enforcement Law, among smaller efforts.[170] Each of these reforms aims to address certain aspects of the prison system, though implementation remains inadequate.

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[164] Patricia Lopez Nunes, "CNDH Pide Perfiles de Trabajadores Penitenciarios," *Diario de Querétaro*, September 2016, https://www.diariodequeretaro.com.mx/local/cndh-pide-perfiles-de-trabajadores-penitenciarios/.
[165] Guillermo Zepeda Lecuona, "Situación y desafíos del sistema penitenciario mexicano," *Centro de Análisis de Políticas Públicas*, 2013, http://mexicosos.org/descargas/dossier/estudios/situacion_y_desafios_del_sistema_penitenciario.pdf, 3.
[166] Ibid.
[167] Ibid.
[168] See the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; United Nations Standard Minimum Rules for the Treatment of Prisoners; and Body of Principles for the Protection of ALL Persons under Any Form of Detention or Imprisonment.
[169] See the United Nations Treaty Collection for more information on Mexico's signatory status.
[170] Gagne, "Nearly 50 Dead in Mexico Prison Riot."

The 2008 judicial reforms affect the status of accused individuals who are awaiting trial by requiring that they be released upon bail, instead of incarcerated awaiting their trial. The reforms also intend to reduce overcrowding through the implementation of several "alternatives to prison," which include plea-bargaining, community service, and victim reparations.[171] Yet, there is still a disconnect between the policy's intentions and the reality of implementation. Currently, 42 percent of Mexico's prison population continue to await trial from prison. Upon full implementation, these judicial reforms will have significant implications for prison stability and overcrowding rates.[172]

The 2011 constitutional changes to Article 1 also affect the penitentiary system. These changes call for making prison practices more transparent to better enforce human rights and emphasize social reintegration. The changes require prisons to respect human rights; increase work and capacity for work; and provide education, healthcare, and increase sports opportunities.[173] The judicial reforms passed in 2008 also emphasize social reintegration, or restorative justice. However, neither reform modified the social reintegration principles on a national or systemic basis, primarily due to insufficient funding practices.[174]

Finally, in April 2016, the Mexican Senate unanimously approved the National Penal Enforcement Law.[175] This law reinforces the rights of detainees by clearly prohibiting torture and cruel punishment, eliminating the use of solitary confinement after fifteen days, and requiring the immediate release of those convicted of minor, non-violent crimes.[176] The law additionally extends the social reintegration axes of respect for human rights, job training, education, healthcare, and recreation. This extension includes requiring prisons to hire experts in these social reinsertion fields to ensure that the centers meet the standards.[177] The law even changes the very nature of prison nomenclature, requiring that prisons be called "social reintegration centers" and that prisoners are referred to as "persons deprived of liberty." Such a change in rhetoric aims not only to modify the approach to penitentiary reform, but also to modify the centers' overall purpose. Authorities have four years to implement these guidelines.

Policy Recommendations

The Mexican government's first step is to fully implement the 2008 judicial system reform and adopt the 2016 National Penal Enforcement Law's social reintegration efforts. Yet, to truly improve the country's penitentiary system, the government will also need to address more specific issues related to the centers. Future policies should include ensuring equal rights for all incarcerated individuals, emphasizing restorative justice, eradicating sentencing for minor crimes, better allocating resources for prison officials and institutions, and reducing extradition

[171] David A. Shirk, "Justice Reform in Mexico: Changes and Challenges in the Judicial Sector, Wilson Center, 2010, https://www.wilsoncenter.org/sites/default/files/, 2017.
[172] Beccerril, "México: Saturación en Caréceles Agrava Los Motines y El Descontrol."
[173] Pedro Salazar Ugarte, "La Reforma Constitucional Sobre Derechos Humanos," *Instituto Belisario Dominguez*, 2012, http://corteidh.or.cr/tablas/r33063.pdf, 52.
[174] Clare Ribando Seekle and Kristin Finklea, "U.S.-Mexican Security Cooperation: the "Mérida Initiative and Beyond," *Congressional Research Service*, January 2017, https://fas.org/sgp/crs/row/R41349.pdf., 6-7.
[175] LaSusa, "Mexico Senate Unanimously Approves Prison Reforms."
[176] Ibid.
[177] Interview by PRP students with Prison Official, Chihuahua Prison, Mexico, April 8, 2017.

to the United States. While the timeframes and monetary requirements vary, each recommendation is achievable. Focusing attention on the following seven policy recommendations will improve the rights of prisoners, prison security, and overall institutional capacity.

- **Ensure the equality of all incarcerated individuals**. Federal and state prisons differentiate individuals based on sex, severity of crime (high security versus low security), and between indigenous and non-indigenous populations. These distinctions do not go far enough. Ensuring the equality of all incarcerated individuals' rights should be prison reform's primary focus. Prison officials need to acknowledge criminal group affiliations upon entry to the prison population and attempt to limit grouping affiliations into specific areas. Ways to identify criminal group affiliation include tattoos, police reports, and the address of the inmate, if certain neighborhoods are controlled by specific criminal groups.

  After determining a prisoner's criminal affiliation, officials should diversify the prison population to ensure that each housing area has a balanced group of organized criminal members.[178] By disbursing affiliations throughout the prison, no one group can dominate the center. This is especially important for prisons with populations that are dominated by only a few criminal organizations. In the case that 50 percent or more of a prison population is from one criminal organization, all members of that group should be housed in a single area without access to other housing areas. Individuals awaiting sentencing should never interact with individuals already convicted. After implementing the 2008 judicial reform, prisons should not house individuals awaiting trial, but until then they should provide separate housing.

  In response to the violation of inmates' rights by prison officials, an anonymous mechanism should be created to allow inmates to make formal complaints. These complaints should be sent to both PGR and the Federal Penitentiary Agency for further investigation. The anonymity of this mechanism will be ensured through a secure server. For inmates that are not comfortable making official complaints, there should be a biannual interview process where a third-party interviews each prisoner to ensure fair and equal treatment of prisoners.

- **Reduce complicity of prison officials**. Given persistent organized criminal activity within prisons, the Mexican government should prioritize addressing prison officials' complicity. According to CNDH, 60 percent of prisons are controlled by the inmates and between 2010 and 2012, and more than 500 prisoners escaped.[179] Currently, there is not a holistic, public report on prison official complicity. As such, a holistic report from the Mexican federal government and organizations like CNDH is needed to understand the extent of prison official complicity in the penitentiary system. While there is very little political incentive for the report to be made public, an increase in prison practice transparency should be emphasized. A way to incentivize political support is by making prison funding to states contingent on public reporting of complaints and investigations.

[178] Ibid.
[179] "Inmates Control 60% of Mexican Prisons: Report," *Insight Crime*, September 2012, http://www.insightcrime.org/news-briefs/inmates-control-mexican-prisons.

Prison officials also need to focus on professionalization. There is little language in the recent reforms to require prison officials' professionalization and the current hiring standards for prison officials is not public. If a series of hiring protocols does not exist, it will be necessary to create them. These practices should include extended vetting of prison officials, training on all five restorative justice axes, polygraphs every three years, drug tests once a year, annual home visits, and annual anonymous performance evaluations (or surveys).[180] These changes may not result in improving the prison conditions immediately, but they lay a clear foundation for prison performance expectations. Prison officials who are convicted of wrongdoing should be prosecuted to the strongest extent of the law. The prosecution of corrupt officials is a deterrent for future poor behavior.

- **Prioritize the accreditation of prisons nationwide**. The accreditation of prisons is necessary to lower levels of complicity and violence in Mexico's prisons. Currently all federal prisons are accredited by the American Correctional Association and each state is on track to have at least one state prison accredited by the end of 2017.[181] Some states, like Chihuahua, have accredited all of its state prisons.[182] After full accreditation, Chihuahua's state prisons have not reported a single brawl, riot, or homicide.[183]

  The current American Correctional Association system is broken into mandatory and non-mandatory standards. These mandatory standards include safety, security, order, care, programs, justice, and administration.[184] Specific standards depend on the type of facility (female, male, juvenile, or high security). To be accredited, prisons must only meet the standards relevant to their facility.

  The Mexican government should create their own accreditation system, based on the country's specific situation and priorities. The new accreditation system would allow Mexican prisons to accredit their centers more quickly because Mexico would not be forced to comply with requirements that only concern U.S. prisons. The new accreditation system should be based on social reintegration principles and should address the security and funding constraints in the centers. Mexico should continue implementing the United States' accreditation system until the new system is complete.

- **Emphasize restorative justice**. To limit prison overcrowding, Mexico should focus on reducing the recidivism rate. In 2014, approximately 12 percent of incarcerated individuals who were sentenced ultimately returned to prison for another crime.[185] To lower this rate, the

[180] Some of the practices currently exercised in the Mexican federal government include: hiring practices, extended vetting, and home visits. There is not public information to describe the anti-complicity efforts of the penitentiary system specifically. Interview with CISEN, March 14, 2017.
[181] Interview with United States Embassy, Mexico City, Mexico, March 13, 2017.
[182] Interview with Chihuahua State Prison Official, April 8, 2017.
[183] Excélsior, "Ceresos de Chihuahua certificados al 100%," *Excelsior*, May 2016, http://www.excelsior.com.mx/nacional/2016/05/28/1095326.
[184] American Correctional Association, "What are ACA's Standards?" http://www.aca.org/ACA_Prod_IMIS/ACA_Member/Standards___Accreditation/Standards/ACA_Member/Standards_and_Accreditation/StandardsInfo_Home.aspx.
[185] Ana Cecilia Escobar, Ruben Rivera, and Cynthia Castaneda, "12 de cada 100, reincidencia delictiva en México," *Periodismo de Guerra*, 2013, https://periodismodeguerra.wordpress.com/2014/05/31/12-de-cada-100-reincidencia-delictiva-en-mexico/.

government needs to better prioritize the five precepts of restorative justice. These precepts include respect for human rights, job training, education, healthcare, and recreation. The 2016 Penal Enforcement Law requires that prisons follow these precepts, though the law gives prisons four years to increase their social reinsertion capacities.

The top priority should focus on job training to push ex-inmates toward productively contributing to society once they leave prison, and not return to illicit behavior. Job training includes assisting individuals with learning trades, preparation for job interviews, and providing money management skills. This aspect of restorative justice will create a stronger sense of self-empowerment for incarcerated individuals. However, job training is not enough to ensure that inmates are socially reinserted following their release from prison.

One successful model for individuals convicted of non-violent crimes is the "penitentiary industry systems" for incarcerated individuals.[186] Coahuila pioneered this model by allowing local businesses to operate inside male and female prisons.[187] These programs allow prisoners to learn skills, earn money, and begin the restorative justice process prior to release. Penitentiary Industry Systems train skills to inmates in manufacturing jobs, and in some cases, even high-skilled manufacturing. This is attractive to companies since they receive a consistent workforce that creates the same products as employees outside of prison. This is only an attractive model for companies and prisons located in states with high levels of manufacturing. As such, this program cannot necessarily be implemented on a nationwide basis.

- **Remove sentencing for minor crimes.** For individuals charged with property crimes under US$80, or with marijuana possession of less than five ounces, there should be a focus on the alternative practice of community service and reparation fees. The 2016 National Penal Enforcement Law requires this practice. Sentence commutation reduces overcrowding and encourages future positive behavior.[188] The threshold for minor crimes must be clear to both the general population as well as those adjudicating cases. Reducing sentencing for minor crimes should be a policy that is emphasized by both law enforcement and the judiciary. Prisons should also analyze their prison population demographics to identify inmates who currently meet the commutation criteria. Those individuals should have their sentences commuted. In doing so, non-violent criminals would not be introduced to violent criminals or organized criminal groups. For repeat offenders, regardless of their crimes' non-violent nature, prison sentences should be an option at the discretion of the prosecutor.

- **Reallocate penitentiary resources.** According to CNDH, only one state, Aguascalientes, meets the Interdisciplinary Technical Council's standard of adequate prisons and performance, with thirteen states completely failing to meet the standards.[189] The remaining states are partially compliant with the council's requirements. To meet these standards, future budgets should first be allocated toward state prisons, and more specifically, the institutions'

[186] Interview with Reinserta NGO, 13 March 2017.
[187] El Diario de Coahuila, "Industria Penitenciaria Segunda Oportunidad," February 6, 2012, http://www.eldiariodecoahuila.com.mx/locales/2012/2/6/industria-penitenciaria-segunda-oportunidad-276478.html.
[188] LaSusa, "Mexico Senate Unanimously Approves Prison Reforms."
[189] Comision Nacional de Derechos Humanos, "Diagnostico Nacional de Supervision Penitenciaria 2015."

security and sanitation programs. Such financial reallocation should include, but not be limited to, hiring of more prison officials, training existing prison officials, updating the sanitation of prison dormitories, and providing medical care for both injuries and illnesses at all centers. In 2016, the Federal Penitentiary Agency budget was increased by 5 percent.

At a state level, the government should create an advisory structure to understand the financial and personnel concerns at prisons in each region of the country. Each state should have a council composed of experts on security, health, education, and social development. This council would receive federally allocated money and then provide the funds to federal, state, and municipal prisons. This funding could be tailored to each state's specific needs. The council would oversee improving the centers' sanitation protocols, sending prison officials to annual security and social reinsertion trainings, conducting annual prison evaluations, and ensuring defined living quarters based on criminal affiliation or sentencing status.

- **Reduce extraditions to the United States**. From 2015 to 2016, the number of extraditions to the U.S. more than doubled. President Enrique Peña Nieto argued against extradition as his administration aimed to increase the federal government's judicial and prison capacity.[190] As a long-term policy recommendation, Mexico should reduce extraditions to the U.S. over the coming decade. In preparation for capacity increase, Mexico should not construct more federal prisons, but rather should focus on strengthening the maximum security federal prisons that already exist.

[190] David Saúl Vela, "Se Duplica en 2016 el Número De Extradiciones a Estados Unidos," *El Financiero*, May 8, 2016, http://www.elfinanciero.com.mx/nacional/se-duplica-en-2016-el-numero-de-extradiciones-a-estados-unidos.html

Chapter 2.
Addressing Domestic Politics and International Policies

Impunity, corruption, and lack of transparency pervade parts of Mexico's political sphere, allowing organized crime to flourish. This chapter addresses three topics—elections and political engagement, criminal justice reform, and international cooperation—and highlights opportunities to strengthen the Mexican government's institutions in these three areas through reforms or priority shifts.

The first section on elections and political engagement will cover threats to the legitimacy of the electoral and campaign financing institutions and how improvements can better prevent organized criminal influence and ensure citizen confidence in the electoral process. The second section on criminal justice reform covers the transition from an inquisitorial to an adversarial judicial system, and the hurdles that remain for bringing most states and municipalities to full implementation. While the third section on international cooperation addresses how strengthening Mexico's global, regional, and bilateral relationships can provide more opportunities for collaborating on transnational criminal organizations and strengthen Mexico's domestic efforts.

Elections and Political Engagement

There are serious dangers involved in running for elected office in Mexico. In local, state, and federal elections that took place from 2008 to 2015, 30 candidates were murdered and "dirty" money from organized crime has funded gubernatorial and municipal candidates, rendering the state government vulnerable to their influence.[191] This section will introduce the structure of campaign financing, then the two largest concerns regarding criminal organizations' involvement in election financing, and finally the constant threat that they pose for citizens participating in the electoral process as a candidate, observer, or National Federal Institute (INE) official.

An Evolution of Mexico's Electoral Institutions

In 1986, political parties in Mexico were granted the constitutional right to receive public funding in order to operate.[192] This constitutional right served as the background for the creation of the Federal Code of Institutions and Electoral Procedures (COFIPE) in 1990, which then formed the basis of the Electoral Federal Institute (IFE), the institution that provides oversight, transparency, and validates the electoral results.[193,194] Further electoral reforms in 1993 and 1994

[191] "Evaluación De La Elección 2015: Contexto, Calidad y Resultados," *Integralia Consultores*, June 14, 2015, http://www.integralia.com.mx/content/publicaciones/013/ReporteElectoral1.pdf.
[192] Instituto Nacional Electoral, "Political Parties Juridical and Financing and Conditions of Equity," accessed November 15, 2016, http://www.ine.mx/archivos3/portal/historico/contenido/Political_Parties_Juridical_and_Financing_and_conditions_of_equity/.
[193] Instituto Nacional Electoral, "Reform 2009," accessed November 15, 2016, http://www.ine.mx/archivos3/portal/historico/contenido/Reform_2009_English/.
[194] Ibid.

added to IFE's responsibilities to regulate and establish campaign spending limits, as well as expand its jurisdiction to cover elections at the state and municipal levels.[195]

More than 20 years later, significant electoral changes were also introduced in the 2007 and 2014 electoral reforms. There were five main changes in the 2007 electoral constitutional and legal reforms, which included mechanisms for political parties and campaigns' financing and oversight, election regulations, and conditions for equity.[196] These were particularly important given the added mechanisms to ensure a fairer electoral process. Among the most important changes of the 2014 reform were the centralization of the electoral processes at the state and municipal level, renaming the IFE as the National Federal Institute (INE), and allowing independent candidates to run in elections at all levels.[197]

Another aspect of the 2014 constitutional reform was stronger efforts to reduce campaign spending that exceeded INE's electoral cap. To address this challenge, the reform introduced fines and the possibility of election nullification when total financing exceeded the cap by 5 percent.[198] Through this centralization of electoral regulations and imposed spending caps, INE has sought to reduce the amount of dirty money entering Mexico's elections.

Campaign Financing and Organized Crime

Parties and independent candidates are publicly funded by INE. Figure 2.1 shows how funding is distributed in two different ways: 30 percent of the funds destined for political parties is equally distributed among the participating parties, and the other 70 percent is allocated according to the percentage of the vote that each party obtained in the previous mid-term election.[199] Independent candidates still receive public financing, but for distribution purposes, INE counts all of the independent candidates as a political party and then distributes the funding in equal thirds. Out of the funds destined for independent candidates, one-third is distributed equally among all the independent presidential candidates, one-third is distributed equally among all tickets (*formulas*) running for senate, and the remaining third goes to the candidates running for the lower house.[200]

Most states apply the same model for state elections, for instance Baja California also counts all of the independent candidates as a political party then distributes the funding in equal 33.3

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195 Ibid.

196 Instituto Nacional Electoral, "Reform 2009."

197 Instituto Nacional Electoral, "INE: Reforma Político Electoral 2014, Información Que Debes Conocer," accessed November 13, 2016, http://www.ine.mx/archivos2/CDD/Reforma_Electoral2014/investigacion_y_analisis.html.

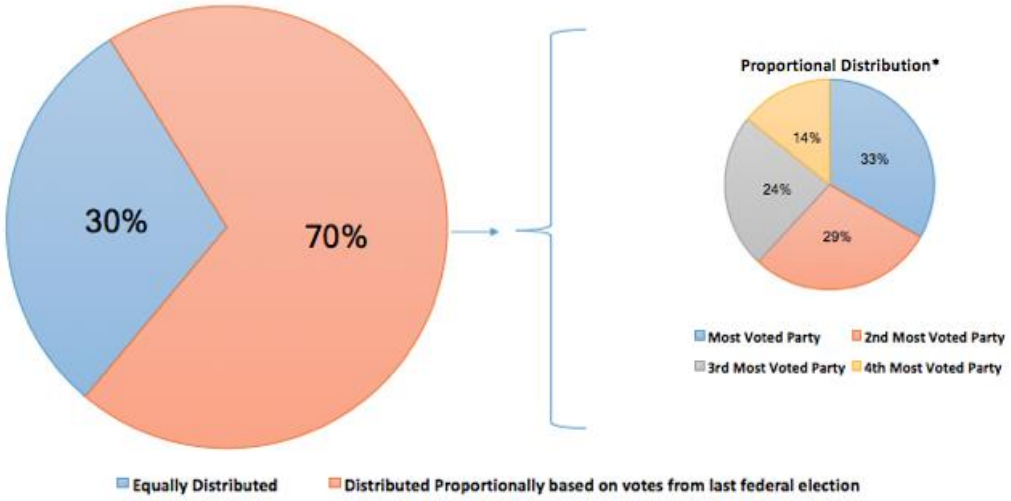
198 Angelle Hernandez, "Causara Nulidad de la Eleccion Rebasar Topes a Gastos," *El Financiero*, October 12, 2014, http://www.elfinanciero.com.mx/politica/causara-nulidad-de-la-eleccion-rebasar-los-topes-a-gastos-ine.html.

199 Instituto Nacional Electoral, "Res. INE/CG623/2016 Acuerdo del Consejo General del Instituto Nacional Electoral por el que se Establecen las Cifras del Financiamiento Público," October 11, 2016, http://www.ine.mx/archivos3/portal/historico/recursos/IFE-v2/DS/DS-CG/DS-SesionesCG/CG-acuerdos/2016/08_Agosto/CGex201608-26/CGex201608-26-ap-1.pdf.

200 Instituto Nacional Electoral, "INE: Rendición de cuentas para las candidaturas independientes," accessed November 10, 2016, http://www.ine.mx/archivos2/portal/PartidosPoliticos/Fiscalizacion_y_rendicion_de_cuentas/Candidatos.html.

percent parts.[201] Out of the funds destined for independent candidates when gubernatorial elections take place, one-third is equally distributed among all the gubernatorial candidates, one-third distributed equally among all candidates running for mayor, and the remaining third goes to the candidates running for the state congress. When there is no gubernatorial election, the funds are distributed in two 50 percent parts, one half equally distributed among candidates running for mayor and the other half for candidates running for state congress.[202]

Figure 2.1
National Federal Institute's Distribution of Public Funds



Source: Instituto Nacional Electoral, "Res. INE/CG623/2016 Acuerdo del Consejo General del Instituto Nacional Electoral por el que se Establecen las Cifras del Financiamiento Público," October 11, 2016, http://www.ine.mx/archivos3/portal/historico/recursos/IFE-v2/DS/DS-CG/DS-SesionesCG/CG-acuerdos/2016/08_Agosto/CGex201608-26/CGex201608-26-ap-1.pdf.

Private contributions are also permitted. For this purpose, INE's General Council established that during the 2015 electoral process, the limit for private funding of campaigns was MX$153 million. Out of this total funding, MX$78 million was the cap for party members' contributions, MX$37.4 million was for private citizens, and MX$37.4 million was for the candidates themselves.[203] Private funding for independent candidates is also permitted, although they are only allowed to receive 10 percent of the established financial cap from their supporters and/or their own money.[204]

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201 Orden Jurídico Nacional, "Ley que Reglamenta las Candidaturas Independientes en el Estado de Baja California," http://www.ordenjuridico.gob.mx/Documentos/Estatal/Baja%20California/wo105713.pdf.
202 Ibid.
203 Instituto Nacional Electoral, "Establece INE Límites De Financiamiento Privado a Partidos Políticos Durante 2015," January 22, 2015, http://www.ine.mx/archivos3/portal/historico/contenido/comunicados/2015/01/017.html.
204 Instituto Nacional Electoral, "INE: Rendición de cuentas para las candidaturas independientes."

In order for parties and independent candidates to justify their spending to electoral authorities, they must make detailed ledgers and filings that describe their expenditures. However, even though INE verifies these ledgers, not much is done to enforce the spending cap.[205]

This inability to oversee stakeholder spending in the election process gives criminal organizations an opening to influence the elections with cash or other benefits—such as basic pantry items—or through threats and intimidation. Criminal organizations exploit this flaw within INE's verification process to sway the electorate toward their chosen candidates and increase their grip in the political arena.[206] One notorious example is the former governor of Tamaulipas, Tomas Yarrington, who was recently apprehended in Italy and accused of having criminal organizations fund his election campaign.[207]

Security for People Involved in the Political Process

The security of the people involved in the political process, whether candidates, party officials, judges, or observers, must be a priority for Mexican authorities. According to a report by the consulting firm Integralia, there were 107 acts of violence registered against candidates and electoral authorities in elections from from 2008 to 2015.[208] Integralia reports that the three most common forms of violence were kidnapping, assassination, and stolen ballot boxes. Out of these 107 cases, 30 involved the murder of the candidate, 10 involved kidnapping a candidate or his/her family, and 67 were situations involving stolen ballot boxes.[209] Elected officials, activists, and local officials are also prone to violence. *Nexos* magazine reports that from 2007 to 2014, organized crime took the lives of 82 mayors, 64 municipal officials, and 39 activists.[210]

After the spike in violence surrounding the 2012 presidential elections, the INE—along with the federal government—designed a security protocol to provide security to candidates.[211] Since its creation, INE has provided special security measures for presidential candidates, but after the 2012 elections, it expanded these capabilities to include any candidate running for Mexico's lower house or senate.[212] The strategy also provided security training and crisis response for people that served a role within the electoral process.[213] In the 2015 electoral process, INE

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205 Patrick Corcoran, "Can Mexico's Electoral Authority Stop Criminal Funding?" *Insight Crime*, May 11, 2015, http://www.insightcrime.org/news-analysis/can-mexicos-electoral-authority-stop-criminal-funding.

206 "Crimen Organizado Financia Partidos Y Candidatos: Tovar," *E-consulta Veracruz*, April 27, 2015, http://www.e-veracruz.mx/nota/2015-04-27/elecciones/crimen-organizado-financia-partidos-y-candidatos-tovar.

207 Federal Bureau of Investigation, "Former Governor of State of Tamaulipas, Mexico Indicted in the Southern District of Texas," December 2, 2013, https://archives.fbi.gov/archives/sanantonio/press-releases/2013/former-governor-of-state-of-tamaulipas-mexico-indicted-in-the-southern-district-of-texas.

208 "Evaluación De La Elección 2015: Contexto, Calidad y Resultados*," Integralia Consultores*, June 14, 2015, http://www.integralia.com.mx/content/publicaciones/013/ReporteElectoral1.pdf.

209 Ibid.

210 Guillermo Trejo and Sandra Ley, "Municipios bajo fuego (1995-2014)," *Nexos*, accessed February 1, 2015, http://www.nexos.com.mx/?p=24024#ftn4.

211 "El IFE Y La Segob Diseñan Protocolos De Seguridad Para Las Elecciones," *Expansión*, January 16, 2012, http://expansion.mx/nacional/2012/01/16/el-ife-y-la-segob-disenan-protocolos-de-seguridad-para-las-elecciones.

212 Ibid.

213 Ibid.

provided security details via the Federal Police in the state of Guerrero to candidates running for governor.[214] While it is certainly a step in the right direction, more should be done to guarantee the security of the people involved in Mexico's electoral processes.

The states that suffer the most in terms of electoral violence are Tamaulipas, Sinaloa, Chihuahua, and Durango, according to a report by *Nexos*.[215] The situation is extremely delicate, with some states going as far as not registering candidates or removing their candidates. For instance, in the case of the 2016 electoral process in Tamaulipas, the *Partido de la Revolucion Democratica* (PRD) did not register candidates in three municipalities due to threats against them.[216]

Screening candidates is also a concern, and those with ties to criminal organizations should not be allowed to reach elected office. Failure to screen candidates has led to cases such as Iguala's former mayor Jose Luis Abarca—who was involved in the disappearance of 43 students from Ayotzinapa—whose links to criminal organizations were ignored by the federal government and the PRD, according to a report by *Aristegui Noticias*.[217] However, there are other instances where political parties do act on accusations of their candidates' links to organized crime, such as in 2016 when the PRI removed their candidates for mayors from the municipal elections in Hidalgo, Villagrán, and Mainero, all in the state of Tamaulipas, over ties to criminal groups.[218]

The institutional failures behind offering candidates proper security or conducting screening and background checks have resulted in voters feeling alienated from the electoral process. Mexico's low voter participation highlights the growing dislike of all the establishments, and INE's ineffectiveness for monitoring and regulating the electoral process and providing a safeguard for both candidates and voters.

Policy Recommendations

Mexico's recent reforms have positively affected some aspects of the electoral process. However, challenges such as decreasing criminal organizations influence and ensuring security for everyone involved in the electoral process should still be addressed in order to reduce the electoral process' vulnerability to illegal money and ensure citizen confidence.

- **Reduce flow of illegal money by reforming INE**. To reduce the flow of illegal money that criminal organizations inject into the electoral process, a Financial Unit under INE's Fiscal Unit should be created to more closely monitor the spending and donations received by both independent candidates and political parties. Expanding the financial monitoring capabilities

214 Liliana Padilla, "INE pedirá seguridad para candidatos en Guerrero: Navarrete," *Milenio*, March 16, 2015, http://www.milenio.com/politica/INE_elecciones_Guerrero_PRD-seguridad_candidatos_Guerrero-elecciones_seguridad_0_482351910.html.

215 Trejo and Ley, "Municipios bajo fuego (1995-2014)."

216 Rivelino Rueda, "De 2008 a 2015, Violencia Dejó 30 Candidatos Muertos," *El Financiero*, April 10, 2016, http://www.elfinanciero.com.mx/nacional/de-2008-a-2015-violencia-dejo-30-candidatos-muertos.html.

217 "La historia de un narcoalcalde en Iguala, Guerrero," *Aristegui Noticias*, October 8, 2014, http://aristeguinoticias.com/0810/mexico/la-historia-de-un-narcoalcalde-en-iguala-guerrero/.

218 "El Pri Expulsa a 3 de sus candidatos en Tamaulipas por Vinculos con el Crimen Organizado," *Animal Político*, May 8, 2016, http://www.animalpolitico.com/2016/05/el-pri-expulsa-a-3-de-sus-candidatos-en-tamaulipas-por-vinculos-con-el-crimen-organizado/.

of the Fiscal Unit will allow INE to better supervise parties out of election years and not just during election years. Expanded capabilities would include a dedicated team to audit ledgers, bank conciliations, ad-buying, and campaign "goodies" in order to be certain that the money comes from either the candidate, approved donors, or the political party. There would be complete anonymity for the Financial Unit's employees and no direct contact with party officials to help avoid conflicts of interest.

At the same time, another change should focus on the private donation process. The potential for misusing funds originates with INE's distribution of funds to political parties. Instead of having political parties receive donations directly and then report it to INE through expenditures ledgers, political donations should be first deposited within the newly created Financial Unit. The Financial Unit would conduct a thorough investigation into the money sources and then disburse the money to the party or independent candidate. In order to provide monitoring capabilities at the state and local level, the Financial Unit needs to have representatives in high-risk states such as Tamaulipas, Veracruz, Sinaloa, Chihuahua, Zacatecas, and Durango. During the electoral process, the Financial Unit will be tasked with monitoring spending on a weekly basis. Campaign officials will make a weekly report detailing spending and expenditures and deliver it to their state's Financial Unit to provide real-time monitoring. The Financial Unit along with the Fiscal Unit would also control and monitor spending more closely.

A recent report published by INE's internal comptroller revealed irregularities of close to MX$570 million in expenditures that were made last-minute so that political parties did not have to return public funds to the Federal Treasury.[219] Because they kept those funds for the next year, instead of panic shopping the money could be used to fund the Financial Unit and also recommendation number four.

- **Add campaign finance violations under the federal law to detect and identify operations with illegal resources**. Campaign financing must be listed in the activities that are "vulnerable and subject to identification and reporting" if unusual activity is observed under the Federal Law to Detect and Identify Operations with Illegal Resources.[220] This would support the Financial Unit's efforts to crack down on dirty money in the electoral process, focusing INE's efforts on constant monitoring and creating a channel to work alongside the Attorney General's office for enforcement.

- **Conduct publicly available background checks on political candidates**. In order to reduce the number of candidates that have ties to criminal organizations, Mexico's PGR and INE should design and enforce a stronger vetting process.

  Currently INE's Fiscal Unit takes 37 days to analyze campaign spending projects submitted by parties and independent candidates.[221] INE along an independent civilian oversight group

219 Hector Gutierrez, "Usa INE 569 mdp para evitar devolverlos," *Reforma*, March 7, 2017.

220 Diario Oficial de la Federación, "Decreto por el que se expide la Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita," October 17, 2012.

221 Instituto Nacional Electoral, "Fiscalizacion y Rendicion de Cuentas" accessed November 5, 2016, http://www.ine.mx/archivos2/portal/PartidosPoliticos/Fiscalizacion_y_rendicion_de_cuentas/ABCfiscalizacion.html.

should enforce a similar system to investigate candidates and conduct serious background checks after political parties first conduct their own investigation. INE could enlist help from the PGR, who could then publicly recognize that the candidate has no ties with criminal organizations. This proposed two-filter system, in which cooperation is key, would reduce the number of candidates that have ties to criminal organizations. Both the parties and the INE and PGR would be politically and professionally accountable for the failure to detect corrupt candidates. Further, making the results publicly available would allow journalists to investigate and inform the public, adding an additional check and balance.

- **Fund protection of candidates and electoral system workers**. Protecting political candidates and electoral system workers requires significant funding from the federal government. Congress should allocate additional resources toward security details and training for candidates, electoral officials, and observers in the zones with the highest risk of organized crime involvement. A program already exists for training electoral workers in self-defense, but states with high levels of violence should not expect or require election workers to be responsible for their own safety.

  In high-risk states, more resources should be allocated toward protecting candidates' security and integrity. A mix of the presidential guard and private security contractors should be hired to safeguard candidates in critical zones where violent crimes have been registered against candidates. An open public process to select private contractors that are interested in providing security should take place. As noted before, instead of panic shopping, some of the funds can come from those extra MX$570 million misappropriated funds.

Criminal Justice Reform

In 2008, under the Felipe Calderón Administration, Mexico passed a constitutional amendment requiring municipal, state, and federal judicial systems to transition from a "mixed inquisitorial" criminal justice system to an adversarial system by June 2016. The goal of this undertaking is to increase transparency, accountability, and effectiveness across all levels of the criminal justice system and to reduce corruption. These changes are meant to increase citizen confidence in the judicial system and curtail abuses by organized crime. While most states have completed the transition, major hurdles remain to bring municipalities on board, ensure the public is educated on the changes, and that judges, lawyers, police officers, and other criminal justice employees have access to training and remain safe.

Inquisitorial vs. Adversarial Systems

Mexico's transition from an inquisitorial judicial system to an adversarial one is highly complex due to the manifest differences of each system. An inquisitorial system, a product of civil law, is practiced by most of mainland European countries and their former colonies. In an inquisitorial system, the court is actively involved in investigating and questioning the facts of a case brought before the court by the prosecution and defense.[222] Mexico's federal codes and procedures, passed in 1934, altered the traditional inquisitorial system by requiring defendants to argue their

[222] Joseph Dainow, "The Civil Law and the Common Law: Some Points of Comparison," *American Society of Comparative Law: The American Journal of Comparative Law*, 15, no. 3 (1966-1967): 420-423.

cases before an opposing party instead of a neutral magistrate. Such modifications led to Mexico's judicial system being designated as a "mixed inquisitorial" system.[223]

Before the 2008 judicial reform, the prosecution and defense would submit documents to the judge (or judges in some cases) who ruled on the evidence shown in those documents. The primary motivating factor of a case was ensuring the arguments put forth in the documents "conform to the letter of the law."[224] Mexico's federal criminal law was established in two sets of codes, the Federal Criminal Code (*Código Penal Federal*) and Federal Code of Criminal Procedures (*Código Federal de Procedimientos Penales*). Additionally, each Mexican state has its own set of codes and procedures.

By contrast, an adversarial system relies on oral arguments made before a judge and jury and the common law, or judicial precedent, created by previous court rulings.[225] The judge serves as a referee between the two adversaries, defense and the prosecution, and the jury declares a verdict after deliberating the merits of the arguments presented by each side, guided by evidentiary standards of review. The adversarial system originated in England and spread to British colonies, including the United States and most of Canada.

In Mexico's pre-2008 inquisitorial judicial system, one problem was the enormous power given to the public prosecutor, who acted as primary investigative authority. The prosecutor's investigation was legally presumed to be conducted in good faith, and there was little oversight or accountability if evidence was planted, confessions were coerced, or the decision to not pursue an investigation was motivated by corruption.[226] A second flaw was a reliance on a written compilation of evidence. The judge rarely heard oral presentations during the evidentiary stage, and the defense was not able to cross-examine witnesses presented by the prosecution. The accused frequently languished in prison during the long evidentiary period, waiting for a conviction and sentencing by the judge.

This system was perceived to be beneficial to organized crime. Prosecutors and judges were easy to bribe as so few people were involved in the process and there was little oversight. The main objectives of transitioning to an adversarial-based criminal procedure where evidence is presented by oral argument before an open court, neutral judges are part of a system of checks and balances, and there is an active defense of the accused, is to make the judicial process more transparent and less weakened by corruption, inefficiency, and ineptitude.[227]

Elements of the 2008 Judicial Reform

The judicial reforms passed in 2008 involve numerous procedural changes and constitutional amendments passed by the Mexican Congress. These reforms aim to increase transparency,

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223 William Hine-Ramsberger, "Drug Violence and Constitutional Revisions: Mexico's 2008 Criminal Justice Reform and the Formation of Rule of Law," *Brook. J. Int'l L* 37 (2011): 294-295.

224 Jane Kingman-Brundage, "Mexico's Traditional Criminal Justice System: A Layperson's Guide," Justice in Mexico: Working Paper Series, vol. 14, no. 4, March 2016, 2

225 Dainow, "The Civil Law and the Common Law ," 424-425.

226 Hine-Ramsberger, "Drug Violence and Constitutional Revisions," 296.

227 Ibid., 302.

accountability, and emphasize due process at all levels. The changes are wide-ranging and impact every part of the criminal justice system including administrators, judges, defense attorneys, prosecutors, police, and penitentiary employees, and will result in a new conception of justice for the Mexican public.[228]

It is widely noted that judicial reforms gained political support and momentum after increased violence by organized crime in 2007. However, the Mexican public has shown a lack of trust in the criminal justice system for decades. An important statistic that demonstrates this distrust is the dark figure (*cifra negra*), or calculated percentage of crimes that go unreported to officials or lack any official action. According to the 2016 National Survey on Victimization and Perceptions of Public Safety (ENVIPE) that covers 2015 data, only 10.5 percent of crimes were reported to the public attorney, and from that number 59.6 percent led to a preliminary inquiry, the first step of prosecution.[229] This means that from the total crimes reported, only 6.3 percent were prosecuted. A staggering 93.7 percent of crimes committed in 2015 were either not reported to the public attorney or were reported but an investigation was not pursued for various reasons. This so-called "dark figure" for crime has been consistent since the ENVIPE survey began in 2010, hovering between 91 percent and 94 percent. Citizens surveyed by ENVIPE in 2016 stated that in 63 percent of cases they did not report crime due to causes attributable to the authorities, such as "fear of being extorted, waste of time, long and difficult paperwork, distrust of authority, or a hostile authority."[230]

The judicial reforms are meant to address all "causes attributable to the authorities" that citizens cited in the ENVIPE survey. The reforms include four major aspects. The first is a significant change in Mexican criminal procedures through the introduction of oral arguments and adversarial-style trials held in open courtrooms. Prosecutors and judges can also now recommend alternative sentencing, such as plea-bargaining and outside dispute resolution. By handling a greater number of lower-level cases outside of court, this reform is intended to encourage "restorative justice" and efficiency.[231] In states where the new system has already been implemented, the entire criminal justice process has been reduced from an average of 170 to 185 days per crime to under 30 days per crime due to cases being settled out of court.[232]

The second major aspect of criminal justice reform is establishing rights for the accused such as due process, the assumption of innocence until proven guilty, outlawing coerced or tortured confessions, and supplying an adequate legal defense. A judge specifically devoted to ensuring due process during the preliminary investigation period, separate from the judge that will hear the case at trial, is charged with protecting the rights and interests of the accused, the victim(s),

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228 David Shirk, "Justice Reform in Mexico: Change and Challenges in the Judicial Sector," *Mexican Law Review,* vol. III, no. 2. (January–June 2011):205.

229 INEGI, "Encuesta Nacional De Victimización y Percepción Sobre Seguridad Pública (ENVIPE) 2016," September 27, 2016, accessed 15 February 2017, http://www.inegi.org.mx/saladeprensa/boletines/2016/especiales/especiales2016_09_04.pdf, 11-12.

230 INEGI, "Encuesta Nacional De Victimización," 12.

231 Shirk, "Justice Reform in Mexico," 216-217.

232 Arturo Angel, "Se Acabó el Tiempo: Solo Cuatro Estados Están Listos para Implementar el Nuevo Sistema Penal," *Animal Politico,* June 3, 2016, accessed November 5, 2016, http://www.animalpolitico.com/2016/06/se-acabo-el-tiempo-solo-cuatro-estados-estan-listos-para-implementar-el-nuevo-sistema-penal/.

and any witnesses.[233] This change is intended to reduce the power of the public prosecutor, ensure the impartiality of judges, and establish the protections of a public defender. A similar subsection requires trial judges to be present during the trial arguments, and that a separate judge oversees sentencing implementation, serving a similar role to a parole board in the United States. This section of the reform seeks to limit pre-trial detention of suspects without cause and provide the opportunity for a suspect to provide bail.

An expansion of the police's duties and responsibilities is the third aspect of the judicial reform. Police will now play a larger role in the investigation of criminal activity through evidence-gathering, interviewing witnesses, and working with prosecutors to build a case.[234] Through additional responsibilities, the reform aims to make police more specialized and professional, reducing corruption and the influence of organized crime.

The last section of the reform concentrates on combating organized crime. When the accused is suspected of being associated with organized crime, s/he loses much of the protections guaranteed by law and may be detained for longer periods without criminal charges, as determined by the judge.[235] Assets may be forfeited and additional fines imposed if the perpetrator kidnaps women, children, or those considered "vulnerable individuals."[236] Civil society groups in Mexico, such as the National Network of Oral Trials (*Red Nacional de Juicios Orales*) have raised concerns that carving out loopholes to due process for those merely accused of crimes creates an exceptional judicial regime and also encourages human rights violations by police.[237]

Implementation of Judicial Reform: Federal, State, and Local

Although the first attempts at judicial reform began as early as 2004 during President Vicente Fox's administration, it was the 2008 constitutional amendments that provided momentum for state governments to start the reform process and attached a June 2016 deadline for implementation. Yet only in 2013, under Enrique Peña Nieto's administration, did the federal government allocate sufficient funding to the federal coordinating secretary.[238]

In 2014, a new federal judicial procedure, the National Code of Criminal Procedure (*Código Nacional de Procedimiento Penal,* CNPP) was agreed upon, which has served as a template from which the states could build their own criminal procedures.[239] All 32 federal district courts met the June 2016 deadline for transition, and, as of August 2015, 485 cases were tried in the eight districts already operating with the new system. However, as of June 2016, some federal districts had only one federal circuit operating, with plans to build more court facilities in areas of high

233 Shirk, "Justice Reform in Mexico," 227.

234 Ibid., 231.

235 Ibid., 225.

236 Ibid., 233.

237 Ibid.

238 Octavio Rodríguez Ferreira and David A. Shirk, "Criminal Procedure Reform in Mexico 2008-2016: The Final Countdown for Implementation." Justice in Mexico, University of San Diego, October 2015, 3-5.

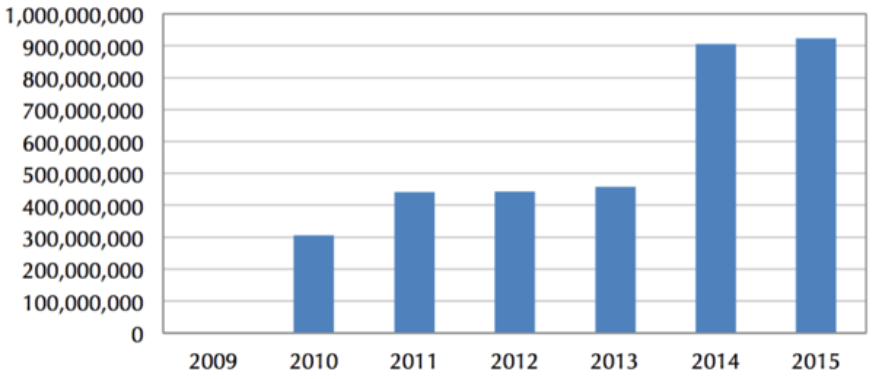
239 Ana Laura Kerpel, "El tamaño del reto," *Reforma,* February 8, 2014, accessed November 4, 2016, http://www.reforma.com/aplicacioneslibre/preacceso/articulo/default.aspx.

need.[240] The creation of the CNPP galvanized most states to transition to the new system, which had been waiting until publication of the national procedure before creating their own state criminal procedures.

The main federal governing body charged with overseeing most of the transition period was the Coordinating Council for the Implementation of the Criminal Justice System (*Consejo de Coordinación para la Implementación del Sistema de Justicia Penal*, CCISJP) which sits in the Secretariat of the Interior. Additionally, a special Technical Secretariat (*Secretaría Técnica del Consejo de Coordinación para la Implementación del Sistema de Justicia Penal,* SETEC), was created to assist implementation across all states in alignment with the federal government.[241] SETEC was responsible for distributing money to states, evaluating the use of block grants, and serving in an advisory capacity to states designing criminal procedures.

The federal government's funding to states is distributed through block grants earmarked for specific purposes, such as capital projects like building court facilities and modernizing technology, or short-term training of officials.[242] Under Peña Nieto, *Secretaría Técnica del Consejo de Coordinación para la Implementación del Sistema de Justicia Penal* (SETEC) also began requiring states to report itemized spending to keep track of progress in implementation and proper use of resources.[243] The number of grants distributed nearly doubled from 2013 to 2014, as shown in Figure 2.2, which allowed states to begin the reform process in earnest.

Figure 2.2
SETEC Categorical Grants to Mexican States, 2010-2015



Source: Octavio Rodríguez Ferreira and David A. Shirk, "Criminal Procedure Reform in Mexico 2008-2016: The Final Countdown for Implementation," Justice in Mexico, University of San Diego, October 2015, https://justiceinmexico.org/wp-content/uploads/2015/10/151008_FINALCOUNTDOWN_Full-Finallow-res.pdf.

240 Rodríguez Ferreira and Shirk, "Criminal Procedure Reform in Mexico 2008-2016," 20.

241 Maureen Meyer and Ximena Suárez Enríquez, "Mission Unaccomplished: Mexico's New Criminal Justice System is Still a Work in Progress," Washington Office on Latin America, July 2016, 3.

242 Rodríguez Ferreira and Shirk, "Criminal Procedure Reform in Mexico 2008-2016," 12-14.

243 Ibid., 16.

On October 13, 2016—following the June 2016 implementation deadline—SETEC was disbanded and responsibility for the judicial reform consolidation was assigned to a Federal Judiciary Council (*Consejo de la Judicatura Federal*) subcommittee called the Unit for the Consolidation of the New Criminal Justice System (*Unidad para la Consolidación del Nuevo Sistema de Justicia Penal*). The Chamber of Deputies created this subcommittee to "supervise the tasks of the governments of the states to comply with the infrastructure requirements and implementation of the laws of the accusatory criminal system."[244] SETEC's "legal disappearance" may harm the goal of full implementation across states and municipalities due to the loss of institutional expertise.[245] In total, the entire judicial reform process has cost Mexico MX$21 billion as of June 2016, and Unit for the Consolidation of the New Criminal Justice System requests for federal funding in 2017 have surpassed even the 2016 budget.[246]

It is estimated that 93 percent of crimes committed in Mexico are prosecuted at the state level.[247] States that chose to adopt the new system prior to the amendment passed in 2008 are known as early adopters: Nuevo León (2004), Chihuahua (2007), and Oaxaca (2007). As of June 2016, all 31 states plus Mexico City have implemented some parts of judicial reform to meet the congressional deadline. However, SETEC has admitted that only four states are operating at 100 percent compliance with the reforms, the three original adopters plus Yucatán, and only fourteen states have a "high average" level of compliance, according to SETEC's metrics for evaluating completion.[248] Given the transition's scope, the number of institutions affected by the changes, and some states' extremely late start, it is estimated that full implementation could take a decade or more.[249] On the municipal level, the reform process has been even slower. A lack of dedicated funding for capital improvements and training have prevented many municipalities from meeting their obligations. Unequal training of employees in the judicial system also means that judges and lawyers are better prepared than the police and penitentiary system employees.[250]

The massive effort and scope of Mexico's judicial changes cannot be understated, as the country is trying to transform a system in under ten years that has been used for hundreds of years. However, given the slow implementation process caused by a lack of political motivation and resources, there is ample room for improvement. Additionally, the United States, with its

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244 Jorge Monroy, "Crean grupo de seguimiento a la reforma de justicia," *El Economista Online*, September 29, 2016, accessed March 20, 2017, http://eleconomista.com.mx/sociedad/2016/09/29/crean-grupo-seguimiento-reforma-justicia.

245 Jorge Monroy, "Implementan Sistema de Justicia Penal, aún con Deficiencias," *El Economista Online*, October 16 2016, accessed March 20, 2017, http://eleconomista.com.mx/politica/2016/10/16/implementan-sistema-justicia-penal-aun-deficiencias.

246 Angel, "Se acabó el tiempo."

247 Clare Ribando Seelke, "Supporting Criminal Justice System Reform in Mexico: The U.S. Role," CRS Rep. R43001, Congressional Research Service, March 18, 2013, https://fas.org/sgp/crs/row/R43001.pdf, 6.

248 Angel, "Se acabó el tiempo."

249 Centro de Investigación para el Desarrollo, A.C. (CIDAC) and United States Agency for International Development (USAID), "Hallazgos 2015: Evaluacíon de la Implementación y Operación 2008 Reforma Constitucional en Materia de Justicia Penal," accessed November 29, 2016, http://cidac.org/wpcontent/uploads/2016/05/HALLAZGOS_2015.pdf.

250 Meyer and Suárez Enríquez, "Mission Unaccomplished," 4.

established adversarial justice system and interest in combating organized crime in Mexico, is well positioned to provide assistance in the form of training and funding.

Policy Recommendations

Ensure Path to Complete Implementation

Tremendous progress has been made toward transitioning to a new judicial system, but there is also room for improvement. Peña Nieto's government has defied expectations by following through on reforming the system and proving that the PRI is intent on making institutional changes. However, work must be done to ensure that the judicial reform is completely implemented on the state and local level. While all states met the constitutionally mandated deadline of June 2016, many have only partially implemented reforms by requiring the new system to be used to prosecute high-level crimes and phasing in mid and low-level misdemeanors over time. Similarly, cities with larger populations were transitioned to the new system first, while rural municipalities are still awaiting implementation. As previously discussed, SETEC, the Technical Secretariat originally tasked with administering judicial reform, admitted that there is a huge disparity in implementation on a state and local level, which could be addressed best through continued coordination and funding by the federal government through the new Judicial Council subcommittee.

- **Retain federal-level coordination and maintain federal funding of state and local judicial reform.** Although SETEC was disbanded in October 2016, the creation of a Judiciary Council subcommittee acknowledges that more progress is necessary to consolidate the new criminal justice system. There is a need for a federal-level body to coordinate implementation across states and to direct money where it is most greatly needed.[251] For these reasons, the federal government must ensure that the Unit for the Consolidation of the New Criminal Justice System is tasked with overseeing consolidation of state-level judicial reform and is provided adequate funding.

  Transitioning to a new judicial system is expensive, but maintaining and improving that system will also cost money. Due to most states' late transition, more time and money are needed to ensure each state is on equal footing. It is therefore crucial that block grants to states continue to be distributed from a central organizing body. For budget year 2017, Mexico's Judicial Department requested $MX66.9 billion pesos, which is $MX9.14 billion more than it requested in budget year 2016.[252] It is not clear how much of this money will be allocated to states and municipalities, but the approval of a funding increase at least acknowledges that more funding is required to improve the judicial system.

- **Establish a permanent department to monitor judicial reform**. Mexico could benefit greatly from long-term monitoring to ensure that there are no reform roll-backs. In the U.S., governmental agencies, professional groups, and civil society groups work in tandem to

251 Rodríguez Ferreira and Shirk, "Criminal Procedure Reform in Mexico 2008-2016," 30.

252 Tania Rosas, "Poder Judicial pide más recursos derivado del nuevo sistema penal," *El Economista Online*, September 13, 2016, accessed March 20, 2017, http://eleconomista.com.mx/sociedad/2016/09/13/poder-judicial-pide-mas-recursos-derivado-nuevo-sistema-penal.

improve the existing judicial system through mandatory continuing education for lawyers or regional bar exams.[253] Professional groups in Mexico, such as National Network of Oral Trials (*Red Nacional de Juicios Orales*) and Mexican Institute for Competiveness (*Instituto Mexicano para la Competitividad*), are well placed to lobby and hold government institutions accountable.

However, as with many institutions in Mexico, SETEC, was disbanded after the legal deadline for the judicial transition. Yet, acknowledging that full implementation did not take place by the established deadline does not mean that SETEC or the transition was a failure. A federal coordinating body should continue to exist but with a different mandate, ensuring equal and full implementation of the judicial reform across all states. Instead, the creation of the Unit for the Consolidation of the New Criminal Justice System to supervise states' reform implementation meant that all of SETEC's institutional knowledge and experience was lost. Establishing a permanent department to observe and monitor the judicial reform process to full implementation is necessary.

Utilize Mérida Initiative Funding

Through the bilateral Mérida Security Initiative, the United States has committed to assisting Mexico in fully implementing criminal justice reform.[254] While the Mérida Initiative initially sought to provide Mexico with the equipment and resources to combat organized crime, it has evolved in recent years to "address some of the deeper causes of criminality in the country: institutional weakness, corruption, and a weak social fabric."[255] The second and fourth pillars of the Mérida Initiative—institutionalizing the rule of law and building strong and resilient communities—specifically address issues related to judicial reform. The Mérida Initiative also provides mentorship and training opportunities for U.S. institutions to share their experience with their Mexican counterparts. Mérida Initiative funding may not be increased but unallocated funds from the U.S.'s original commitment should be distributed to consolidate criminal justice reform.

- **Leverage legal and police training opportunities from U.S. institutions**. Assistance provided by international governments with adversarial judicial systems, such as the United States, can ensure that Mexico's new system grows and improves over time with careful observation. Professional groups in the United States have ample opportunity to support exchanges to train their counterparts in Mexico. Training of prosecutors and attorney generals has already been a focus of the U.S. Department of Justice (DOJ), USAID, and organizations such as the Rule of Law Initiative of the American Bar Association (ABA) and the National Center for State Courts.[256] USAID's focus had been limited in scope to "priority states" in the Mérida Initiative, however it has recently expanded to 20 states.

  An assessment completed by CIDAC, a non-profit policy research institute in Mexico, and USAID found that public defenders, police, and prison staff had not received training to the

253 Rodríguez Ferreira and Shirk, "Criminal Procedure Reform in Mexico 2008-2016," 32.

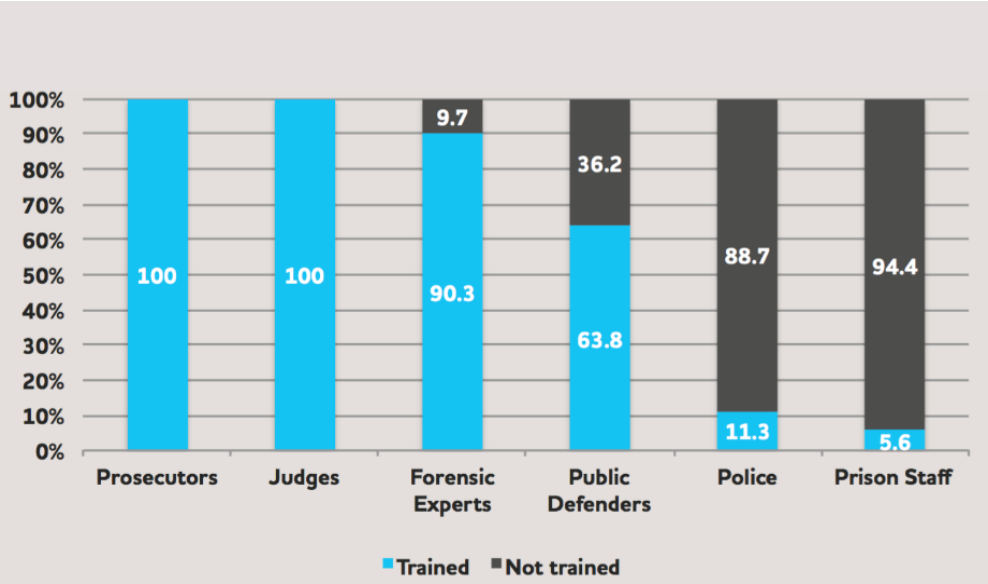
254 Seelke, "Supporting Criminal Justice System Reform in Mexico," 4.

255 Ibid., 12.

256 Shirk, "Justice Reform in Mexico," 240.

same degree as prosecutors and judges (see Figure 2.3).[257] The State Department, DOJ, and USAID can utilize Mérida Initiative funding to train these three groups in states identified as high priority, with to goal to reduce human rights violations such as torture, illegal detention, and forced confessions. The U.S. Congress has conditioned Mérida Initiative money on human rights improvements in Mexico, and therefore this use of resources would be welcomed by both governments.[258]

Figure 2.3
Personnel Trained vs. Not Trained on Mexico's New Justice System, September 2015



Source: Maureen Meyer and Ximena Suárez Enríquez, "Mission Unaccomplished: Mexico's New Criminal Justice System is Still a Work in Progress," Washington Office on Latin America, July 2016, 4.

Ensure Safety of Judicial System Participants

In the 1990s, Colombia underwent a similar judicial system transformation. However, violence against judicial system participants was more commonplace in Colombia than in Mexico. Although the reform's open court trials make Mexican judges more visible, the addition of juries introduces an additional element of potential corruption by organized crime. Guerilla groups and drug cartels in Colombia have been the primary source of violence against the judiciary while organized crime affiliated with the drug trade in Mexico have also intimidated and used violence against judges who are ruling in their specific cases. Looking toward Colombia, Italy, and other countries that have dealt with criminal influence in the judiciary will allow Mexico to pick out the best policy solutions to protect judges, juries, and other judicial system participants.

- **Protect judges and juries from violence and corrupt influence**. In Mexico, following the October 2016 murder of Vincente Antonio Bermudez, the judge in the "El Chapo" trial, there

257 CIDAC and USAID, "Hallazgos 2015."

258 Seelke, "Supporting Criminal Justice System Reform in Mexico," 16.

were calls to institute protections for judges, particularly those covering organized crime. In Italy, the double murders of two prominent mafia judges, Giovanni Falcone and Pablo Borcellino, within two months of each other in 1992 led to the formulation of intense security surrounding judges hearing organized crime-related cases. Italy incorporates around-the-clock bodyguards and bullet-proof cars for judges tracking mafia-related cases.[259]

Jurists or witnesses for the defense or prosecution could also benefit from additional protections. In Colombia, "jurists also are given bodyguards, armored cars and hazardous-duty pay."[260] These measures are meant to increase confidence in the judicial system and allow participants more freedom to follow the rule of law. By providing guards for judges, the system seeks to stop bribery and cooptation of judges by criminal organizations who threaten their physical safety. Protections for witnesses and jurists intend to curtail retribution by gang or cartel members against participants or their families. Therefore, a permanent Judicial Protection Unit of the Federal Police (*Policia Federal*) should be established to protect the safety of judicial system participants, including judges, witnesses, and juries. Ensuring the confidence of citizens participating in the judicial system, and emphasizing the importance of jury service, is paramount to proving the new system's long-term viability and to counter organized criminal influence.

Strengthen the Adversarial Judicial System

Lastly, concerning recent legislation introduced in congress to roll back changes made to the judicial system, Mexico must be determined to stay this difficult course until judicial reform is fully implemented. Defeating organized crime will not happen overnight or even over a decade and will not happen solely through criminal justice reform. The adversarial system does not reduce crime on its own, its purpose is to build a functional, transparent, and accountable foundation on which the Mexican people can rely upon and institute the rule of law.

- **Work to protect, not diminish, due process and rights of the accused.** Recent proposed legislation to make "adjustments" to the new criminal justice system will weaken the protections afforded to those accused of crimes by potentially allowing confessions under torture or witness testimony through hearsay. Civil society groups and legal professional organizations are concerned that these changes will lead to human rights violations and reverse the reforms made in the transition to an accusatorial system. Mexico must stay the course and work on strengthening the adversarial judicial system, instead of rolling back its most important tenents of due process and rights of the accused. As noted by Judge Pablo Gonzalez, "A reform of this size and relevance requires a complex transition process, a cultural change of mind, a generational turnover even. But that doesn't mean we should stop walking the path toward that goal, no matter how complex and how much time it takes us to

259 "A Very Sicilian Justice: Taking on the Mafia," *Al Jazeera Online*, July 18, 2016, accessed March 20, 2017, http://www.aljazeera.com/programmes/specialseries/2016/06/sicilian-justice-mafia-160619071747632.html.

260 David L. Marcus, "Colombian Judges Are 'Anonymous' -- Program Is Answer to Decades of Violence Against Justice System from the Drug Trade," *The Seattle Times*, June 23, 1991, accessed March 20, 2017, http://community.seattletimes.nwsource.com/archive/?date=19910623&slug=1290705.

get there."[261] In time, the fully implemented new criminal justice system will play a vital part in reducing the influence of organized crime and lead to renewed citizen confidence in a system that functions and delivers justice.

International Cooperation

The transnational networks criminal organizations use to move illicit drugs through the hemisphere have made the fight against organized crime one that Mexico cannot address alone. The United States and Mexico have a "shared responsibility" when it comes to addressing criminal organizations.[262] Not only do the two countries share a 2,000 mile border, but the U.S. is the biggest drug consumer and also organized criminal groups' main source of illegal weapons and cash.[263] Mexico also shares a southern border with Central America, and the criminal organizations that span across the border demand a regional response.[264]

Although Mexico has historically worked with its neighbors to address organized crime, these previous attempts have been insufficient. Therefore, the Mexican government should demand a greater change in U.S. policy, seek to unify the security strategy between Mexico and the U.S., pursue regional partnerships, and engage multilateral groups such as the United Nations (UN) to help change the global approach to drug policy.

U.S.-Mexico Cooperation

In recent years, the U.S. and Mexico have cooperated closely on preventing illegal drug smuggling and the U.S. has been Mexico's primary partner in its efforts to lower violence levels in Mexico.

Mérida Initiative

In 2006, President Felipe Calderón's strategy for addressing organized criminal groups called for greater U.S.-Mexican security cooperation.[265] Through the Mérida Initiative, which was created in 2007, the U.S. committed to address the demand for drugs and reduce the illegal trafficking of weapons and currency to Mexico, and Mexico committed itself to the fight against crime and corruption.[266] The U.S. has supplied more than US$1.6 billion to Mexico to support its efforts to

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261 Azam Ahmed, "While Scolding Trump, Mexico Seeks to Curtail Citizens' Rights," *The New York Times*, March 16, 2017, accessed March 16, 2017, https://www.nytimes.com/2017/03/16/world/americas/mexico-trump-pena-nieto-wall-drug-war.html.

262 Clare Seelke and Kristin Finklea, "U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond," Congressional Research Service, February 22, 2016, https://www.everycrsreport.com/files/20160222_R41349_c50fcd0a362c464b4414a992c2fc4b3b099de2ed.pdf, 9.

263 U.S. Department of Homeland Security, "United States of America-Mexico: Bi-National Criminal Proceeds Study," 2010, https://www.hsdl.org/c/united-states-of-america-mexico-bi-national-criminal-proceeds-study, ii.

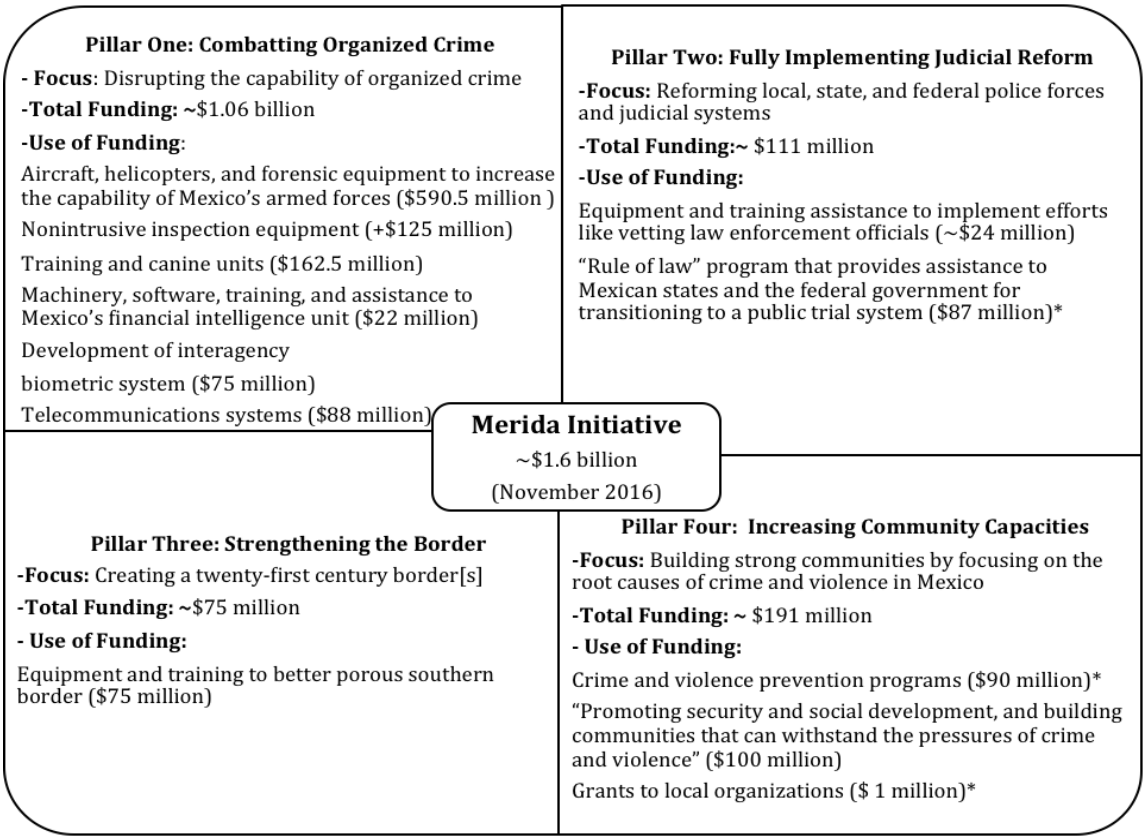
264 Steven Dudley, "Drug Trafficking Organizations In Central America: Transportistas, Mexican Cartels and Maras," Wilson Center, May 2010, 3.

265 Brianna Lee, "Mexico's Drug War," Council on Foreign Relations, March 5, 2014.

266 Clare Seelke and Kristin Finklea, "Mexico: Background and U.S. Relations," Congressional Research Service, March 30, 2016, 13.

combat criminal organizations.[267] Initially signed by Presidents Felipe Calderón and George W. Bush, the Mérida Initiative continued under Presidents Enrique Peña Nieto and Barack Obama, where it evolved into the four pillars described in Figure 2.4.

Figure 2.4
Mérida Initiative Pillars



Source: Clare Seelke with Kristin Finklea, "U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond," Congressional Research Service, February 22, 2016, https://www.everycrsreport.com/files/20160222_R41349_c50fcd0a362c464b4414a992c2fc4b3b099de2ed.pdf.

*USAID funding. This only encompasses publicly available funds and does not include funds to Central America through the initiative.

Under President Peña Nieto, there was a shift in the initiative's focus. In contrast to the original Calderón and Bush agreement, both President Peña Nieto and President Obama agreed to focus on "justice sector reform, money laundering, police and corrections professionalization at the federal and state level, border security both north and south, and piloting approaches to address

267 Office of Press Secretary, "Statement of Principles on Security Cooperation between the Governments of the United States and Mexico," February 27, 2015, https://obamawhitehouse.archives.gov/the-press-office/2015/02/27/statement-principles-security-cooperation-between-governments-united-states.

root causes of violence."[268] This shift toward addressing "weak government institutions and societal problems" increased the bilateral focus to incorporate economic development efforts and social programs.[269]

Since President Donald Trump's inauguration on January 20, 2017, there has been increased tension between Mexico and the United States. After President Peña Nieto cancelled his trip to Washington in late January 2016, the presidents discussed the need for the "two nations to work together to stop drug cartels, drug trafficking and illegal guns and arms sales."[270] President Peña Nieto has also highlighted the U.S.'s shared responsibility on security issues, such as addressing Central American migration and the flow of illicit weapons and money from the U.S. to Mexico.[271]

Despite over a billion dollars in funding, the Mérida Initiative has not fully achieved its stated objective of "[strengthening] both…societies in the fight against organized crime and violence… to drive the transformation of our bilateral security relationship."[272] The biggest obstacle is the allocation of funds, which suggest that the United States' primary interest is "counternarcotics and counterterrorism."[273] Of the $1.6 billion that has been released, approximately $1.06 billion was provided in military equipment under pillar one: leaving only approximately 30 percent of the funds for the other three pillars.[274] This lopsided funding has provided short-term results in "tactical victories," but for a long-term solution, Mexico requires strengthened institutions to address its security problems.[275] As the Washington Office on Latin America concluded, "the continued support of Mexico's armed forces involvement in counter-narcotics tasks will not contribute to strengthening civilian public security institutions."[276]

There is also no way to measure the long-term success of the Mérida Initiative in general or of better equipping the Mexican military. Some observers assert that success is measured by "how many drugs are impeded from entering the United States and how many traffickers are arrested."[277] While reducing the flow of drugs to the U.S. and capturing kingpins achieves some of the U.S.'s goals, it has not helped reduce violence in Mexico. In fact, homicides in Mexico are once again on the rise, recently reaching their highest numbers since 2012.[278]

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268 Seelke and Finklea, "U.S.-Mexican Security Cooperation," 21.

269 Ibid.

270 Danny Vinik, "How Trump's attack on Mexico could hurt border security," *Politico,* January 27, 2017.

271 David Graham, "Mexico lays out cards for high stakes talks with Trump," *Reuters*, January 11, 2017.

272 U.S. Embassy – Mexico, "The Mérida Initiative: Fact Sheet," https://mx.usembassy.gov/our-relationship/policy-history/the-Mérida-initiative/.

273 Sabrina Abu-Hamdeh, "The Mérida Initiative: An Effective Way of Reducing Violence in Mexico?" Pepperdine University, 2011, http://digitalcommons.pepperdine.edu/ppr/vol4/iss1/5/ , 41.

274 Seelke and Finklea, "U.S.-Mexican Security Cooperation," 1.

275 Washington Office on Latin America, "The Mérida Initiative and Citizen Security in Mexico and Central America," March 19, 2008.

276 Ibid.

277 Ibid.

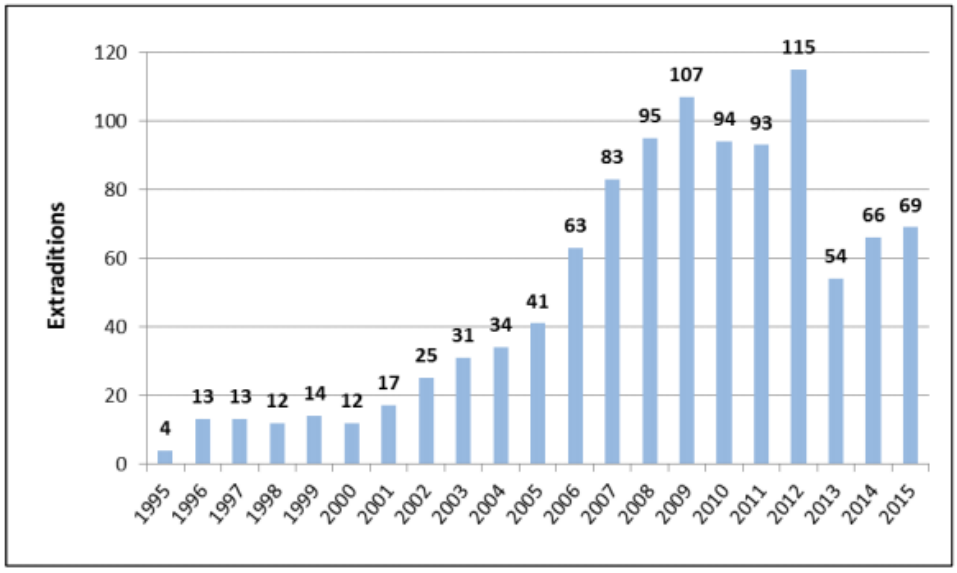
278 Kirk Semple, "Mexico Grapples with a Surge in Violence," *New York Times*, December 13, 2016.

Another shortsightedness of the Mérida Initiative is the lack of attention to U.S. drug demand and U.S. domestic policy that has enabled a constant flow of illegal arms and money into Mexico.[279] Although the initiative was based on shared responsibility and the U.S. committed to addressing its domestic policies, the U.S. conditions that promulgate violence in Mexico have been largely disregarded.[280]

Extraditions

Extraditions are another way that Mexico and the U.S. work together. The Calderón Administration prioritized extraditing high-profile organized crime leaders to the U.S., making extradition an important law enforcement tool within the bilateral relationship. President Calderón turned around the practice of resisting extraditions, and by 2011, there was a 190 percent increase in extraditions to the U.S. (see Figure 2.5 for annual numbers).[281]

Figure 2.5
Extraditions from Mexico to the United States, 1995-2015



Source: Clare Seelke with Kristin Finklea, "U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond," Congressional Research Service, February 22, 2016, https://www.everycrsreport.com/files/20160222_R41349_c50fcd0a362c464b4414a992c2fc4b3b099de2ed.pdf.

Under President Peña Nieto, the number of extraditions fell sharply, but the administration did extradite one of the most notorious kingpins, Joaquín "El Chapo" Guzmán, in early 2017.[282]

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279 Washington Office on Latin America, "The Mérida Initiative and Citizen Security in Mexico and Central America."

280 Ibid.

281 Geoffrey Ramsey, "Extraditions from Mexico Increase Dramatically Under Calderón," *Insight Crime,* December 12, 2011.

282 Clare Seelke and June S. Beittel, "'El Chapo' Guzman's Extradition: What's Next for U.S.-Mexican Security Cooperation?" Congressional Research Service, February 3, 2017.

Some analysts believe that extraditing Guzmán a day before President Trump's inauguration was a political gesture, perhaps "the culmination of bilateral security cooperation under the Obama Administration," or a "goodwill gesture to President Trump."[283] Experts on counternarcotic policy frequently view extradition as an effective deterrence tool for traffickers who fear the sentences handed out by the U.S. judicial system.[284] On the other hand, the Mexican government's willingness to extradite organized crime members could be perceived as a "tacit recognition of problems in the security of Mexico's prisons and integrity of its criminal justice system."[285]

Mexico-Latin America Cooperation

Mexico has also partnered directly and indirectly with Latin American countries on international drug trafficking, given their involvement at various points along drug trafficking routes. As part of the Mérida Initiative, the U.S. government allocated US$165 million toward addressing issues in Central America, with most of the money going to Guatemala, Honduras, and El Salvador. The money was divided between rule of law, institution-building, development programs, and anti-gang and anti-narcotics enforcement.[286] The United States' funding for the Central American Regional Security Initiative (CARSI) and the Alliance for Prosperity in the Northern Triangle has also increased.[287] Additionally, the U.S. Department of Homeland Security's Secretary John Kelly confirmed that Mexico and the U.S. will co-host a bilateral forum later this year in Miami, Florida, to discuss enhancing security cooperation with Central America.[288]

In 2011, President Calderón and President Alvaro Colom of Guatemala agreed to increase their security cooperation to "combat transnational organized crime and improve the security of migrants in the region."[289] According to a joint statement, the presidents agreed to cooperate by "increasing security along their shared border and… the exchange of intelligence information," as well as promoting "joint operations against drug trafficking, human trafficking, and the kidnapping and extortion of migrants."[290]

On July 7, 2014, President Peña Nieto launched the *Programa Frontera Sur* (Southern Border Strategy) with the stated objective of protecting Central American migrants by reducing the number of migrants entering Mexico through better management of entry ports and improving

283 Ibid.

284 Ibid.

285 Ibid.

286 Eric L. Olson, David A. Shirk, and Andrew Seele, "Shared Responsibility: U.S.-Mexico Policy Option for Confronting Organized Crime," Wilson Center, October 2010, 88.

287 Seelke and Finklea, "U.S.-Mexican Security Cooperation," 19.

288 U.S. Congress, Senate, Committee on Homeland Security and Government Affairs, *Improving Border Security and Public Safety*, 115th Congress, April 5, 2017.

289 Graham Ronan, "Mexico, Guatemala Agree to Up Security Cooperation," *Insight Crime*, July 28, 2011.

290 Ibid

prosperity for the region.[291] President Peña Nieto stated that Mexico would be working with Guatemala, El Salvador, and Honduras to achieve secure and orderly migration.[292]

President Enrique Peña Nieto has also engaged in talks with current Guatemalan President Jimmy Morales, with both highlighting the importance of "permanent dialogue regarding migrant issues."[293] In April 2017, Mexican and Guatemalan authorities worked together to capture the fugitive former governor of Veracruz, Javier Duarte. Duarte, who is accused of diverting public funds and colluding with organized crime, is now facing extradition to Mexico.

The Mexican government has also reached out to South American leaders. President Peña Nieto met with Colombian President Juan Manuel Santos to discuss security issues during his latest official state visit to Colombia in October 2016.[294] Presidents Peña Nieto and Santos agreed to increase cooperation within the two countries, and President Peña Nieto highlighted that both countries "share similar problems in the issue of security due to the existence of cartels that operate in both nations and transnationally," and that both nations should deepen their collaboration to fight organized crime more effectively.[295]

Apart from sporadic joint statements or actions, however, both President Calderón and President Peña Nieto's rhetoric about the need for regional security efforts beyond the U.S. has rarely moved into sustained action.

Mexico-United Nations Cooperation

Mexico has taken a leading role in attempting to change the global approach to drug policy. During his presidency, President Calderón addressed the United Nations General Assembly, calling for the UN to "lead a global debate over a less 'prohibitionist' approach to drug policy." President Calderón pressed for more attempts to address drug demand and emphasized the importance of more restrictive gun control laws, specifically to address the steady flow of arms from the United States into Mexico.

In a Special Session in April 2016, Mexico, under President Peña Nieto, along with Colombia, Guatemala, Costa Rica, Belize, and Honduras, called for a strategy shift regarding global drug policy. President Peña Nieto's proposal to view drug use as a public health issue was seconded by Colombia's president, Juan Manuel Santos, who also suggested a focus on human rights. Guatemala's president claimed "countries like Guatemala have carried the worst burden, having suffered the injustice of lost human life" from the "so-called war on drugs." Despite Latin

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291 Cristopher Wilson and Pedro Valenzuela, "Mexico's Southern Border Strategy," Wilson Center, July 11, 2014, 1.

292 Ibid.

293 Presidencia de la Republica, "Se reúne el Presidente Enrique Peña Nieto con Jimmy Morales, mandatario electo de la República de Guatemala," November 27, 2015.

294 Aristegui Noticias, "Peña resalta cooperación entre México y Colombia para enfrentar al crimen organizado," 2016, http://aristeguinoticias.com/2710/mexico/pena-resalta-cooperacion-entre-mexico-y-colombia-para-enfrentar-al-crimen-organizado/.

295 Ibid.

American leaders' efforts, there have been no significant changes to the global drug policy strategy.[296]

Policy Recommendations

- **Mexico should demand a larger change in U.S. policy.** Although the U.S.'s support has been essential in Mexico's fight against organized crime, in any future cooperation efforts, Mexico needs to ensure that the U.S. is addressing the domestic policies that foster organized criminal activity within Mexican territory. Additionally, Mexico should manage the allocation of Mérida Initiative funding to better ensure more equitable dispersion. When discussing cooperation efforts, Mexico should also press for focusing funding on strengthening its institutions, which would provide more long-term results by holistically preparing the Mexican government to address criminal activity.

- **Unified strategy between Mexico and the U.S.** One of the main challenges for U.S.-Mexico security cooperation is a lack of unified framing and objectives. The U.S. and Mexico might share the same goal of weakening criminal organizations, however, their short-term goals are different. The U.S.'s priority is to capture and extradite organized crime members while Mexico's priority is to strengthen its institutions to decrease crime and violence.[297] In future cooperation efforts, Mexico should ensure that both countries are framing the issue similarly and that short-term strategies are not conflicting or detrimental to Mexico's interests.

- **More regional efforts.** By focusing all international cooperation efforts on the U.S., Mexico is ignoring potential allies in the fight against organized crime. Mexico needs to work with more countries, such as Guatemala and Colombia, that share the burden of this transnational challenge. Although these efforts would not provide the same amount of funding and could even require Mexico's financial support, these partnerships may deliver new strategies that focus more on Mexico's concerns. Working with other countries in the region that need to solve the same issues could also yield more integrated efforts and longer-term results.

  In particular, successfully fighting regional criminal organizations requires partnering with Central American countries. There should be efforts to address the regional violence and the underlying economic and social issues. Regional efforts can be based off of the Economic Community of West African States' (ECOWAS) Regional Action plan that "aims to gradually establish a sustained regional capacity within the ECOWAS Commission to monitor, advocate, coordinate, and harmonize drug policies in West Africa."[298] This Action Plan provides a regional strategic network to fight illicit trafficking and organized crime, "contributing to an effective coordinated regional response to drugs and crime problems."[299]

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296 Michael Lohmuller, "Hopes for Global Drug Policy Reform Dashed at UN Assembly," *Insight Crime,* April 25, 2016.

297 Abu-Hamdeh, "The Mérida Initiative: An Effective Way of Reducing Violence in Mexico?" 41.

298 European Commission, "New EU support to fight drugs and organized crime in West Africa," July 29, 2013, http://ec.europa.eu/europeaid/sites/devco/files/aap-drug-ecowas-press-release-20130729_en.pdf.

299 Ibid.

- **More efforts through the UN to help change the global approach to drug policy.** Although efforts to change global drug policy have reaped little success, it is imperative that Mexico continue these efforts to shift the global view on drugs toward a less prohibitionist approach through the UN. Basing UN drug conventions on a less prohibitionist approach could lead to a smaller market for illicit drugs, which is essential to take away power from criminal organizations.

  During these efforts, Mexico should highlight the success of Portugal's decriminalization of drugs. While drug dealing and trafficking remain criminally punishable, in 2001, Portugal decriminalized the possession of all drugs and pursued a treatment approach. Although some worried that decriminalization would make Portugal a drug haven, drug use has declined over the past 16 years.[300]

[300] Samuel Oakford, "Portugal's Example: What Happened After It Decriminalized All Drugs, From Weed to Heroin," *Vice News*, April 19, 2016.

Chapter 3.
Tackling the Criminal Economy

Although Mexico's organized criminal groups have their roots in the early twentieth century, they rose to global prominence in the 1980s when Mexico became a major transit point for trafficking Colombian cocaine to the United States.[301] Today, Mexico's criminal groups have branched out from their traditional business of drug trafficking to other lucrative illicit activities. They smuggle migrants and stolen oil across the border and traffic U.S.-made weapons into Mexico. They also engage in kidnapping, auto theft, and extortion, in addition to street crime.[302] As a result of this diversification, organized criminal groups have maintained their power and influence despite decreased drug sales, greater competition from fragmentation of organized criminal groups, and increased pressure from the Mexican government.

Drug trafficking remains the primary source of profits for Mexican criminal groups and they remain the "major wholesalers of illegal drugs" in the U.S.[303] Security analyst Alejandro Hope estimates that at least 85 percent of their income comes from drugs.[304] Despite drastic reductions in cocaine use in the U.S. over the past decade, Mexico is still the main trafficking route for South American cocaine bound for the U.S.[305] It is currently the major supplier of heroin, methamphetamine, and marijuana to the U.S.[306] Organized criminal groups earn billions of U.S. dollars annually from drug-related activities. Given the clandestine nature of this business, it is difficult to pinpoint the exact profits that the illicit drug market generates. The United Nations estimates that the U.S. drug trade yields annual revenues of $60 billion, while others have put the estimate closer to $30 billion.[307]

It is also difficult to assess the revenue earned from non-drug sources. Extortion, which is detailed later in this chapter, is one of the most lucrative activities. Given the size of Mexico's economy and the lack of citizen security, some analysts believe that "extortion could finance criminal organizations even if drug trafficking were completely eliminated."[308] Extortion impacts nearly every sector of society from farmers to small businesses to multinational firms.

Reducing organized criminal groups' profits is an essential part of reducing criminal violence and citizen insecurity in Mexico, and it is one way of limiting these groups' power and influence. Drug trafficking revenue is "used in part to corrupt U.S. and Mexican border officials, Mexican

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[301] Kimberly Heine, Octavio Rodriguez Ferreira, and David A. Shirk, "Drug Violence in Mexico: Data and Analysis through 2015," San Diego: University of San Diego, 2016, 4.
[302] June S. Beittel, "Mexico: Organized Crime and Drug Trafficking Organizations," Congressional Research Service, 2015, 29.
[303] Ibid., 6.
[304] "Peña Nieto's Challenge: Criminal Cartels and Rule of Law in Mexico," *International Crisis Group*, 2013, 9.
[305] Beittel, "Mexico: Organized Crime and Drug Trafficking Organizations," 9.
[306] Ibid., 8.
[307] "Peña Nieto's Challenge: Criminal Cartels and Rule of Law in Mexico," 7; Lee, "Mexico's Drug War."
[308] Benjamin Locks, "Extortion in Mexico: Why Mexico's Pain Won't End with the War on Drugs," *Yale Journal of International Affairs*, October 2014, http://yalejournal.org/article_post/extortion-in-mexico-why-mexicos-pain-wont-end-with-the-war-on-drugs/.

law enforcement, security forces, and public officials to either ignore [organized criminal groups] or to actively support and protect them."[309] Without this revenue stream, these groups would have a much harder time carrying out their activities.

It is also necessary to reduce the number of people participating in organized criminal activity. Organized criminal groups do not lack for recruits, many of whom have few other viable economic opportunities. Mexico has the largest population of youth who are unemployed and uneducated in Latin America, and these young people are prime targets for recruitment. Organized criminal groups also do not lack for people willing to grow illicit crops such as marijuana and opium poppies, and Mexico is now the world's third-largest producer of heroin. Criminal organizations will continue to flourish until the government develops effective ways of cutting off their manpower.

This chapter explores the economics behind organized crime-related violence in Mexico. The first part analyzes the financial capital flows of organized criminal groups and evaluates policies to target their revenue sources. The second part asks how these groups hinder legal economic growth as a result of extortion and what policies are needed to reduce this crime. The third part focuses on the socioeconomic conditions that support organized crime and evaluates poverty-reduction programs in socioeconomic "hotspots." Each section concludes with policy recommendations for reducing criminal organizations' sources of revenue, manpower, and drugs.

The Money Flow of Transnational Criminal Organizations

The demands of operating effective drug operations have pushed most Mexican criminal drug organizations to expand their organizational capacity in order to increase efficiency in processing, packaging, shipping, smuggling, and distribution of their illicit products. Mexican criminal organizations' capabilities for creating and utilizing financial networks designed to transfer funds among the different drug trade agents is an important link in their business structure. Two methods of moving money that have gained the most attention are money laundering and bulk cash smuggling. These are also the two areas where the Mexican government can make the greatest inroads into disrupting these criminal organizations' flow of funding.

The government can target organized crime supply chains at multiple points: the transportation of goods, vulnerable labor force, and the movement of funds. Targeting the flow of money remains a challenge for authorities for reasons that are discussed in this section. Previous policies have not allowed the Mexican government to effectively dismantle money-laundering networks, and only within the past decade has the identification of laundering networks and prosecution of offenders gained any real traction. The legal framework for combating money laundering has a dual nature between policies of prevention and those of investigation and prosecution, which do not operate synergistically. The Mexican government needs to adopt continued reforms to effectively combat money laundering operations and strategies designed to better disrupt other criminal organization financial flows.

[309] Beittel, "Mexico: Organized Crime and Drug Trafficking Organizations," 7.

Legal Framework for Anti-Money Laundering Policies

The basis for Mexico's current anti-money laundering (AML) policies can be traced back to its participation in the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, which established the criminalization of money laundering related to narcotics trafficking.[310] The legal framework for AML policies focused on money laundering as a strictly financial offense and the *Secretaría de Hacienda y Crédito Público* (SHCP) acted as the primary governmental actor in charge of policy development. This left out key players needed to make Mexico's AML policies applicable to organized criminal groups, especially in the areas of enforcement and prosecution.[311]

It was not until AML reforms in 1996 that the PGR became more involved with policy regarding money laundering. The legal definition of money laundering was moved from the Federal Fiscal Code to Article 400 of the Federal Penal Code, and later that year, reforms introduced Mexico's Federal Law Against Organized Crime.[312] This led to a strengthening of prosecutorial policies within the federal government. While the PGR was officially a player in AML in Mexico, it was required to coordinate with the SHCP in all money laundering related investigations. This limited the PGR in conducting investigations into criminal organizations and networks, and the AML framework in Mexico was still weak in terms of enforcement and prosecution.

The AML framework began to develop its prosecutorial capabilities when the Calderón Administration instituted a series of reforms in 2009 and 2010 to target organized crime. Two reforms in particular revised the direction of AML policy in Mexico. The first was the "National Strategy for the Prevention and Combating of Money Laundering and Terrorist Financing," which re-aligned Mexico's AML governance to focus on further criminalizing money laundering activities. This involved increasing cooperation between the SHCP and the PGR, as well as improving the investigative techniques required to facilitate the effective prosecution of identified cases of money laundering.[313] Under the new strategy, four pillars were identified and refined: 1) effective information and organization, 2) strengthening legal instruments of AML practices, 3) increased effectiveness of existing agencies, and 4) increased transparency and accountability of state activities. The second reform was the establishment of the "Federal Law for the Prevention and Identification of Operations with Resources of Illicit Origin and Terrorist Financing," which was the first comprehensive law dedicated exclusively to incorporating references to narcotics trafficking, robbery, kidnapping, and extortion.[314]

The reforms ultimately strengthened the Financial Intelligence Unit (FIU), the national central governmental body responsible for analyzing financial transactions suspected of being related to money laundering or terrorist financing. Along with the PGR's enhanced authority, money laundering prosecutions increased and federal law investigators had greater access to financial

[310] United Nations Office on Drugs and Crime, "Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances," December 20, 1988, https://www.unodc.org/pdf/convention_1988_en.pdf, 3.
[311] Timo Behrens, "Lift-off for Mexico? Crime and Finance in Money Laundering Governance Structures," *Journal of Money Laundering Control* 18, no.1 (2015):28.
[312] Behrens, "Lift-off for Mexico?," 22.
[313] Ibid., 26.
[314] Ibid., 27.

data.[315] These reforms, however, created an AML framework where the financial institutions that focus on preventative policies such as the SHCP are in direct competition for political support with the PGR and other federal law enforcement agencies whose focus is prosecution.

Today, the Mexican AML framework is continuing to adapt to combating money laundering in the twenty-first century. In early 2016, the Mexican government announced that it was going to take a more hands-on approach in its AML policy. The Mexican central bank unveiled an electronic system designed to monitor business-to-business transfers of U.S. dollars. Mexican businesses would be able to transfer U.S. dollars to other businesses through a single clearinghouse managed and monitored by the Mexican central bank. The purpose of this system was to increase confidence in Mexico's banking system and to increase transparency in the flow of money between the U.S. and Mexico.[316] The duality of Mexico's AML framework still exists and there is continued dissonance between efforts of prevention and of prosecution.

Methods Used by Organized Criminal Groups to Move Money

Bulk Cash Smuggling

According to the U.S. Drug Enforcement Agency, bulk cash smuggling remains the most widely reported method that Mexican criminal organizations use to move illicit proceeds from the U.S. to Mexico. In 2014, U.S. law enforcement officials reported approximately US$382.2 million dollars in bulk cash seizures.[317] Because of the large volume of traffic between the U.S. and Mexico, these groups continue to rely on this method of smuggling as the detection risk remains low. Detecting illegal drugs from entering the U.S. is the main focus of current shipment monitoring, which diverts attention, manpower, and equipment away from bulk cash detection.[318]

Bulk cash is important to drug trafficking organizations and vital to their continued operation. It primarily funds their daily operating expenses, including bribes for government and law enforcement officials, payments to local gangs and others involved in the transport and protection of drugs and money, and illicit weapons purchases.[319] Additionally, associated members and businesses that these criminal groups interact with prefer to use U.S. dollars as opposed to the Mexican peso due to the dollar's stability. The dollar's relative strength creates a higher incentive to rely on smuggled bulk funds from the United States as opposed to funds that are laundered and brought back to the organization in the form of Mexican pesos.[320]

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[315] Ibid., 28.
[316] Benjamin Bain and Alan Katz, "Money-Launder Woes Push Mexico Into Dollar-Transfer Business," Bloomberg, February 12, 2016, http://www.bloomberg.com/news/articles/2016-02-12/money-laundering-woes-push-mexico-into-dollar-transfer-business
[317] U.S. Drug Enforcement Administration, "2015 National Drug Threat Assessment Survey," 2015, https://www.dea.gov/docs/2015%20NDTA%20Report.pdf, 93.
[318] Ibid.
[319] Douglas Farah, "Money Laundering and Bulk Cash Smuggling: Challenges for the Merida Initiative," Wilson Center Mexico Institute, 2011, https://www.wilsoncenter.org/sites/default/files/Chapter%205-Money%20Laundering%20and%20Bulk%20Cash%20Smuggling%20Challenges%20for%20the%20Merida%20Initiative.pdf, 147.
[320] Ibid.

Trade-Based Money Laundering

In trade-based money laundering (TBML) schemes, drug trafficking organizations purchase bulk goods in the U.S. with profits from drug sales. These goods are then shipped to Mexico, where they are resold and the profit is collected as the legitimate sale of goods. TBML is one of the most difficult forms of money laundering to identify and combat, primarily because it allows illicit transactions to be masked by the large and complex system of legitimate international trade vectors.[321]

In 2014, the Sinaloa Cartel exploited Los Angeles' fashion district for TBML. The Sinaloa Cartel used cash from drug revenues to purchase clothes imported from China that were then shipped to Mexico for resale, resulting in legitimate revenues from goods sold in Mexico. In addition, couriers working for the fashion stores in Mexico arrived in Los Angeles with invoices for the goods and received bulk cash as payments, which was driven south across the U.S.-Mexico border.[322]

TBML will continue to be an important method of money laundering for criminal organizations as long as real-time tracking of imported goods operates at sub-par standards. Even with high tracking capabilities, monitoring is difficult given the high volume of international trade transactions occurring every second. Criminal organizations blend into legitimate transactions, meaning that combating TBML will require new and innovative methods of identifying illegal trade activity.

Merchant-Based Money Laundering

Merchant-based money laundering (MBML) schemes are slightly different than TBML operations. In this case, drug trafficking organizations funnel profits from U.S. drug sales through cash-intensive businesses. These merchants are either partners of criminal members, paid off, or coerced into accepting cash from the organization's representatives in the U.S. The illicit cash is incorporated into the merchants' regular cash deposits to their financial institutions. Merchants then place orders using their business credit accounts for goods from shell companies in Mexico, which are operated by the criminal organization. At this point, either the U.S. merchants receive goods from Mexico that are overvalued to meet the price of the illicit revenue or there is no shipment of goods at all.

Criminal organizations exploit this avenue of money laundering because U.S. financial institutions are not able to determine if the increase of cash deposits from U.S. cash-intensive merchants is from an increase in business or from another revenue source. The only real method for identifying a MBML scheme is to monitor the business' corporate credit card activity for consistent purchases from Mexican companies that do not make sense. This would be a labor-intensive process requiring the cooperation of all major credit card companies.[323]

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[321] Mike La Susa, "Sinaloa Cartel Laundered Money in Colombia Using Textiles: Report," *Insight Crime*, July 28, 2016, http://www.insightcrime.org/news-briefs/sinaloa-cartel-laundered-money-in-colombia-using-textiles-report.
[322] U.S. Drug Enforcement Administration, "2015 National Drug Threat Assessment Survey," 94.
[323] Keith Furst, "Cartels Put Their Money Laundering on Corporate Credit Cards," *Insight Crime*, September 13, 2016, http://www.insightcrime.org/news-analysis/cartels-put-their-money-laundering-on-corporate-credit-cards.

U.S. Banks

U.S. financial institutions are another source of money laundering. In the 1970s, the U.S. Department of the Treasury detected a currency surplus in Florida banks. This surplus was connected to large-scale laundering of drug revenue for Mexican criminal organizations, but attempts to clean the banking system failed and financial regulations remained vulnerable.[324] In the 1990s, a Government Accountability Office report found that Citibank had helped Raúl Salinas, the brother of former Mexican President Carlos Salinas, secretly move approximately US$100 million from Mexico to Europe. Raúl Salinas claimed that the money was part of an investment fund, but a Swiss police investigation revealed that he was involved in Mexico's cocaine trade, collecting bribes designed to protect drug trafficking operations.[325]

Money laundering through U.S. banks continues today. In 2010, Wachovia was found to have allowed $110 million in drug-related financial transactions by failing to monitor funds used to ship 22 tons of cocaine.[326] Even though Wachovia was aware of other U.S. banks ceasing to do business with certain Mexican currency exchange houses (*casas de cambio*) out of AML concerns, it ignored AML policies and continued to conduct business with these exchange houses. Currency exchange houses have historically been one of the easiest routes used to convert dollars to pesos, and their services are extremely attractive to criminal organizations that need to launder funds destined for Mexico. Banks in the U.S. do not have sufficient incentives to avoid working with suspect exchange houses. In the case of Wachovia, its total fine, as decided by U.S. authorities, was less than 2 percent of its profit for 2009 and not a single director faced jail time since there were no criminal charges brought against Wachovia's employees.[327]

Policy Recommendations

One of the major challenges for targeting criminal organizations' financial flows is how to apply pressure against criminal activity without negatively affecting non-criminal sectors of Mexico's economy. Some of Mexico's anti-money laundering regulations have made the country's financial institutions more risk-averse, which has made it more difficult for medium and small-sized businesses to gain access to financing options such as loans and credit lines. When developing recommendations, significant consideration was given to the potential impacts for financial inclusion efforts.

- **Increase screening capabilities for bulk cash shipments into Mexico**. As the Mexican government has increased regulations targeting money laundering, criminal groups find bulk cash smuggling to be more appealing. An increase in the use of technologies to detect bulk currency, along with training for border agents, is one potential solution. One such form of technology that could be used is the Bulk Currency Detection System (BCDS) currently in development by KWJ Engineering, which uses gas chromatography/mass spectrometry to

[324] Julien Mercille, "Violent Narco-Cartels or US Hegemony? The Political Economy of the 'War on Drugs' in Mexico," *Third World Quarterly* 32, no. 9 (2011):1648.
[325] Ibid., 1649.
[326] Ibid.
[327] Ibid.

detect the unique gas signature emitted by U.S. currency.[328] Utilizing these types of technologies would increase bulk cash detection without requiring an increase in border personnel, which would be costly.

Increasing the detection and seizure of bulk cash shipments also targets criminal groups' financial flows without affecting other sectors of the Mexican economy. It does not require increased financial regulation and targets a vital node of organized crime financing.

- **Relocate the Financial Intelligence Unit under the Attorney General**. The AML reforms of the past decade have strong roots in increasing transparency, cooperation, monitoring, and prosecution. These reforms, however, have not bridged the divide between prevention efforts and prosecution and enforcement. Mexico's congress has not approved relocating the FIU to the PGR, but doing so now could improve the effectiveness of the investigation and prosecution of financial crimes. Garnering support in congress for approval should focus on highlighting the positive aspects of AML reform, while making the case for further unity among the FIU, PGR, and SHCP.

  The previous motion to align the FIU under the PGR failed in part because it was proposed by opposition parties at the time. A renewed effort to reintroduce this proposal should be accompanied by data indicating that the PGR suffers from a lack of AML investigative capabilities.[329] Aligning the FIU under the PGR would increase the investigative capabilities required to improve the prosecution of money laundering crimes, especially those dependent on in-depth investigations such as TBML and MBML schemes.

- **Create memorandums of understanding between government agencies and Banco de Mexico.** The two primary agencies that monitor and assist Mexico's central bank with anti-money laundering issues are the Secretariat of Finance and Public Credit and the National Banking and Securities Commission. The central bank functions on an informal basis with these agencies, meeting with them only when required or when issues arise. Creating memorandums of understanding between the central bank and these two agencies would formally outline expectations, procedures, and guidelines, of cooperation with the central bank. A more structured partnership is essential to combat criminal organizations' money laundering practices.

How Extortion Subverts Economic Growth

While drug trafficking remains the largest source of income for organized criminal groups, extortion has become increasingly popular as these organizations look to diversify their revenue sources. The Zetas, Guerreros Unidos, and La Familia Michoacana, in particular, have made an industry out of extortion.[330] Some security consultants estimate that extortion may be the second

[328] KWJ Engineering, Inc., "A Non-destructive Bulk Currency Detection System (BCDS) for Screening Smuggled Currency," 2013, http://www.kwjengineering.com/wp-content/uploads/2014/08/BCDS-Project-Summary.pdf, 1.
[329] International Monetary Fund, "Mexico: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism," IMF Country Report No. 09/7, 2009, http://www.imf.org/external/pubs/ft/scr/2009/cr0907.pdf , 60.
[330] Alejandro Hope, "Why Kidnapping, Extortion Boomed in Mexico," *Insight Crime*, November 19, 2015, http://www.insightcrime.org/news-analysis/why-kidnapping-extortion-boomed-in-mexico.

or third largest income source for these groups, and it is far more damaging to Mexico's economy than drug trafficking.[331] Extortion is a remunerative source of revenue for criminal organizations in Mexico because it is a direct consequence of weak local public safety institutions such as local police.

Extortion is not a criminal activity exclusive to large transnational criminal organizations such as the Zetas. Criminal organizations of all sizes and affiliations in Mexico engage in extortion, and extortion rates are on the rise nationwide. Surveys of crime from the Instituto Nacional de Estadística y Geografía (INEGI) show that extortion accounted for nearly a quarter of all crimes in Mexico in 2015, at 24.2 percent—second only to robbing/assault on the street or public transportation.[332] Of Mexico's 32 states, extortion was the most common crime in 23 states and the second most common in another eight states.[333] In 2016, 59.1 percent of Mexicans reported that insecurity was the country's principal problem, while only 16.1 percent said that it was narcotrafficking.[334]

As large drug trafficking organizations began splintering during the Calderón Administration's increased security efforts, smaller criminal groups began using extortion as a way to replace their lost drug trafficking revenues, acquire extra liquidity, and move into the legal market. These groups use intimidation and large amounts of money to acquire legal businesses and drive out local competition.[335] Criminal groups favor extortion as a revenue-generating activity, given the low overhead costs—both in equipment and management—and its generally low-risk nature, as most victims rarely report extortions to police for fear of retaliation or collusion among criminal groups and police. According to the 2016 *Encuesta Nacional de Victimización y Percepción de la Seguridad Privada* (ENVIPE), from 2010 to 2015, an average of 98 percent of extortion crimes went unreported.[336]

There are three principal types of extortion operations in Mexico: direct, indirect, and virtual.[337] Direct extortion refers to instances where a criminal confronts an individual or business and forces them to make a payment. Indirect extortion refers to actions where individuals or businesses are forced to purchase items directly from criminal organizations. Virtual extortion refers to extortion or scamming via telephone.

The majority of extortion in Mexico is virtual, and more than 94 percent of extortion cases in 2015 were carried out via telephone according to the 2016 ENVIPE.[338] Calls can be random where "extortionists dial numbers until they reach someone who they can trick into paying," or

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[331] Benjamin Locks, "Extortion in Mexico: Why Mexico's Pain Won't End with the War on Drugs," *Yale Journal of International Affairs*, October 6, 2014, http://yalejournal.org/article_post/extortion-in-mexico-why-mexicos-pain-wont-end-with-the-war-on-drugs/.
[332] It is important to note that INEGI does not classify kidnapping attempts as part of extortion. Kidnappings are instead classified as "other crimes"; INEGI, "Encuesta Nacional De Victimización y Percepción Sobre Seguridad Pública (ENVIPE) 2016," 9.
[333] INEGI, "Encuesta Nacional De Victimización y Percepción Sobre Seguridad Pública (ENVIPE) 2016," 9
[334] Ibid., 12.
[335] Locks, "Extortion in Mexico: Why Mexico's Pain Won't End with the War on Drugs."
[336] INEGI, "Encuesta Nacional De Victimización y Percepción Sobre Seguridad Pública (ENVIPE) 2016," 11.
[337] Locks, "Extortion in Mexico: Why Mexico's Pain Won't End with the War on Drugs."
[338] INEGI, "Encuesta Nacional De Victimización y Percepción Sobre Seguridad Pública (ENVIPE) 2016," 9.

they can be targeted at a particular individual.[339] Authorities believe that a large percentage of extortion calls originate from inside Mexico's prisons. Prisoners use smuggled mobile phones to make thousands of calls every day.[340] The prisoners cannot collect the extortion payments themselves, so they usually work with accomplices to collect the extorted funds. These extortion rings are often connected to organized criminal groups.[341]

The increase in telephonic extortion over the course of the past decade is an unintended consequence of the government's crackdown on kidnapping, which began in 2001. As more kidnappers entered the country's prison system, they looked for a way to continue to support their families or their criminal groups.[342] The Observatorio Nacional Ciudadano de Seguridad, Justicia y Legalidad found that extortion attempts began to gain prominence in late 2004, which coincides with a marked decrease in kidnappings in Mexico between 2005 and 2006.[343]

Extortionists also exploit the credential verification weaknesses in Mexico's financial system. Organized criminal groups can easily open a bank account and collect a deposit with counterfeit credentials, especially at *cadenas comerciales,* which are microfinance institutions in supermarket chains aimed to support people who do not have access to traditional banking institutions.[344] Deposits to *cadenas comerciales* are harder to track than accounts at mainstream banking institutions. Also, deposits of less than MX$10,000 at mainstream institutions are difficult to identify as illegal since they often mimic normal bank transactions.[345] This weakness in Mexico's financial system increases the importance of local police forces' role in deterring and capturing extortionists.

Impact on Sectors of Society

Extortion of Small Urban Businesses

The spread of extortion practices across Mexico has affected local business owners. In 2010, government figures showed that 6,236 small and large businesses filed complaints to the police stating that they had been forced to make monthly payments ranging from US$100 to more than $10,000.[346] However, given that more than 90 percent of extortion attempts are unreported, this is likely an extremely conservative estimate. Extortion rackets targeting businesses were most

[339] Locks, "Extortion in Mexico: Why Mexico's Pain Won't End with the War on Drugs."
[340] Nacha Cattan and Patricia Laya, "Phone Calls From Jail Spread Fear in Mexico," *Bloomberg*, June 25, 2014, https://www.bloomberg.com/news/articles/2014-06-26/phone-calls-from-jail-spread-fear-in-mexico.
[341] Locks, "Extortion in Mexico: Why Mexico's Pain Won't End with the War on Drugs."
[342] Vania Pérez Morales, Doria del Mar Vélez Salas, Manuel Alejandro Vélez Salas, and Francisco Javier Rivas Rodríguez, "Análisis de la extorsión en México 1997-2013: Retos y oportunidades," *Observatorio Nacional Ciudadano de Seguridad, Justicia y Legalidad*, 2014, 29.
[343] Ibid., 29.
[344] Ibid., 31.
[345] Pérez Morales et al., "Análisis de la extorsión en México 1997-2013," 34.
[346] Ioan Grillo, "Paying for your life in Mexico," *PRI*, September 6, 2011, https://www.pri.org/stories/2011-09-06/paying-your-life-mexico.

reported in the states of Chihuahua, Durango, Sinaloa, Tamaulipas, Nuevo León, Guerrero, and Morelos in 2010.[347]

During the Calderón Administration, up to 80 percent of Ciudad Juárez's food vendors were extorted on a regular basis for amounts ranging from US$50 to $500.[348] Many of these small business owners were forced to shut down in response. A 2011 Instituto Ciudadano de Estudios (ICESI) report on extortion estimated that the actual extortion rate, both reported and unreported, in the state of Chihuahua was 1 in 100 people.[349] In 2014, the Confederación Patronal de la República (COPARMEX), estimated that 37 percent of businesses nationwide have been direct victims of crime—largely extortion—costing them $5.8 billion per year.[350]

Extortion of Large Mexican Firms

Large corporations are relatively resilient to extortion by criminal organizations because their profit margins help them factor in violence as a production cost.[351] However, it is this resilience that also makes them attractive targets. Multinational firms such as PepsiCo and Walmart have been all too willing to pay protection taxes to organized criminal groups.[352] Recently, the petroleum, logging, and mining industries have been the focus of organized crime's extortion efforts.

Organized criminal groups have turned to fuel theft as a way to further diversify revenue sources. Fuel theft began to worsen in the late 2000s, amid the Calderón Administration's assault against large drug trafficking organizations, which fragmented into smaller organizations focused on other criminal activities. These organizations capitalized on surging international oil prices, and despite the recent drop in prices, there are still criminal groups devoted solely to fuel theft due to low entry and overhead costs. Black-market fuel can generate hundreds of millions of dollars annually, and it is sold in Mexico, Central America, and in the U.S.[353]

From 2007 to 2016, illegal taps on Petróleos Mexicanos (Pemex) pipelines increased from 294 to 6,873, and more than 1.47 million gallons of fuel are stolen daily from these pipelines, according to government officials.[354] Pemex attributes its decade-long decline in production in part to the increase in fuel theft, which costs the company approximately US$1 billion annually.[355] As a

[347] Jeanna Cullinan, "How Extortion Rates Vary Across Mexico," *Insight Crime*, September 12, 2011, http://www.insightcrime.org/news-analysis/how-extortion-rates-vary-across-mexico.
[348] Ibid.
[349] Ibid.
[350] Locks, "Extortion in Mexico: Why Mexico's Pain Won't End with the War on Drugs."
[351] Viridiana Rios,"The impact of crime and violence on economic sector diversity," Wilson Center, June 2016, http://scholar.harvard.edu/files/vrios/files/riosv_violencediversificationpaper.pdf, 4
[352] Alberto Díaz-Cayeros, Beatriz Magaloni, and Vidal Romero, "Caught in the Crossfire: The Geography of Extortion and Police Corruption in Mexico," Center on Democracy, Development, and the Rule of Law, Stanford University, February 2014, http://fsi.stanford.edu/sites/default/files/caught_in_the_crossfire_final_final.pdf, 6.
[353] Kirk Semple, "In Mexico, an Epidemic of Fuel Thefts Becomes a Crisis," *The New York Times*, April 26, 2017, https://www.nytimes.com/2017/04/26/world/americas/mexico-fuel-theft-crisis.html.
[354] Christopher Woody, "Mexico Oil Industry Now has an Organized Crime Problem," *Business Insider*, February 6, 2016, http://www.businessinsider.com/mexico-oil-price-budget-cuts-and-theft; and Semple, "In Mexico, an Epidemic of Fuel Thefts Becomes a Crisis."
[355] Nacha Cattan and Eric Martin, "Drug Cartels are Looting Mexican Gas Pipelines," *Bloomberg*, January 12, 2017, https://www.bloomberg.com/news/articles/2017-01-12/drug-cartels-are-looting-mexico-s-gas-stations.

result of scarce supply, Mexican consumers pay higher prices for fuel. Fuel theft also makes it harder for Mexico to attract foreign investment in its energy industry. In response, the Mexican government increased the maximum prison sentence for fuel theft in 2015 from 15 to 25 years, and oil companies have ceased transporting refined oil via pipelines.[356] Harsher penalties, however, are unlikely to deter criminal organizations given that relatively few people are prosecuted for this crime.

Meanwhile, mining companies in Mexico now have to compete with criminal organizations to sell certain minerals or export to external markets, such as China. Organized criminal groups have been successful in this industry, as they can operate their illegal mining operations at lower costs, due to their lack of adherence to environmental and labor regulations. The Knights Templar operated mines in Michoacán and employed 6,000 locals. When the government shut down these Knights Templar-controlled mines in 2014, burglary and mugging increased in the mining areas as the government did not have a plan for those who lost their jobs.[357]

The Knights Templar also taxes legal mining activities, charging US$15 per metric ton of processed iron ore. The Mexican government estimated that the Knights Templar earned US$800,000 to $1.4 million a week from this activity alone.[358] In 2014, the Knights Templar claimed that it generated more revenue in Michoacán from illegal mining than from drug trafficking.[359]

Extortion of the Agricultural Sector

The agricultural sector has also not been immune to extortion by organized crime. Mexico is the world's largest producer of limes and avocados, and most of the country's crop grows in Michoacán. In recent years, the production value for these export crops has risen significantly, and in 2015 the state exported more than US$500 million of avocados.[360] Extortion of lime and avocado farming communities has proven to be a highly profitable activity for organized crime and a major revenue source. In 2009, La Familia Michoacana began extorting local growers, and in 2011, the Knights Templar assumed control of the state and shifted their business model from taxing farmers and exporters to forcing them to sell their land directly to the group.[361] Packing companies could only purchase limes and avocados grown on Templar-owned farms and the group took cuts from fertilizer and pesticide sales made by local businesses.[362]

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[356] Woody, "Mexico Oil Industry Now has an Organized Crime Problem."
[357] Ricardo Martinez, "Mexico loses millions of dollars daily to fuel theft," *PRI*, October 17, 2016, https://www.pri.org/stories/2016-10-17/mexico-loses-millions-dollars-daily-fuel-theft.
[358] Martinez, "Mexico loses millions of dollars daily to fuel theft."
[359] "Mexican cartel earns more from mining and logging than drugs," *CBCNews*, May 07, 2014, http://www.cbc.ca/news/business/mexican-cartel-earns-more-from-mining-and-logging-than-drugs-1.2575826.
[360] Michael Lohmuller, "Massive Avocado Farm Extortion Highlights Mexico Vigilantes' Cause," *Insight Crime*, April 8, 2014, http://www.insightcrime.org/news-briefs/massive-avocado-farm-extortion-highlights-mexico-vigilantes-cause; and Adrienne Matei, "The Avocado Wars," *NUVO*, June 27, 2016, http://nuvomagazine.com/magazine/summer-2016/the-avocado-wars.
[361] Omar García-Ponce and Andrés Lajous, "How does a drug cartel become a lime cartel?," *The Washington Post*, May 20, 2014, https://www.washingtonpost.com/news/monkey-cage/wp/2014/05/20/how-does-a-drug-cartel-become-a-lime-cartel/.
[362] Lohmuller, "Massive Avocado Farm Extortion Highlights Mexico Vigilantes' Cause."

According to the *Asociación de Productores y Empacadores Exportadores de Aguacate de México* (APEAM), the avocado industry alone employs more than 300,000 people, both directly and indirectly, in Michoacán.[363] As the state's most important economic activity, extortion of all members of the agricultural industry hinders local economic growth.

Previous Policies

The Mexican government has yet to implement a nationwide strategy to effectively combat and deter extortion. There have been limited successes of counter-extortion operations at the state and municipal level, such as in Ciudad Juárez, but these have not been replicated in other extortion hotspots. Important factors for success are effective local law enforcement and high levels of citizen crime-reporting.

One of President Enrique Peña Nieto's campaign platforms was to improve Mexico's security services, and as part of his national security plan, the country adopted a single emergency number.[364] Implementation lasted from October 2016 to January 2017 and "911" replaced the dozens of numbers previously used to report individual crimes, including a specific number for extortion. The idea behind this policy was that switching to a single number would make reporting crime easier, especially given widespread knowledge of "911" in popular culture. The country concurrently adopted a specific number, "089," for reporting a crime anonymously, in an effort to encourage more people to come forward with information without fear of retribution.[365]

Ultimately, even unification of the emergency reporting system has not succeeded because of mistrust and lack of confidence in local police.[366] In surveys, Mexicans indicate that they do not report crimes due to "fear of being extorted, waste of time, long and difficult paperwork, distrust of authority, or a hostile authority."[367] Improving the public perception of police effectiveness is therefore an essential component in decreasing the extortion rate. Mexicans' lack of faith in the nation's emergency services, and the perception that they are a joke, is evident by the fact that in the first half of 2016, more than 90 percent of the 59 million calls made to the emergency services numbers were fake.[368]

To prevent prisoners from making unauthorized calls, namely conducting virtual extortion attempts, federal prisons have installed cellular-signal-blocking devices. Although blocking signals are intended to cover a 20-meter radius outside of prisons, they frequently interfere with mobile phone coverage in surrounding areas. A 2014 study from Anatel found that these signals resulted in 1.4 million incomplete calls a day in towns surrounding the nation's prisons.[369]

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[363] "A thriving industry is still wary of cartels," *Mexico News Daily*, January 21, 2016, http://mexiconewsdaily.com/news/a-thriving-industry-is-still-wary-of-cartels/.
[364] Felbab-Brown, "Changing The Game Or Dropping The Ball," 3; and Arturo Daen, "Desde este lunes hay un número único para reportar emergencias en todo México," *Animal Político*, February 9, 2017, http://www.animalpolitico.com/2017/01/911-activacion-numero-emergencias-cdmx/.
[365] "El 911, el nuevo número de emergencia en México," *El Financiero*, February 12, 2015, http://www.elfinanciero.com.mx/nacional/el-911-el-nuevo-numero-de-emergencia-en-mexico.html.
[366] INEGI, "Encuesta Nacional De Victimización y Percepción Sobre Seguridad Pública (ENVIPE) 2016," 2.
[367] Ibid., 2.
[368] Rafa Fernandez de Castro, "Mexicans mock their new 911 emergency number with brilliant memes," *Fusion*, October 7, 2016, http://fusion.net/mexicans-mock-their-new-911-emergency-number-with-brill-1793862563.
[369] Cattan and Laya, "Phone Calls From Jail Spread Fear in Mexico."

Blocking devices are also subject to tampering by prison employees who are bribed by prisoners. Phone companies like América Móvil, Telefónica SA, Grupo Iusacell SA, and Nextel work with the Comisión Nacional de Seguridad to block signals within some of the country's prisons. In 2016, the Mexican Senate approved the National Penal Enforcement Law that included improving cell signal jamming systems in the federal penitentiary system.[370]

Chihuahua's 2011 anti-extortion effort is the best example of a government extortion strategy at the state level. The effort focused specifically on Ciudad Juárez because local officials estimated that nearly 8,000 businesses were being extorted annually by both organized criminal groups and low-income residents.[371] Chihuahua Attorney General Carlos Salas ordered the Chihuahuan police to create an anti-extortion squad to carry out extortion investigations. Officers went door-to-door in the city's downtown commercial area and encouraged business owners to report extortionists.[372] Within two weeks of the squad's formation, businesses started reporting tips and the squad successfully shut down a number of major extortion operations.

Despite this success in Chihuahua, the Peña Nieto Administration failed to build upon the lessons learned from the Calderón Administration. During his campaign, Peña Nieto emphasized his aim to reduce "all types of criminal violence that society experiences, including extortion and kidnapping."[373] However, his administration quickly reverted back to Calderón's "high-value targeting" and put national counter-extortion policies on the backburner.[374] These developments, along with the failure to create the desired 60,000-strong National Gendarmerie force for permanently policing rural and public insecurity hotspots, has led to a continued absence of policies addressing extortion.[375]

Policy Recommendations

It is important to note that policies or strategies that aim to address or reduce extortion will be hamstrung if municipal police forces are too weak to be effective. Until these forces are strengthened, professionalized, and cleared of criminal group infiltration, systematic extortion in Mexico will persist.

- **Encourage government agencies and NGOs to survey populations in rural and urban extortion hotspots and classify extortion efforts.** Extortion reports and surveys from federal agencies and security-focused NGOs do not always classify extortion attempts into the three subtypes of virtual, direct, or indirect. Therefore, it is difficult to determine which type of attempt is most common and harder to analyze the scope of the problem. Enacting a classification system would help the government and law enforcement prioritize which types of extortion to focus on first.

[370] LaSusa, "Mexico Senate Unanimously Approves Prison Reforms."
[371] Sam Quinones, "Once the World's Most Dangerous City, Juárez Returns to Life," *National Geographic*, June 2016, http://www.nationalgeographic.com/magazine/2016/06/juarez-mexico-border-city-drug-cartels-murder-revival/.
[372] Ibid.
[373] Felbab-Brown, "Changing The Game Or Dropping The Ball," 13.
[374] Ibid., 16.
[375] Ibid., 22.

- **Create concrete plans for government takeover of organized crime-controlled mines/farms that take the local populace into account.** When law enforcement shut down the Knights Templar-controlled mines, 6,000 people lost their jobs and there was a subsequent increase in crime in the towns where the mines were located. The federal and state governments should bring in the private sector to take over operations of seized mines/farms by either returning them to their original owners or auctioning them off to new owners that have been thoroughly vetted. Employment loss for workers in legitimate businesses operated by organized criminal groups could be avoided by instituting local labor force requirements for the new mine operators.

- **Increase the installation of cellphone signal disrupters in prisons.** Mexico has already begun installing cell phone jammers in its federal prisons. However, expansion will not be cheap, and estimates of the cost run in the range of US$600,000 to effectively cover a large prison facility.[376] Because an estimated 94 percent of extortion attempts are carried out over the phone, with much of this originating from prison facilities, this should be a major component of the federal government's anti-extortion efforts going forward. Random quarterly inspections of prison signal disrupter systems by the Consejo Técnico Interdisciplinario, the penal system monitoring body, is highly recommended as a strategy to ensure prison compliance.

How to Address the Socioeconomic Hotspots

An important part of the fight against transnational organized crime is addressing socioeconomic issues. Violent and organized crime flourish when GDP is low, income inequality is high, and unemployment is persistent.[377] However, macroeconomic trends are not uniform across the country. In order to target resources more effectively, it is important to identify the most hard-hit areas and understand the characteristics that make these places more vulnerable to crime.

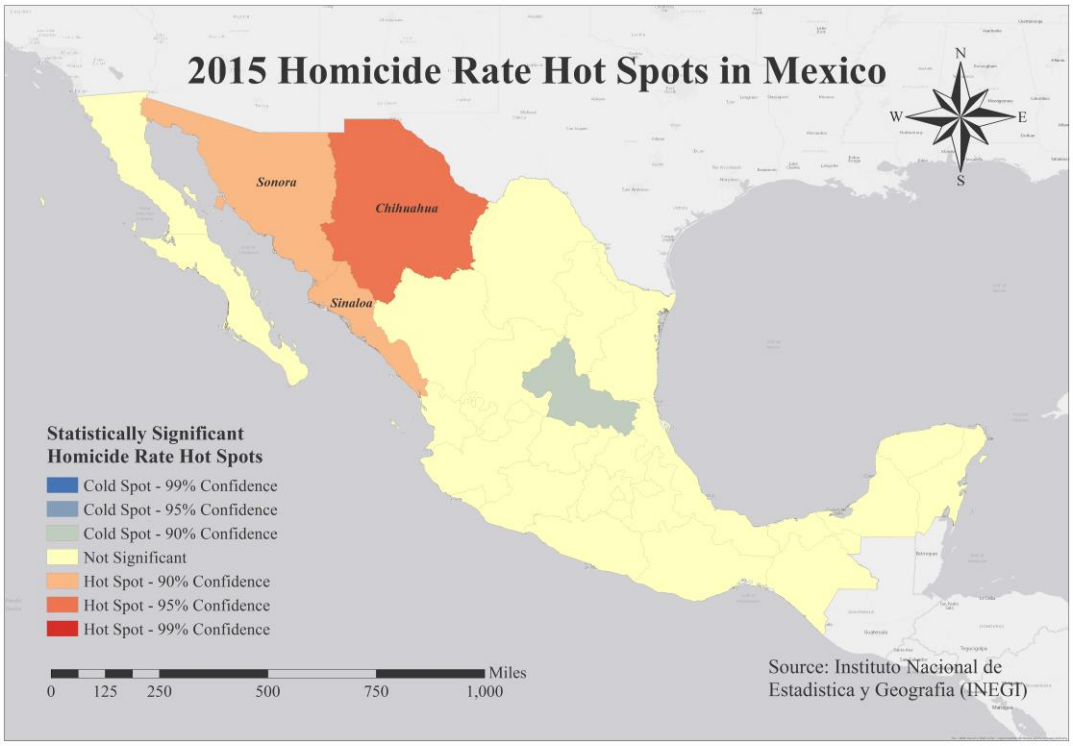
According to a 2009 study by researchers at the University of Guadalajara that analyzed homicide rates in Mexico between 1990 and 2009, the states with the highest homicide rates during that period were Chihuahua, Guerrero, Durango, Sinaloa, and Baja California.[378] With the exception of Guerrero, all of these states are located in the northwest. Lower homicide rates in these states between 1990 and 2007 could be explained by structural factors such as GDP growth, poverty reduction, and low unemployment. However, the 2009 study argues that the sudden jump in homicide rates that occurred in 2007 is better explained by higher levels of poverty, school dropout rates, alcohol consumption, drug trafficking activity, impunity for crimes, and higher use of firearms by the military and the police.

Yet, a lot has changed in Mexico since the 2009 study. In order to understand the current landscape of violent and organized crime, we examined more recent data for the period between

[376] David Goldman, "FCC wants to stop prisoners from making cell phone calls," *CNN*, April 7, 2016, http://money.cnn.com/2016/04/07/technology/prison-cell-phones/.
[377] Pablo Fajnzylber, Daniel Lederman, and Norman Loayza, "What causes violent crime?" *European Economic Review* 46, no. 7 (2002):1337-1344; and Martin Nordin and Daniel Almén, "Long-term unemployment and violent crime," *Empirical Economics* 52, no. 1 (2017):10-15.
[378] Guillermo Julián González-Pérez et al., "Deaths by homicide in Mexico: Trends, socio-geographical variations and associated factors," *Ciência & Saúde Coletiva* 17, no. 12 (2012):3199.

2010 and 2015. A hotspot analysis using 2015 homicide data reveals that violent crime continues to be concentrated in the northwest states of Sonora, Chihuahua, and Sinaloa (see Figure 3.1).[379]

Figure 3.1
Hot Spot Analysis of Homicide Rates by State in Mexico, 2015



Source: Created by PRP students. Data from: INEGI, "Defunciones por homicidios, Entidad y municipio de ocurrencia," 2015, http://www.inegi.org.mx/sistemas/olap/proyectos/bd/continuas/mortalidad/defuncioneshom.asp?s=est; and INEGI, "Censo de Población y Vivienda 2010," 2010, http://www.beta.inegi.org.mx/proyectos/ccpv/2010/.

Contrary to the previous study's findings, these violent crime hotspots no longer coincide with socioeconomic hotspots. Instead of the northwest region, the hardest hit area in terms of socioeconomic indicators are the southern and central regions of Mexico. (It is possible that an analysis at the municipal rather than the state level could show that the hotspots continue to be located in the northwest regions of Mexico; however, we were not able to find municipal-level data for all five indicators.) States in these areas exhibit higher levels of poverty (Figure 3.2) and extreme poverty, as well as lower rates of educational attainment and monthly household income (see Appendix B, Figures B.1, B.2, and B.3).[380] Within the southern and central regions, Jalisco,

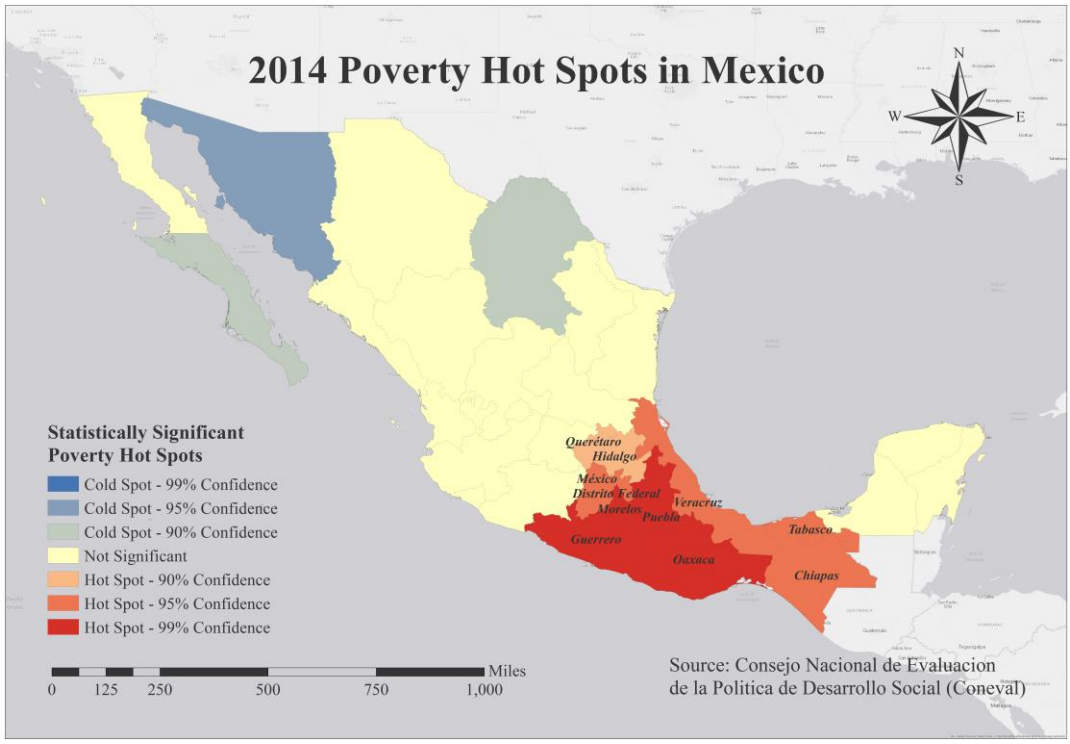
[379] Hot spot analyses use the Getis-Ord Gi* statistic to identify statistically significant hot spots and cold spots (i.e., spatial clusters of high values and low values). We conducted this analysis using a mapping software called ArcGIS.
[380] CONEVAL, "Pobreza en México 2014," http://www.coneval.org.mx/Medicion/MP/paginas/pobreza_2014.aspx; and Vanderbilt University and Americas Barometer, "Latin America Public Opinion Project," http://vanderbilt.edu/lapop/raw-data.php.

Hidalgo, Chiapas, and Campeche stand out as the states with the worst conditions across most of the four indicators.

Although the homicide and socioeconomic hotspots do not coincide with one another, drug trafficking activity is highly prevalent throughout the country (see Appendix B, Figure B.4).[381] It is particularly high in the central states of Jalisco and Hidalgo, both of which were identified as socioeconomic hotspots, as well as the northern states of Baja California Sur and Tamaulipas.

Due to the strong link between poor socioeconomic conditions and higher crime rates, this section will focus solely on the socioeconomic hotspots. Addressing the homicide hotspots is largely a security issue, which falls outside the purview of this chapter. This section concludes by providing policy recommendations on how to curtail organized crime in Mexico by addressing socioeconomic factors.

Figure 3.2
Hot Spot Analysis of Poverty Rates by State in Mexico, 2015



Source: Created by PRP students. Data from: CONEVAL, "Evolución de la pobreza y pobreza extrema nacional y en entidades federativas, 2010, 2012 y 2014," 2014, http://www.coneval.org.mx/Medicion/Paginas/PobrezaInicio.aspx; and INEGI, "Censo de Población y Vivienda 2010," 2010, http://www.beta.inegi.org.mx/proyectos/ccpv/2010/.

[381] Vanderbilt University and Americas Barometer, "Latin America Public Opinion Project."

What are the Most Vulnerable Population Groups and How are They Affected?

"Ninis"

In addressing the socio-economic roots of crime and violence, a report by the Justice in Mexico Center urged the Mexican government to pay particular attention to "young, disaffected" males who represent the majority of both the perpetrators and victims of crime.[382] These men are part of another vulnerable sub-category: unemployed and uneducated youth, known colloquially in Latin America as "ninis" (*ni estudian ni trabajan*). In Mexico, 25 percent of youth between 15 and 29 years old fall into this category, translating to 7.5 million people. To put these numbers into perspective, the population of "ninis" in Mexico alone represents more than a third of Latin America's entire population of youth who are out of school or out of work.[383] Furthermore, a report by the World Bank found that 6 out of 10 "nini" youth in Mexico were raised in poverty, and there is a statistical correlation between the number of "ninis" and the country's homicide rate.[384]

Mexico's large "nini" population stems in part from a lack of economic opportunities. For those with limited employment prospects, involvement in organized crime is an opportunity to earn a viable income. Numerous studies have shown that high school drop-outs have a higher probability of engaging in criminal activity.[385] The International Crisis Group found that since 2003, transnational crime organizations "have recruited thousands of street gang members, school drop-outs, and unskilled workers."[386] According to a social worker in Monterrey, teenagers can earn as much as MX$10,000 to $12,000 a month as a *sicario*, or hitman, compared to the average MX$3,800 a month that they would make in a "regular job."[387] "These young *sicarios* provide [transnational crime organizations] with a huge pool from which they can replace those who are killed or arrested," allowing them to carry out attacks against Mexican security forces.[388]

Beyond serving as manpower for the operations and activities of transnational criminal organizations, "ninis" are also detrimental to Mexico's economic growth. The World Bank calculated that an increase of just 1 percent in the number of "ninis" would result in a decline in national income by 7 percent over the next 20 years.[389]

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[382] Kimberly Heinle, Octavio Rodriguez Ferreira, and David A. Shirk, "Drug Violence in Mexico: Data and Analysis through 2015," 40.
[383] One in five young people in Latin America aged 15 to 24 years old is neither enrolled in school nor employed, which amounts to more than 20 million "ninis" in the region. Halsey Rogers, "The nini youth of Latin America: Out of school, out of work, and misunderstood," *The World Bank Blog*, January 25, 2016, http://blogs.worldbank.org/education/africacan/ppps/impactevaluations/nini-youth-latin-america-out-school-out-work-and-misunderstood.
[384] "Los ninis de México: 7.5 millones de jóvenes," *El Universal*, January 22, 2016, http://www.eluniversal.com.mx/articulo/periodismo-de-datos/2016/01/22/los-ninis-de-mexico-75-millones-de-jovenes.
[385] Rafael de Hoyos, Carlos Gutiérrez Fierros, and J. Vicente Vargas M., "Idle Youth in Mexico: Trapped between the War on Drugs and Economic Crisis," The World Bank Group 7558, 2016, 2.
[386] "Peña Nieto's Challenge: Criminal Cartels and Rule of Law in Mexico," 13.
[387] Ibid., 14 (the article did not provide examples of "regular jobs").
[388] Ibid.
[389] Rafael de Hoyos, Halsey Rogers, Miguel Szekely, "Out of School and Out of Work: Risk and Opportunities for Latin America's Ninis," World Bank Group, 2016, 4.

The "nini" challenge is exacerbated by a poor educational system that fails to prepare young Mexicans for the job market. In Mexico, there are no public data or indicators available that evaluate and rank universities in terms of teaching quality, employment rate, etc. Because universities and secondary schools do not have to publish data, they are not held accountable, which perpetuates the poor quality of education in private and public schools alike. There is no motivation to update curriculums, reach out to the labor market to figure out what sort of skills they are looking for, or improve the employability of their students. As a result, universities and secondary schools do not provide the skills that students need to find formal employment and there is often a mismatch between the skills educational institutions impart, and the skills that the formal job market demands. Because they have trouble finding employment even with a high school or college degree, low-income students in Mexico have little motivation to continue their studies past the ninth grade, when mandatory education ends. Pursuing a high school or college degree often does not improve their chances of finding a job nor improve their salary prospects.

The Mexican Institute for Competitiveness (IMCO), a public policy think tank in Mexico, has released a database that provides information about public and private schools from preschool through secondary school. Furthermore, it is currently creating the first database of college graduates, which it uses to evaluate universities in terms of their post-graduate employment and salaries. The hope is that this transparency will put pressure on colleges and schools to update their curriculums to better reflect labor market needs. However, the impact of these civil society-led initiatives will be hindered without the support and commitment of the Mexican government.

Rural Farmers

Illicit drug production and socioeconomic development are closely linked, and high levels of poverty in rural Mexico is one factor that contributes to the production of illicit drug crops such as cannabis and opium poppies. "It is not the drug production that generates underdevelopment. It is the lack of development that generates the opium cultivation," said Antonio Mazzitelli, the head of the UN Office on Drugs and Crime (UNDOC) in Mexico.[390] An Open Society Foundation report found that development issues like weak governance, civil strife or conflict, food insecurity, and the underdevelopment of agricultural infrastructure are common in countries where illicit drugs are cultivated.[391] Poppies, for example, are grown in rural regions of Mexico that lack a strong state presence, such as in parts of Guerrero, Sinaloa, Chihuahua, Durango, and Nayarit.[392] Our geospatial analysis found that Guerrero and Sinaloa are hotspots for homicide, Guerrero is a hotspot for both poverty and extreme poverty, and Durango has extremely low rates of educational attainment and monthly household income.

[390] Azam Ahmed, "Young Hands in Mexico Feed Growing U.S. Demand for Heroin," *The New York Times*, August 29, 2015, https://www.nytimes.com/2015/08/30/world/americas/mexican-opium-production-rises-to-meet-heroin-demand-in-us.html.
[391] The Nossal Institute for Global Health, *Dependent on Development: The Interrelationships between Illicit Drugs and Socioeconomic Development* (New York: Open Society Foundations, 2010), 12, https://www.opensocietyfoundations.org/sites/default/files/dependent-development-20110313.pdf.
[392] Deborah Bonello, "Mexico Publishes Poppy Cultivation Data for First Time," *Insight Crime*, June 23, 2016, http://www.insightcrime.org/news-briefs/mexico-publishes-first-poppy-cultivation-figures.

Illicit drugs are grown in isolated geographic locations by marginalized populations.[393] Although agriculture is often the main economic activity in these regions, the Open Society Foundation found that the current infrastructure is unconducive to the cultivation of licit crops. These areas are characterized by "poor irrigation systems, weak transport systems, small landholdings, and lack of access to markets and credit facilities," which makes their low production output uncompetitive at the market.[394] Given the absence of other viable economic opportunities, farmers turn to growing illicit drug crops in order to earn a livelihood and maintain food security. Illicit crops like opium poppy, coca, and cannabis are well suited to adverse growing conditions, and they thrive in poor soil, at high altitude, and without irrigation systems or pesticides.[395] Farmers do not need to worry about transportation and market access because transnational crime organizations have established routes and networks, even to the most remote communities. As a result, "low levels of cultivation of these high-value-to-weight products" can provide an economic safety net.[396]

In recent years, more farmers in Mexico have switched from growing cannabis to opium poppies as a result of marijuana legalization efforts in the U.S. and the growing demand for opioids like heroin. Within the past decade, Mexico has become the world's third-largest producer of opium poppies and the largest supplier of opium derivatives to the U.S.[397] The U.S. State Department's 2016 International Narcotics Control Strategy Report estimated that opium poppy cultivation increased 59 percent between 2013 and 2014 alone, from 11,000 to 17,000 hectares.[398] The Mexican government partnered with UNDOC to publish poppy cultivation figures for the first time in 2016, reporting that between July 2014 and June 2015 there were an average 24,800 hectares of illicit poppy crops.[399] The Mexican government has not released more recent figures, but a U.S. official speaking on the condition of anonymity told *Reuters* that Mexican poppy cultivation reached 32,000 hectares in 2016.[400]

In states like Guerrero, where farmers have shifted their focus to poppies, children and teenagers are increasingly dropping out of school to help their families grow this lucrative crop.[401] The incentive to leave school is compounded by the fact that many of the drug-producing communities lack local schools. Schools in nearby towns can be difficult to reach and the associated transportation and accommodation costs are burdensome for families.[402]

[393] The Nossal Institute for Global Health, *Dependent on Development*, 12.
[394] Ibid., 13.
[395] Ibid., 18.
[396] Ibid.
[397] Bonello, "Mexico Publishes Poppy Cultivation."
[398] Ibid.
[399] Ibid.
[400] Gabriel Stargardter, "Exclusive: U.S. offers to fund Mexico heroin fight as 2016 output jumps - U.S. official," *Reuters*, April 21, 2017, http://mobile.reuters.com/article/mexico/idUSKBN17N2EU?il=0.
[401] Azam Ahmed, "Young Hands in Mexico."
[402] Ibid.

Previous Policies to Address Socioeconomic Inequality: What Worked and What Did Not?

Progresa-Oportunidades

The most well-known and arguably most successful social policy program in Mexico is Progresa-Oportunidades, which the Ernesto Zedillo Administration launched in 1997 as part of a broader poverty alleviation strategy. In its early stages, the program covered approximately 300,000 families in 12 states with a budget of US$58.8 million. It largely targeted rural communities, as these regions had a larger poverty gap.[403] The Vicente Fox Administration expanded Progresa to include urban areas, and by the end of 2005, the program reached 5 million families and operated in all 31 states with a budget of $2.8 billion.[404]

Progresa-Oportunidades provides cash transfers to participating households with the condition that children between 11 and 22 years old regularly attend school and health centers for vaccinations and medical checkups.[405] As a result, school attendance among children enrolled in the program increased by more than 20 percent for girls and 10 percent for boys. The program also decreased the incidence of illness, increased caloric intake, and improved the quality of food consumed in the first three years of its implementation (1997-2000).[406] Progresa-Oportunidades differs from previous programs in that it avoids vote-buying practices by applying strict selection guidelines and delivering benefits directly to participants without the use of intermediaries. Due to its success, the conditional cash transfer program has been replicated in 52 countries around the world.[407]

Progresa-Oportunidades is one of the few government programs that has been evaluated exhaustively. The general consensus is that Progresa-Oportunidades has had a very positive impact, particularly in rural areas where poverty rates have dropped significantly since the program's implementation.[408] In 2004, for instance, the headcount ratio, poverty gap index, and severity of poverty index in rural areas fell by 9.7, 18.7, and 28.7 percent, respectively.[409] Before Progresa-Oportunidades, 75 percent of Mexico's social policy budget went to poverty reduction efforts in urban areas, despite the fact that the majority of the impoverished population lives in

[403] Michelle Adato and John Hoddinott, *Conditional cash transfers in Latin America* (Baltimore: Johns Hopkins University Press, 2010), 66. The poverty gap is the average shortfall of the total population from the poverty line. This measurement is used to reflect the intensity of poverty in an area.
[404] Santiago Levy, *Progress against poverty: Sustaining Mexico's progresa-oportunidades program* (Washington: Brookings Institution Press, 2006), 1-3.
[405] Jere R. Behrman and Susan W. Parker, "The Impact of the PROGRESA/Oportunidades Conditional Cash Transfer Program on Health and Related Outcomes for the Aging in Mexico," PARC Working Paper Series 34, 2011, 5.
[406] Emmanuel Skoufias and Bonnie McClafferty, "Is Progresa Working? Summary of the Results of an Evaluation by IFPRI" (Washington, D.C.: International Food Policy Research Institute, 2001), iii, 2-3, 26.
[407] "A Model from Mexico for the World," The World Bank, November 19, 2014, http://www.worldbank.org/en/news/feature/2014/11/19/un-modelo-de-mexico-para-el-mundo.
[408] Levy, *Progress against poverty: Sustaining Mexico's progresa-oportunidades program*, 10-11, 146.
[409] The headcount ratio is the proportion of poor people in the country, as measured by the number of people living below the poverty line divided by the total national population. The poverty gap index is the headcount ratio multiplied by the total amount of resources necessary to ensure that the poor have an income equal to the poverty line. The severity of poverty index is the sum of the square of the difference between the poverty line and the income of households below the poverty line. Levy, *Progress against poverty: Sustaining Mexico's progresa-oportunidades program*, 67-68.

rural areas.[410] However, Progresa-Oportunidades focused its efforts on the states with the highest need. In fact, more than 50 percent of the households targeted by Progresa-Oportunidades were located in Chiapas, Veracruz, Oaxaca, and Guerrero, all of which were identified as poverty hotspots in our geospatial analysis.[411] Nonetheless, the program's coverage remains inadequate because it fails to reach the entire extreme poor population. The program's educational impact is also disproportionate because it is more pronounced among younger children, which means that it fails to address the lower end of the "nini" age range (15 to 18 years old).[412] Despite its weaknesses, Progresa-Oportunidades' focus on an integrated rather than an isolated approach to service delivery has shown to be an effective and efficient method of addressing the multiple dimensions of poverty.

Prospera: Programa de Inclusión Social

President Enrique Peña Nieto campaigned on a platform to lift millions of people out of poverty. His administration, however, has struggled to follow through on this promise. Poverty in Mexico has increased since he assumed the presidency in 2012, from 45.5 percent to 46.2 percent. This amounts to nearly 2 million more people living in poverty today.[413] The Organization for Economic Cooperation amd Development (OECD) reported in 2015 that Mexico is the only country in Latin America to show "regressive tendencies" in poverty reduction as a result of slow economic growth and a steady unequal distribution of wealth.[414] According to CONEVAL's 2014 poverty estimates (the agency's most recent data) 46.2 percent of the population lived in poverty, with 36.6 percent living in moderate poverty, and 9.5 percent in extreme poverty.[415] While the number of Mexicans living in extreme poverty decreased by 1.6 million from 2010 to 2014, the number living in moderate poverty increased by 4.1 million.

In 2014, the Peña Nieto Administration revamped Progresa-Oportunidades, renaming it Prospera: Programa de Inclusión Social. Prospera continues to focus on health, nutrition, and education, but it now strives to improve recipients' "financial, productive, and labor inclusion" by giving them the skills to generate income on their own and reduce their dependence on cash

[410] Ibid., 5-6.
[411] Levy, *Progress against poverty: Sustaining Mexico's progresa-oportunidades program*, 27.
[412] Ibid., 133.
[413] "Poverty in Mexico Has Increased Since Peña Nieto Took Office," *TeleSur,* July 24, 2015, http://www.telesurtv.net/english/news/Poverty-in-Mexico-Has-Increased-Since-Pena-Nieto-Took-Office-20150724-0003.html; and CONEVAL, "Medicion de la pobreza en Mexico y en las Entidades Federativas 2014," July 2015, http://www.coneval.org.mx/Medicion/Documents/Pobreza%202014_CONEVAL_web.pdf.
[414] Deborah Bonello, "The drug war isn't the only battle Mexico is losing," *Public Radio International*, July 24 2015, http://www.pri.org/stories/2015-07-24/drug-war-isn-t-only-battle-mexico-losing.
[415] CONEVAL is an independent agency in Mexico that measures poverty by taking into account its multiple social and economic dimensions. According to CONEVAL, a person is in poverty when they have at least one social deficit out of six possible indicators within the Social Deprivation Index (educational lag, access to health services, access to social security, access to food, housing quality, and access to basic housing services) and their income is insufficient to acquire the goods and services required to meet their needs. A person is in extreme poverty when they fall below the line of minimum wellbeing (monetary value of a basic food basket) and they have three or more deficiencies within the Social Deprivation Index. People in this situation have such a low income that, even if they were completely dedicated to acquiring food, they would not be able to obtain the nutrients necessary for a healthy life. The incidence of moderate poverty is obtained by calculating the difference between the incidence of the population in poverty and that of the population in extreme poverty. http://www.coneval.org.mx/Medicion/Paginas/Glosario.aspx.

transfers.[416] The program includes access to financial education programs and financial services, such as savings accounts and life insurance plans through the National Savings and Financial Services Bank (*Banco de Ahorro Nacional y Servicios Financieros,* BANSEFI), and recipients now receive their payments through an electronic account associated with a debit card. It also features entrepreneurship development programs run by various government ministries.

In November 2016, the *Secretaria de Educación Pública* (SEP) launched the scholarship "Inicia tu Carrera SEP-Prospera" for students who are in their first year of a bachelor's degree program at a public university or in their first year at a technical university and whose families are enrolled in Prospera.[417] The scholarship covers up to MX$11,000 towards tuition and 117 grantees were selected for the 2016-2017 cycle. At present, 6.8 million households, or nearly 30 million individuals, benefit from Prospera.[418] Peña Nieto's goal is to have 7.9 million households covered under this program by the end of his term in 2018.[419]

Prospera addresses Progresa's shortcomings in that it attempts to focus on youth in the "nini" age range. Recipients' children are now eligible for scholarships to attend primary and secondary school, vocational training institutes, and universities.[420] Both recipients and their working-age children are entered into the National Employment Service (*Fondo Nacional del Emprendedor*), which assists those who are unemployed to secure work in the formal economy through government-sponsored job training programs. Although the effects of linking recipients to employment support programs have not been thoroughly evaluated, initial studies have found that Prospera's connection to BANSEFI has led to gains in access to formal banking.[421]

Despite the success of Prospera since its initial conception as Progresa-Oportunidades, there is still room for improvement. Although conditional cash transfers increased school enrollment levels and reduced dropout rates, they did not have a significant impact on test scores or attendance.[422] Prospera is effective at getting families to enroll their children in school, but not necessarily at providing a quality education or motivating children to regularly attend class. In addition, health and nutrition problems remain despite improvements in these areas. For instance, there continues to be a high prevalence of stunting and anemia among beneficiary children in the states of Chiapas and San Luis Potosí, respectively.[423]

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[416] Gobierno de México, "Background Information," 2015, https://www.prospera.gob.mx/EVALUACION/es/wersd53465sdg1/temp/Taller_internacional/Background_information_PROSPERA.pdf, 5.
[417] Secretaria de Educacion Publica, "Beca Complementaria Inicia Tu Carrera SEP-Prospera: Ciclo Escolar 2016-2017," 2016, http://www.cnbes.sep.gob.mx/files/Comunicacion/Convocatorias/2016/Hyperlinks_PDF/Hyperlinks_Com_Beca_Inicia_tu_carrera_SEP_Prospera_2016-2017.pdf.
[418] OECD, *Building an Inclusive Mexico: Policies and Good Governance for Gender Equality* (Paris: OECD Publishing, 2017), 117.
[419] Ibid..
[420] The World Bank, "A Model from Mexico for the World."
[421] OECD, *Building an Inclusive Mexico*, 118.
[422] Emmet Hollingshead, "Latin America's Welfare Revolution: Conditional Cash Transfer Policies in Brazil and Mexico," *The Contemporary*, January 24, 2017, https://thecontemporarygroup.com/2017/01/24/latin-americas-welfare-revolution-conditional-cash-transfer-policies-in-brazil-and-mexico/.
[423] Esmeralda García-Parra et al., "Are there changes in the nutritional status of children of oportunidades families in rural chiapas, mexico? A cohort prospective study," *Journal of Health, Population, and Nutrition* 35, no. 1 (2016):

The conditional cash transfer program in Mexico has had a strong emphasis on education, health, and nutrition due to its view of poverty reduction. The logic behind this program is that as beneficiary children grow old enough to enter the job market, higher levels of health and education will allow them to reach their full potential and lift themselves out of poverty, thereby breaking the intergenerational cycle of poverty. However, if the program is not improving children's nutritional levels or providing a quality education, then Prospera is failing to reach its stated goal of long-term poverty reduction. As long as this objective is not met, transnational criminal organizations will continue to have a steady source of new recruits.

Another issue with Prospera revolves around the relationship between beneficiaries and those involved in the program's implementation (state and municipal authorities, health workers, etc.). Progresa-Oportunidades was designed to minimize the possibility of clientelism by including transparency and accountability measures, a feature that was passed on when the program was revamped as Prospera. Yet, several studies have found evidence of vote-buying practices and abuses of power in the delivery of services associated with Prospera.[424] Moreover, a nine-month qualitative study by Viviana Ramirez found that Prospera recipients experience a lower sense of self-worth, competence, agency, and economic confidence as a result of mistreatment, discrimination, shaming, and extortion. For example, some participants reported being threatened with expulsion from the program if they did not comply with the officers' orders, which were often arbitrary and rooted in prejudice (e.g., a Prospera doctor looking at patients in disgust and asking them to stand far away).[425] Political manipulation and poor relationships with program officers negatively affect the wellbeing of families participating in Prospera, which, in turn, reduces the program's effectiveness. For these reasons, Prospera's implementation needs to go beyond service delivery and pay closer attention to the behavior of those delivering services.[426]

Crop Eradication

Since the 1930s, the Mexican military has pursued a policy of crop eradication in its fight against drug trafficking. Due to the mountainous terrain where crops are grown, as well as the fact that most crops are grown on a small scale, eradication efforts are largely conducted manually by cutting or burning once or twice a year. The Calderón Administration's decision to move troops from the countryside into urban areas shifted the focus from eradication to strengthening public security and capturing drug kingpins. As a result of "personnel constraints," the number of hectares of illicit crops that were destroyed declined during his administration.[427]

1-8; and Teresa Shamah-Levy et al., "Food assistance programmes are indirectly associated with anaemia status in children <5 years old in Mexico," *The British Journal of Nutrition* 116, no. 6 (2016):1095-1098.

[424] Felipe Hevia de la Jara, "Uso político de programas sociales y nuevos intermediarios institucionales: El programa Progresa/Oportunidades en el sur de veracruz," *Desacatos* no. 34 (2010): 119-132; Lucy Luccisano and Laura Macdonald, "Neoliberalism, semi-clientelism and the politics of scale in Mexican anti-poverty measures," *World Political Science Review* 8, no. 1 (2012):1-27; and Viviana Ramírez, "CCTs through a wellbeing lens: The importance of the relationship between front-line officers and participants in the Oportunidades/Prospera programme in Mexico," *Social Policy and Society* 15, no. 3 (2016):451-464.

[425] Ibid., 456-460.

[426] Ibid., 460-461.

[427] Seelke and Finklea, "U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond."

Given the increase in poppy cultivation, the Mexican military has significantly increased its eradication efforts since 2013. It destroyed 25,960 hectares of opium fields in 2015, up 77 percent from 2013, according to data from the army.[428] It eradicated approximately 14,000 hectares of poppies between January and May 2016.[429] Although the exact number of hectares of poppies in Mexico is unknown, using the government's 2015 estimate of 24,800 hectares, the 2016 eradication efforts targeted approximately 60 percent of the country's crops. Estimates of Mexican illicit crop cultivation are based on satellite imagery, unlike census-based UNDOC programs that can more accurately map cultivation and eradication data. In order to improve data collection, the military plans to implement UNDOC hardware and software by summer 2017 to allow soldiers to file data to headquarters on destroyed fields in real time.[430] In April, the Mexican military allowed the U.S. and UNDOC officials to observe its eradication efforts for the first time since 2007, in an effort to address concerns about the quality of its data and the success of its eradication campaign.[431]

The Mérida Initiative does not focus on crop eradication, although U.S. training and equipment have provided courses on drug interdiction. Most interdiction efforts, however, take place at the border after drugs have been produced and therefore have no impact on illicit crop cultivation.[432] In April, the U.S. government offered to help fund Mexico's eradication efforts through various forms, such as providing the army with vehicles or paying for helicopter flights to ease access to the isolated, mountainous regions where poppies are grown.[433] Crop eradication is an area ripe for binational cooperation given the heroin epidemic in the U.S.

Eradication campaigns can exacerbate poverty because farmers are often left without a source of income as they re-plant and wait for their crops to return. However, because poppies and marijuana are crops that need to replanted every year, eradication in a particular year does not reduce farmers' ability to grow drugs in the future. Transnational crime organizations also simply adjust their production levels (in terms of what they plant) to take into consideration crop destruction, so eradication efforts rarely have a substantial impact on illicit drug production.

Mexico's eradication efforts have also not included an alternative development component, despite the fact that illicit crops are grown in regions where few licit employment opportunities exist. Mexico has plans to eventually implement alternative development projects, but has not yet done so, even though it was reportedly in "advanced conversations" with U.S. officials about cooperating to help farmers cultivate alternative crops.[434] Most alternative development

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[428] Michael O'Boyle, "Exclusive: Mexico Opens up Its Heroin Fight to U.S., U.N. Observers," *Reuters*, April 7, 2017, https://www.usnews.com/news/world/articles/2017-04-07/exclusive-mexico-opens-up-its-heroin-fight-to-us-un-observers.

[429] Bureau for International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report*, Volume 1: Drug and Chemical Control, United States Department of State, March 2017, https://www.state.gov/documents/organization/268025.pdf.

[430] O'Boyle, "Exclusive: Mexico Opens up Its Heroin Fight."

[431] Ibid.

[432] Seelke and Finklea, "U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond," 15.

[433] Gabriel Stargardter, "Exclusive: U.S. offers to fund Mexico heroin fight."

[434] United Nations Office on Drugs and Crime, "World Drug Report 2015," United Nations, May 2015; and Joshua Partlow, "U.S.-Mexico security cooperation is at a historic high. Will that change under Trump?" *The Washington Post*, March 20, 2017, https://www.washingtonpost.com/world/the_americas/us-mexican-security-cooperation-is-at-a-historic-high-will-that-change-under-trump/2017/03/17/dee0e92f-8ae5-4b26-a5e0-fa32e7cf71ce_story.html.

programs in drug-producing countries like Colombia and Peru provide economic incentives, often in the form of cash payments and seeds, for farmers to abandon drug crop cultivation in favor of licit crops. Switching from growing drugs to growing coffee, corn, avocados, or limes is a gradual process because it can take years for these plants to bear enough crops to be economically sustainable. Therefore, studies in Colombia have shown that a combination of "jointly implemented eradication, alternative development, and interdiction is most effective than the independent application of any of these three strategies."[435]

Policy Recommendations

- **Target poverty and extreme poverty in the southern and central regions of Mexico, particularly in the states of Hidalgo, Jalisco, Chiapas, and Campeche.** In order to reduce violent and organized crime, the government should prioritize the country's socioeconomic hotspots. That is, areas with the highest levels of poverty and extreme poverty, as well as the lowest rates of educational attainment and monthly household income. These efforts should focus on the states of Hidalgo, Jalisco, Chiapas, and Campeche because they are the hardest-hit areas in terms of socioeconomic indicators. Although these states do not exhibit the highest rates of violent crime, drug trafficking is highly prevalent in these areas and will continue to flourish as long as socioeconomic conditions are poor.

- **Increase the payment given to families enrolled in Prospera and the number of children receiving educational scholarships to reduce the population of unemployed and out-of-school youth (*"Ninis"*).** Youth living in poverty are at particular risk of being recruited by transnational criminal organizations. These organizations take advantage of children in the lower end of the "nini" age range (15 to 18 years old) who are more likely to drop out of school in order to contribute to their families' expenses. Prospera, a nation-wide conditional cash transfer program, should continue to provide incentives for teenage children to stay in school. One way to do this would be to increase the payment given to low-income families with children who are in secondary school. By increasing the family's income, children would be more likely to remain in school rather than drop out to support their family. Another way would be to increase the number of children receiving scholarships to attend secondary school.

  Implementing both of these policies would not increase the cost of the program by a large amount. Of the 30 million individuals currently benefitting from Prospera, approximately 1.2 million are children in secondary school.[436] This translates to approximately 300,000 households (assuming four people per household).[437] Because we do not know how much each family is receiving in the form of monetary transfers and educational scholarships, we

[435] Clare Ribando Seelke, Liana Sun Wyler, and June S. Beittel, "Latin America and the Caribbean: Illicit Drug Trafficking and U.S. Counterdrug Programs," Congress Research Service, 2010, https://fas.org/sgp/crs/row/R41215.pdf, 28.
[436] OECD, *Building an Inclusive Mexico: Policies and Good Governance for Gender Equality*, 117; and Secretaría de Hacienda y Crédito Público, "Presupuesto de Egresos de la Federación 2017: Prospera Programa de Inclusión Social," http://nptp.hacienda.gob.mx/programas/jsp/programas/fichaPrograma.jsp.
[437] Based on 2015 data from INEGI, the average number of occupants per household in Mexico is 3.7. INEGI, "Indicadores de demografía y población," http://www3.inegi.org.mx/sistemas/temas/default.aspx.

cannot calculate the exact additional cost of implementing both of these policies. However, given the small percentage of families that meet this criteria, we estimate that the additional cost will be small.

- **Update the curricula taught in schools and universities to provide students with the skills they need to find formal employment.** There is currently a mismatch between the skills students learn in school and the skills that the formal job market demands. Because pursuing a high school or college degree often does not improve their chances of finding a job nor does it improve their salary prospects, low-income youth have little motivation to continue their studies past the ninth grade (which is when mandatory education ends in Mexico). In this way, Mexico's poor education system exacerbates the "nini" problem. The government should therefore work with schools and universities to update their curricula to reflect the needs of the formal job market. The private sector should also be consulted and included in this process. In order to ensure long-term sustainability, the government should also work with IMCO, a public policy think tank in Mexico, to produce a comprehensive and publicly available ranking system of Mexico's schools and universities, with the idea that increased transparency will lead to greater accountability.

- **Provide better training to Prospera officers and monitor their relationship with program participants.** Clientelism, mistreatment, discrimination, and other abuses of power from program officers can impact the wellbeing of beneficiaries and hurt the program's effectiveness. For these reasons, Prospera's implementation needs to go beyond the delivery of services and pay closer attention to the behavior of those engaging in service delivery. This can be achieved by providing training to Prospera officers on how to properly interact with recipients, as well as increasing monitoring and evaluation of officers' performance.

- **Prioritize infrastructure development in poppy-growing regions, particularly in the states of Guerrero, Sinaloa, Chihuahua, Durango, and Nayarit.** Lack of access to markets and primary and secondary schools are major barriers to socioeconomic development in these regions. For this reason, building roads to connect rural communities to neighboring municipalities will allow farmers to sell their licit crops and generate income and lower the cost of attending school. Reducing these communities' isolation will also eventually allow other market forces, such as utility companies, to enter these previously hard-to-reach areas, and these communities will have increased access to healthcare facilities and other public services. The Mexican government should also ensure that all farmers in these regions are enrolled in Prospera, helping to get their children to return to school. Given that many of these children must travel for school, and sometimes remain in a neighboring town for the duration of the school week, the Prospera funds should be adjusted to offset the additional costs of attending school for these families.

Conclusion

Taken together, the policy proposals outlined in this chapter aim to reduce organized criminal groups' sources of revenue, manpower, and drugs in order to limit the power and influence they hold over Mexican society. Of course, these are much larger and more complex issues than any series of policy proposals can address. Targeting the influx of money entering Mexico from U.S. drug transactions will pressure organized crime groups to continue diversifying their revenue

streams. Extortion, which is on the rise, will continue to increase as these groups look for low-cost, low-risk money generating activities. And although reducing the supply of drugs grown within Mexico will take longer to produce results, it too will spur increased diversification of organized criminal activity, especially by smaller organizations that don't have the logistical capability or capital to bribe Mexican officials to permit illicit crop cultivation and drug trafficking.

In order to counteract the negative side effects of these policies, the policies that are detailed in other sections of this report must be concurrently implemented. The prevalence of extortion, for example, is a reflection of weak police units at the local and federal levels. Increasing the local police's capacity is necessary to enforce public safety and carry out effective investigations. Restoring public confidence in the police is also necessary to increase the number of citizens reporting extortion attempts, which is one of the first steps in convicting members of organized criminal groups.

Chapter 4.
Strengthening Mexico's Civil Society

In addition to the top-down solutions and strategies illustrated in the rest of this report, the Mexican government can also support a bottom-up approach to address violence and organized crime. This bottom-up approach can only be achieved by fostering close relationships with citizen-led groups operating outside the government. This chapter will address the intersection of civil society and government.

To be clear, civil society should be defined as non-governmental organizations, citizens' movements, academia, the media, and for- and non-profit entities existing outside the government that work to mobilize a response to issues of violence across the country. This chapter looks at four of these groups. First, we explore a number of examples of successful civil society movements that have organized as a response to insecurity. Second, we analyze security solutions in the business sector, specifically using Monterrey as a case study. Third, we identify security issues related to journalists and the media, as well as solutions to provide protections that encourage greater freedom of speech in Mexico. Finally, the chapter addresses the formation of *autodefensas*, or localized citizen security groups that take up arms, demonstrating how civil society groups may resort to extreme measures.

It is worth noting upfront that there can and should be an inherent tension in promoting cooperation between the civil society sector and government, since civil society plays an invaluable role as a check on government power in many respects. As is addressed in more detail later in the chapter, this is most evident in the role that journalists play as whistleblowers on corruption and as contextual commentators on government actions. Similarly, NGOs and advocacy groups often work to build up a movement against government actions in order to promote change. The ways in which these counterbalancing roles pit government and civil society leaders against one another tend to make calls for cooperation sound idealistic. Yet, as this chapter demonstrates, some of Mexico's most important and necessary reforms occurred when the government and civil society were able to come together on specific issues, combining forces to create policy agendas that are feasible and responsive to populations that civil society leaders represent.

Further, civil society is not a monolithic entity across Mexico, with factors such as weak rule of law, lack of sufficient civic education, cycles of poverty and violence, and lack of economic opportunity frequently restricting organizations and movements. However, public policy works best when civil society is active at all levels—from the grassroots airing of grievances to the formulation of security solutions. At each level, there is a role for policymakers in preserving civil society's important place in shaping security-focused policies through consistent engagement with civil society leaders.

The Value of Civil Society Security Initiatives

This section provides key examples of the historical precedent for cooperation in the judicial, economic, and political sectors. It then offers recommendations that encourage cooperation between the government and security-focused civil society groups in an effort to foster cooperation between the Mexican government and its people.

History of Civil Society Involvement

During the 1970s and 1980s, Mexico's civil society movements developed with the language of human rights. These initial movements were "focused on human rights, leftist priests, and fearless lawyers denouncing the torture and disappearance of hundreds of political dissidents."[438] They then broadened their attention to the influx of Central American civil war refugees in the 1980s with support from international human rights organizations such as Human Rights Watch and Amnesty International.

In 1990, the administration of President Carlos Salinas de Gortari appointed the National Human Rights Commission to an independent role, separating it from the Interior Ministry after the pressure of these groups and the murder of a prominent activist.[439] By doing so, President Salinas de Gortari set a tone that encouraged civil society to act. Soon after, in the early 1990s, Alianza Cívica, a group of intellectuals, activists, and NGOs came together to demand freer, fairer elections. The group sent monitors to polling stations to report any questionable practices in the voting booths.[440] As a result, the decades-long rule of the autocratic PRI gave way to a more open and democratic process.

The Vicente Fox Administration

After Vicente Fox's election in 2000, civil society mobilized behind a common desire for greater governmental transparency. In May 2001, scholars, lawyers, journalists, editors, and human rights activists arranged a meeting in the state of Oaxaca to discuss a strategy to pressure the new administration to open up governmental agencies, and produced a declaration that would lay the groundwork for transparency legislation.[441] After working for months on the plan, *Grupo Oaxaca*—as the civil society leaders came to be known—brought their work to Mexico's congress and lobbied for its adoption. In April 2002, the bill passed unanimously through the legislature.[442]

Although it was a triumph for Mexico to pass the freedom of information legislation, the law does not sufficiently force open the government processes, and openness and responsiveness vary from agency to agency. This means that civil society mobilization must be followed by an implementation with built-in checks and balances that hold government agencies and officials accountable to the policy solutions that have been adopted. By improving communication

[438] Shannon O'Neil, *Two Nations Indivisible* (New York: Oxford University Press, 2013), 83.
[439] Human Rights Watch, "CNDH's Origins," 2008, https://www.hrw.org/reports/2008/mexico0208/2.htm.
[440] Ibid.
[441] O'Neil, *Two Nations Indivisible*, 74; and Sala de Prensa, "Declaración de Oaxaca," 2001, http://www.saladeprensa.org/art262.htm.
[442] O'Neil, *Two Nations Indivisible*, 74.

mechanisms between government agencies and their civil society counterparts, this gap can be addressed, as is detailed later in this section's policy recommendations.

From Felipe Calderón to Enrique Peña Nieto

Felipe Calderón's presidency, beginning in December 2006, marked the passing of another important reform: that of the judicial branch. Once again, citizen pressure played a central role. Ernesto Canales, a pro bono lawyer in Nuevo León, worked with the non-profit Renace to review more than 20,000 cases produced by the state's criminal justice system.[443] After eight years at Renace, Canales and his colleagues began pushing for systemic change. Backed by like-minded lawyers, academics, and activists, Canales formed the Network of Oral Trials. The judicial system previously relied on written testimonies and was rife with unjust results and inconsistencies. The reform would allow for a more transparent process in which prosecutors and defendants air their arguments in an oral fashion, modeled first by Canales' Network of Oral Trials in Nuevo León. Passed in 2008 and still in the process of implementation, the judicial reform was another example of a strong civil society push that resulted in a cohesive response from the federal government.[444] The political chapter of this report details the process, and provides recommendations for complete implementation of the reform.

On issues of security, the record is less encouraging. Despite large-scale anti-violence marches and "peace caravans" in 2004, 2008, and 2011 led by the parents of victims, there has yet to be a comprehensive policy response to address issues of insecurity. The security roundtables that brought together experts, civil society leaders, and government officials to foster cooperation in Ciudad Juárez provide one encouraging ray of hope, but they have failed to spread into other parts of the country. In order to obtain the same level of success in security policy, the federal government should take a more proactive and enthusiastic participatory approach toward working with civil society organizations and movements.

The General Victims' Law (*Ley General de Víctimas*), intended to protect and compensate victims of drug violence and crime in Mexico, was an attempt at the necessary cooperation on security issues between civil society and government. Javier Sicilia's "Movement for Peace with Justice and Dignity" sponsored the law, even as other prominent advocacy groups criticized it as insufficient and imperfect. As a result of the lack of consensus, Calderón vetoed the bill in 2012. Despite a continued rift among victims' groups, Enrique Peña Nieto signed the bill into law a month after taking office in 2013.[445] While the law was a victory for Javier Sicilia, it failed to encompass the civil society's full capacity, as during the freedom of information and judicial reforms. The law lacks important details regarding the timeline for disbursements, leaving victims at a loss for how to follow up on promises of compensation.

Finally, the citizens' initiative #Ley3de3 provides the most recent example of a widespread civil society push. The anti-corruption law requires politicians to disclose their financial ties, tax

[443] Ernesto Canales, "Strengthening Rule of Law and Addressing Violence in Mexico," Wilson Center, 2012, https://www.wilsoncenter.org/sites/default/files/Ernesto%20Canales.pdf.
[444] O'Neil, *Two Nations Indivisible*, 78.
[445] Lauren Villagran, "The Victims' Law in Mexico," Wilson Center, 2013, https://www.wilsoncenter.org/article/the-victims-law-mexico.

information, and potential conflicts of interest.[446] The law also marked the first instance that a group of civil society leaders wrote the entire legislation and presented the law before policymakers without the endorsement of any political party—a possibility that was created with the 2014 constitutional reforms. This model provides an open door to civil society in the future, and will likely be a useful model for civil society movements to work with or pressure the government on security issues.

Moving Forward

The security sector requires exactly what Mexico has seen in the past regarding civil society mobilization and reform: Grupo Oaxaca under President Vicente Fox that led to greater freedom of information, the Network of Oral Trails under President Felipe Calderón that led to a sweeping judicial reform, and #Ley3de3 under President Enrique Peña Nieto that led to anti-corruption legislation. Although each of these reforms has been implemented imperfectly, the policy structure provides a place to start for those demanding justice and institutional follow-through.

Yet compared to these other sectors, security is a more delicate issue. The possibilities are limited for civil society groups to take the issue into their own hands and build a security apparatus that works better, as Canales was able to in the example of the Network of Oral Trials. Citizen efforts to address security face the possibility of retaliation from violent non-state actors and organized criminal groups, if these efforts are perceived by criminal groups as structures that could diminish or threaten their power. Another risk that will be addressed later in this chapter is the potential for entrepreneurial, citizen-led security groups to devolve into armed *autodefensa* groups. As such, it is necessary for the government to take a stronger initiative to work alongside civil society groups to address issues of security rather than waiting for answers from the groups themselves.

Policy Recommendations

The following recommendations stem from the issues discussed including positive cooperation among citizens, organized civil society groups, and various government branches and agencies. The goal of these policy recommendations is to improve cooperation between the government and the governed on security issues in order to lay a foundation for addressing violence and insecurity. Yet, one of the biggest challenges to implementing these policies is the lack of trust between the government and its constituency. Though some of the recommendations are targeted toward tackling this problem, widespread corruption will continue to undermine even the best policies and efforts, and should be addressed to garner the full benefits from these recommendations.

- **Verbal commitment to civil society**. The next administration should immediately emphasize a commitment to an open and honest dialogue with civil society groups throughout its tenure. This announcement will set the tone for the duration of the administration and encourage the mobilization of civil society expertise. It should include

[446] Iniciativa Ciudadana Contra la Corrupción, "What is the citizen's initiative Ley3de3?" 2016, http://ley3de3.mx/es/what-is-the-citizens-initiative-ley3de3-3-out-of-3-2/.

tangible steps that the government will take to ensure a sustained relationship. By extending a hand of cooperation during the first days, politicians can inspire the same activity on the other side, generating confidence in the new administration and civil society activity in Mexico.

- **Maintain dialogue with civil society leaders**. The next administration needs to make a concerted effort to support civil society by continuing dialogue with civil society leaders from the security sector. This should include monthly meetings and a government liaison position within the president's extended cabinet that stays in constant contact with groups working on drafting legislation or mobilizing citizen support, such as *Causa en Común.* This should also include a plan to expand the security roundtables, based on the model of Ciudad Juárez, to communities throughout the country. To encourage the expansion of security roundtables, the federal government should consider providing grants to local police forces that can subject their force to vigorous anti-corruption checks and include local civil society groups, community members, and academics in monthly security discussions.

- **Create opportunities for airing of grievances**. In order to support an open line of communication between political representatives and those who elected them, the federal government should mandate monthly town hall meetings with constituents that include robust and open question-and-answer sessions, allowing attendees to air grievances and hear the response of their senators—both elected and appointed. Specifically, the new administration should prioritize legislation to be introduced in congress in order to create such a mandate.

  In a country that is suffering from an epidemic of mistrust between the population and their representatives—only 10 percent of Mexicans believe that their representatives legislate in their favor—a tangible gesture such as town hall meetings would be the extended hand to many Mexicans looking for a starting place for political participation.[447] By setting the precedent for town hall meetings within the administration's own party, political leadership can encourage the same kind of communication between all leaders and those they represent. To ensure the safety of citizens and public servants across the country, this approach would require risk analysis with regionally specific security measures. In areas with high instances of intimidation and kidnapping, governments should consider designating a phone line for constituents to air their grievances or internet-based communication options with timelines and methods outlined for responses.

- **Build timeline into victims' law**. The primary critique of the General Victims' Law, signed by President Peña Nieto in 2013, was that it lacked the necessary timeline and funding to ensure its implementation. This should be rectified. Through consultations with academics and civil society groups, the government should address this critique and build in a timeline of expectations for those who were promised compensation. In addition, future legislation on security issues should avoid this pitfall by building into the bills an actionable and explicit timeline that denotes sources of funding and stage-by-stage goals and indicators of success.

[447] Denise Dresser, "Why Mexico Fell Apart and How to Fix It," Lecture at University of California, Berkeley, 2017, http://clas.berkeley.edu/events/spring-2017/why-mexico-fell-apart-and-how-fix-it.

This will allow civil society actors to better participate in the process of implementation and hold policymakers accountable to their promises.

- **Create citizen security councils to allocate 10 percent of local security budgets**. Based upon the models of participatory budgeting in other parts of Latin America (originating in Porto Alegre, Brazil), the federal government should encourage high-insecurity regions to allocate a portion of local security budgets to citizen security councils. These councils, open to all members of society, provide a tangible way for citizens to be involved in the local government. This will aim to encourage participation and increase the public's stake in local affairs, and improve relationships among the local populations and government officials. Open to all citizenry, this project will provide a way for those affected by security issues to have a voice in addressing their government's response. Initially, the project should be executed as two to three pilot projects in regions with medium levels of insecurity. With proper analysis and evaluation, the project can be improved and expanded throughout the country.

The Business Sector and Civil Society

While both Presidents Felipe Calderón and Enrique Peña Nieto attempted to include the opinions of civil society organizations in their security strategies, their efforts have largely relied on more combative policies against organized criminal groups. While it's easier to track these hard security policies' direct effects, preventative strategies that involve civil society can help to address root causes of violence and offer channels through which citizens can resist organized criminal activities. The business sector is a potential partner for security issues because citizens in this sector are already highly organized.

The business sector has a strong incentive to rally against organized crime: one third of businesses nationwide were reportedly affected by crime between 2011 and 2015.[448] In order to protect their money, many businesses begin turning to private security, as public security has not been sufficient to ward off organized crime. This should open the space for the government to collaborate with businesses and engage in reforms, as well as to develop accountability mechanisms.

Efforts to involve the business sector in security reforms have been traditionally neglected, with the government failing to view businesses as potential allies against organized crime. But this approach is misguided. The business sector can serve as a locus for non-violent and indirect methods of resistance, and can weaken these groups by stabilizing the economy, holding government officials accountable, and offering a channel through which citizens have a collective voice. As the following case study of Monterrey demonstrates, the potential impact of these organizations can make a significant difference.

[448] Sandra Ley and Magdalena Guzman, "Doing Business Amid Criminal Violence: Companies' Strategies in Monterrey, Nuevo Leon," SIE Center, 2017, http://www.du.edu/korbel/sie/media/documents/quickfacts-and-policy-briefs/ley-mexico.pdf.

Case Study: Monterrey

Monterrey is Mexicos' third-largest metropolis, home to 4.2 million people, and its US$20,000 GDP per capita is close to double Mexico's average.[449] In the last 50 years, Monterrey experienced a population explosion as a significant number of migrant workers seeking employment were drawn to the city's multinational industrial conglomerates. Today Monterrey has a vibrant economy, attracts a diverse array of industries and entrepreneurship, and has developed one of the best higher education systems in the country.[450]

Before the 2008 rise in violence, Monterrey's crime rates were low. In fact, the "city was considered the safest in Latin America by business publications."[451] Economic growth was not the only factor making the city so safe: there were strong familial ties throughout the business sector that helped to connect the community and foster a strong sense of camaraderie. This became the basis for the "unusually cohesive" atmosphere of Mexico's industrial capital.[452]

Things began to change as organized criminal groups moved into the city, with the lower socio-economic residents becoming the most affected. Barrio Antiguo, home to "the cultural, culinary and entertainment center of Monterrey" was abandoned as residents came to believe that its businesses had been overrun by organized criminal activities.[453] San Pedro Garza Garcia, known as "the safest and highest income per-capita municipality in the metropolitan area," became the new focal point for nightlife and other activities.[454]

Many businesses and their owners, particularly those in Barrio Antiguo, became targets of extreme violence. Café Iguana is one example, shutting down after four patrons were slain. All that remains now are the bullet holes on the façade of a vacant business.[455] Many other business owners were killed when they refused to pay protection money to the Zetas.[456]

In response to mounting violence, business leaders and organizations in Monterrey confronted the grim reality of kidnappings, killings, and other acts of violence by staging protests and denouncing officials.[457] Guillermo Dillon, the head of a Monterrey industrial chamber—a local lobbying group—recounts how they organized a plan of action to pressure government involvement.[458] Breaking the silence allowed for other business leaders to join the growing movement.

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[449] Nacha Cattan, "Nuevo Leon region rebounds from drug-cartel barbarism to thriving foreign investment hub." *The Tico Times,* 2015, http://www.ticotimes.net/2015/05/10/nuevo-leon-region-rebounds-from-drug-cartel-barbarism-to-thriving-foreign-investment-hub.
[450] Arjan Shahani, "Monterrey, Mexico: Living amid the Rule of Fear," *Americas Quarterly*, 2012, http://www.americasquarterly.org/content/monterrey-mexico-living-amid-rule-fear.
[451] Lucy Conger, "The Private Sector and Public Security: The Cases of Ciudad Juarez and Monterrey," Wilson Center, 2014, https://www.wilsoncenter.org/sites/default/files/conger_private_sector.pdf, 15.
[452] Ley and Guzman, "Doing Business," 14.
[453] Shahani, "Monterrey, Mexico."
[454] Ibid.
[455] Cattan, "Nuevo Leon region."
[456] Ibid.
[457] Conger, "The Private Sector," 3.
[458] Cattan, "Nuevo Leon region."

In order to improve security conditions in Monterrey, the business sector pushed for a number of policy changes and initiatives.

Fuerza Civil

After failing lie detector tests administered in 2011, roughly 4,200 Monterrey police were arrested or jailed when it was revealed that they were in collusion with organized criminal groups.[459] In response, business sector civil society became increasingly focused on police reform.

Although Monterrey's local government was initially resistant to the possibility of private sector involvement in police reform, these private actors secured then President Felipe Calderón's support and began the process of collaboration.[460] A coalition was formed between the business sector and the local government called "Alliance for Security," which invited security experts to help inform their decisions on how to design the new police program named the "Fuerza Civil."[461]

First, the business sector put together a marketing team to create appealing advertisements designed to draw in more applicants.[462] Businesses around Monterrey contributed a total of 50 specialists in public and media relations to bring in the ideal officer.[463]

Recruits were hired from outside of Nuevo León and were new to law enforcement.[464] The Fuerza Civil police were then housed in secure locations to prevent communication between police officers and organized criminal groups. The effort relied on cooperation with professors and called on professors to write the training manuals.[465]

The police force was a success, as Monterrey began experiencing a significant drop in violence and crime beginning in 2012, largely due to these business-sector-led efforts to create and train a new police force.[466] Homicides have dropped by over 75 percent and car thefts by almost 90 percent.[467] However, critics attribute these security gains less to the efforts of Monterrey civil society and more to cooperation between the Gulf Cartel members and its allies to push out the Zetas.[468]

Center for Citizen Integration

One of the greatest barriers to working together was the broken trust between the municipal government and their constituents. The business sector was able to jumpstart a rebuilding of that

[459] "The New Face of Mexican Policing," *The Economist,* 2013, http://www.economist.com/news/americas/21579457-public-private-effort-reduce-violence-mexicos-wealthiest-city-new-face-mexican.
[460] Ley and Guzman, "Doing Business," 3.
[461] Ibid.
[462] Ibid.
[463] Cattan, "Nuevo Leon region."
[464] Ley and Guzman, "Doing Business," 3.
[465] Cattan, "Nuevo Leon region."
[466] Conger, "The Private Sector," 23.
[467] Cattan, "Nuevo Leon region."
[468] Ibid.

trust through the Center for Citizen Integration, an NGO intended to be a safe and anonymous intermediary that allows citizens to report crimes without fear of retaliation from criminals or corrupt officials. The center is also a tool to mobilize people to demand change, by helping connect citizens with one another and their municipalities.[469]

The center relies on funding from non-governmental sources, making it an independent focal point for crime reporting, news dissemination, and policy advocacy. It uses social media as well as a highly visible online platform to allow citizens to see the work that municipalities are doing on their behalf, in a program known as *Tehuan*.[470] This social media was important because it helped to increase transparency, therefore putting more pressure on local governments to act on individual reports of crime.[471]

Additional Civil Society Efforts

Civil society members also helped begin important dialogues with government officials. A few years into the spike in violence, Monterrey citizens revived the languished *Consejo Civico*, "a hybrid organization, a non-partisan association that brings together business chambers, professional associations, civic and charity organizations, neighborhood organizations, human rights groups, and sports cubs."[472] This group demanded justice and kept pressure on public officials to properly address violence and violent actors.

Researcher Lucy Conger found that diverse membership seemed to be a strong factor in determining the organizations that created the biggest impact. Umbrella organizations were able to develop because the fear of organized crime cut across the social strata and became an aspect through which various social circles began to talk to one another.[473] These organizations have developed to serve a number of important functions for Monterrey, including initiating dialogues with authorities and helping fill a watchdog role.[474]

Policy Recommendations

Monterrey has various characteristics that will make its successes difficult to replicate across Mexico. The business sector's affluence enabled it to not only take the initiative, but also provide funding to back these steps. Monterrey is also home to independent universities and a robust media.[475] The strong connections forged among these various civil society actors offered the necessary resources and trust.

Yet, the case of Monterrey demonstrates that the business sector may make the difference between success and failure by holding leaders accountable, providing citizens with a collective voice, rebuilding trust, and improving governance.

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[469] "CIC Citizens and Government Working Together," Introduction to Civil Media, 2015, http://civicmediaclass.mit.edu/2015/03/03/cic-citizens-and-government-working-together/.
[470] Ibid.
[471] Ibid.
[472] Conger, "The Private Sector," 9.
[473] Ibid., 3.
[474] Ibid., 4.
[475] "The New Face of Mexican Policing."

- **Serve as a catalyst for involving the business sector**. The business sector's civil society efforts may not form as organically in other parts of the country, and they may require that the government help guide them in the right direction. The government should convene members of the business sector to begin a dialogue and eventually work together. Although there was initial hesitation to permit civil society to have a greater voice in Monterrey, once this was overcome, the city made progress against organized criminal groups. The government should permit constructive criticism from these actors while remaining receptive to their recommendations.

- **Prioritize support for strong networks throughout the business sector**. The government should take steps to strengthen umbrella organizations. In the case of Monterrey, the private groups that emerged to confront public insecurity were a heterogeneous mix of workers from industries and trade groups.[476] When these umbrella organizations are strong and well-supported, they can in turn collaborate more effectively with government institutions and help to reverse heightening distrust. They could do this by sending officials to community meetings and by offering resources to these groups.

- **Draw together other sectors to help inform government collaboration with the business sector**. There is little research done specifically on Mexico's business sector and its civil society efforts throughout Mexico. There should be more collaboration with academic institutions and researchers to boost the amount of publicly available information and data on efforts in this spaces, so that there can be a better understanding of what has and has not worked and why.

Journalism: Monitoring Corruption and Demanding Accountability

The media is another aspect of Mexican civil society that is deeply impacted by the violence associated with organized criminal groups. As the mouthpiece of civil society, journalists and the press play an integral role in combatting the effects of organized crime. This section will outline the dangers faced by the media in Mexico as a result of organized crime, and will attempt to determine what factors have endangered journalists and what has afforded protection to members of the press. This section will also examine the role that policy has played in protecting journalists in Mexico, and how those policies can be strengthened or reinforced to protect and enable a well-functioning media.

This section will first outline the importance of a free press in Mexico and in any democracy. It will then detail the current security situation faced by journalists in Mexico using metrics and case studies of journalists who have been targeted. After outlining the current legal protections that journalists are afforded by international and Mexican law, this section will offer policy recommendations to strengthen protections for journalists in pursuit of a free, secure, and more democratic Mexico.

[476] Conger, "The Private Sector," 3.

The Importance of Journalism in a Free Society

Freedom of speech is the cornerstone of every well-functioning democracy. Without a free and fair press acting as the mouthpiece of civil society, dissent, differing opinions, and educated discourse would be absent from the political sphere, paving the way for oppressive and autocratic politics that are unrepresentative of the will of the people**.** Often described as the Fourth Estate of government, an adversarial press acts as a check and balance on the powers of the executive, legislative, and judicial branches. Without civil oversight of these arms of governance, power could lie disproportionately in one over the other, leading to political action that is inconsistent with democratic values. Journalists also keep people informed on current events and lead the national discourse, disseminating information from the government to the people while simultaneously informing policymakers of what is going on at the grassroots level.

Since Mexico adopted its Constitution after *La Reforma* in 1857, the country has demonstrated its commitment to the tradition of liberal democratic values. Now more than ever, these values are integral to a resilient democracy. Today, Mexican policymakers should continue to uphold these traditions to foster fair, balanced, and thoughtful lawmaking that accurately represents the will of their constituents.

The Current State of Journalism in Mexico

Today, the power of the press in Mexico has been vastly curtailed. With the rise of violence associated with organized criminal groups, Mexican journalists now face threats of violence, kidnapping, and censorship, and many have been attacked or summarily executed for their work. Therefore, the ability of the Mexican press to monitor government officials and demand accountability has been severely impeded. This section will outline a number of different threats to journalists and the press in Mexico. It should be noted that because no two parts of the country are alike, threats differ by geographic location.

Violence Against Journalists

According to the journalism protection watchdog agency Reporters Without Borders (RSF), Mexico is the most dangerous country for journalists in the Western Hemisphere and is ranked 149 out of 180 countries on its World Press Freedom Index.[477] In fact, according to prominent Mexican journalist Carmen Aristegui, "one out of every three journalists killed in the Western Hemisphere is Mexican."[478] While estimates vary, some statistics indicate that as many as 80 journalists have been killed in Mexico since 2006.[479] According to the Knight Center for Journalism in the Americas, 12 journalists were killed in Mexico in 2016: five journalists were killed in Oaxaca, three in Veracruz, and one in the states of state Guerrero, Puebla, Tabasco, and Tamaulipas. Again, because the situation in Mexico is so dangerous for journalists, the data on the number of journalists killed may vary, and violent incidents are often underreported out of

[477] Reporters Without Borders, "Mexico: Violence and Impunity," 2016, https://rsf.org/en/mexico.
[478] Carmen Aristegui, "Carmen Aristegui Accepts the Knight International Journalism Award," International Center for Journalists, 2016, http://www.icfj.org/carmen-aristegui-accepts-knight-international-journalism-award.
[479] Eleanor Dearman, "Jorge Ramos Echoes Count of 80 Journalists Killed in Mexico since 2006, but Tallies Vary," Politifact, April 8, 2016, http://www.politifact.com/texas/statements/2016/apr/08/jorge-ramos/jorge-ramos-echoes-count-80-journalists-killed-mex/.

fear for violent reprisals.[480] The 2017 statistics do not bode well, with at least seven journalists killed in the first three months of the year and other instances of violence directed against human rights defenders and news outlets.[481]

There is a misconception that attacks on journalists are always carried out by organized criminal groups. While the media is one of the first institutions to suffer the effects of rival criminal organizations seeking to control public opinion and organized criminal groups are a major threat to journalists, especially in northern Mexico where organized criminal activity is high, attacks on journalists can also come from politicians, unions, police, or local law enforcement. According to Mexican NGO Artículo 19, there were 218 violent incidents against journalists in the first six months of 2016, 101 of which were carried out by public servants including police and military personnel.[482] Although violence enacted by organized criminal groups toward journalists is often more visible and receives more attention in the international press, corruption and a disregard for the safety of Mexican journalists by state-sponsored actors is also ongoing.

Self-Censorship

Another challenge for journalists is self-censorship. Fearing extortion or attack, independent journalists and mainstream news outlets have limited the scope of their reporting, under-investigated, or selectively ignored many instances of violence in Mexico, especially in areas affected by organized crime. If journalists fear for their own safety, they are not adequately performing their duties, which are essential for a robust civil and political discourse.

For example, "in February 2015, alleged cartel members kidnapped Enrique Juárez Torres, editor of the newspaper *El Mañana*, from his offices in Matamoros and threatened to kill him if he continued to run stories on violence related to drug trafficking."[483] Since 2010, at least three Mexican newspapers have published editorials stating they would not cover drug-related crime in their communities out of fear for instigating further attacks.[484] These instances are not uncommon, and seriously undermine the role of a free press in Mexico. Moreover, citizens affected by organized criminal violence may have little faith that local journalists will adequately cover news in their communities. According to a 2015 survey by the MEPI Foundation, a nonprofit that promotes investigative journalism, "eight out of ten respondents living in regions of high-intensity drug trafficking said they knew that local media would not report on crime in their area."[485]

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[480] Teresa Mioli, "On the Day of the Dead, Mexicans Join the International Fight against Impunity in Murders of Journalists," Knight Center for Journalism in the Americas, November 3, 2016, https://knightcenter.utexas.edu/blog/00-17735-day-dead-mexicans-join-international-fight-against-impunity-murders-journalists.
[481] WOLA, "WOLA's Statement on Violence against Journalists and Human Rights Defenders in Mexico," April 5, 2017, https://www.wola.org/2017/04/wolas-statement-violence-journalists-human-rights-defenders-mexico/.
[482] "Segundo Informe Trimestral de 2016: Un Periodista Asesinado Cada 26 Días," *Artículo 19*, August 4, 2016, http://articulo19.org/en-mexico-se-asesina-a-un-periodista-cada-26-dias/.
[483] Freedom House, "Mexico | Country Report | Freedom of the Press | 2016," accessed November 25, 2016, https://freedomhouse.org/report/freedom-press/2016/mexico.
[484] Ibid.
[485] Ibid.

The practice of self-censorship has two deleterious effects. First, it skews the statistics on crime, violence, and drug trafficking in Mexico. Policymakers and government agencies often rely on journalists to report violent crime or drug-related deaths in their communities, and this limited reporting paints an incomplete or misleading picture of the security situation on the ground. Second, self-censorship by journalists legitimizes the actions of organized criminal groups in these communities, often allowing individuals to commit crimes with impunity. Without accountability in the press, local criminals are emboldened to engage in greater acts of larceny, kidnapping, extortion, drug trafficking, or violent crime.

Impunity

Mexico suffers from one of the highest rates of judicial impunity in the world, and the perpetrators of attacks against journalists often go unpunished. According to Carmen Aristegui, "In many parts of Mexico, an inconvenient journalist can be silenced—even murdered—and nothing will happen."[486]

There have been a total of 798 preliminary investigations instigated for crimes against freedom of speech from 2010 to 2016, according to the Special Prosecutor for Crimes against Freedom of Expression (FEADLE).[487] Unfortunately, only 101, or 12.6 percent, of these cases were brought before a judge, and only two were convicted.[488] These statistics are echoed by the Committee to Protect Journalists, which lists Mexico as sixth on its Global Impunity Index for the number of unresolved journalist killings as a percentage of the population.[489]

Soft Censorship: Government Advertisements in the Mexican Press

The power of the Mexican press to truly fulfill its role as a watchdog is significantly undermined by the ongoing use of government advertisements in the media. Often called "soft censorship," political parties that take out advertisements in the media weaken the ability of a news outlet to be truly independent of the government. According to the World Association of Newspapers and News Publishers (WAN-IFRA), soft censorship "influence[s] news coverage and shape[s] the broad media landscape or the output of specific media outlets or individual journalists through biased, and/or non-transparent allocation or withholding of state/government media subsidies, advertising, and similar national instruments."[490] In short, political advertisements in Mexican news outlets influence the way that journalists cover and publish information about the government. Because many news outlets have limited access to funding and rely on advertising

[486] Aristegui, "Carmen Aristegui Accepts the Knight International Journalism Award | ICFJ - International Center for Journalists."
[487] PGR, "Informe Estadístico de La Fiscalía Especial Para La Atentión de Delitos Cometidos Contra La Libertade de Expresión," August 2016, https://www.scribd.com/document/329780321/Estadisticas-Ago-2016-Totales-1.
[488] Manu Ureste, "México: Más de 700 Agresiones a Periodistas Pero Solo 2 Condenas," *Animal Político*, November 2, 2016, http://www.animalpolitico.com/2016/11/agresiones-periodistas-mexico-impunidad/.
[489] The CPJ Global Impunity Index is calculated by taking the number of unresolved journalists killings as a percentage of each country's population. Only countries with five or more journalist killings are included in the index. See Elisabeth Witchel, "Getting Away With Murder - Committee to Protect Journalists," 2016, accessed November 23, 2016, https://cpj.org/reports/2016/10/impunity-index-getting-away-with-murder-killed-justice.php.
[490] World Association of Newspapers and News Publishers, "Buying Compliance: Governmental Advertising and Soft Censorship in Mexico," March 2014, http://www.wan-ifra.org/press-releases/2014/03/26/report-soft-censorship-poses-significant-dangers-to-press-freedom-in-mexic.

revenue to operate, they are often forced to make a decision between undermining their journalistic credibility and staying in business.

Corruption within the Media

While violence against journalists is a major problem, journalists themselves are not immune from corruption and the negative influences of organized crime. Newspapers may slant their coverage to receive favorable advertising contracts from political parties, and some media owners are active in a corrupt system that rewards propaganda over actual news reporting.[491] Furthermore, poorly paid journalists are sometimes offered bribes, known as "chayote," to influence their reporting.[492] While corruption within the media is a serious problem, it should not implicate all journalists and should be addressed on an *ad hoc* basis.

Overview of Protections Currently Afforded to Journalists

Currently, there is legislation that affords legal protections to journalists in Mexico. Primarily, freedom of speech in Mexico is protected under Articles 6 and 7 of the Mexican Constitution. Although the constitution protects the right to speech, it can only guarantee protections for journalists from state-sponsored censorship or the physical and financial intimidation of journalists by government actors. As such, constitutional protections do nothing to safeguard journalists from organized criminal groups and other actors who operate outside of the law. In addition to national legislation that protects freedom of speech, Mexico is a signatory to the UN Declaration on Human Rights Defenders.[493] This declaration affords legal protections to journalists as well as to advocates, activists, community organizers, and lawyers under international law. However, this agreement is only binding to the state, and like constitutional protections, can do little to combat the problem of violence imposed on journalists by organized crime.[494]

Furthermore, these measures cannot protect freedom of speech when impunity for violence against journalists is allowed to thrive. In an attempt to combat these failures in judicial accountability and raise awareness of killings and attacks on journalists, a number of local and transnational civil society organizations monitor and attempt to provide security to journalists reporting on organized criminal violence. International organizations such as Reporters Without Borders, the Committee to Protect Journalists, Freedom House, the Inter-American Press Association, Human Rights Watch, and Amnesty International all attempt to monitor and report on such crimes. Local organizations such as *Artículo 19*, *Periodistas en Riesgo*, and *Periodistas de a Pie* also document abuses against journalists and advocate for greater protections for the press.

In 2010, Mexico also created the Office of the Special Prosecutor for Crimes Against Freedom of Expression under the Office of the Attorney General of the Republic. While FEADLE was an

[491] Ibid.
[492] Ibid.
[493] Amnesty International, "Standing Up for Justice and Dignity: Human Rights Defenders in Mexico," 2010, https://www.amnestyusa.org/sites/default/files/amr41.pdf.
[494] Karen Bennett et al., "Critical Perspectives on the Security and Protection of Human Rights Defenders," *The International Journal of Human Rights* 19, no. 7 (October 2015): 883-895.

important step to combat impunity for crimes against journalists, the office has been hesitant to assert its jurisdiction over these cases without the state's official approval. According to Freedom House, "many governmental officials dismiss potential journalism related motives for attacks and threats with questionable haste, often invoking journalists' personal lives as motives for their deaths despite evidence to the contrary."[495] This culture is indicative of the idea of *"por algo, le pasó,"* or that the corrupt will get what they deserve. While corruption among journalists is an issue, Mexico's recent switch to the adversarial justice system demands that journalists be considered innocent—or victims of violence—until proven otherwise.

Mexico has also attempted to protect the press through the Law for the Protection of Human Rights Defenders and Journalists. This legislation, passed in 2012, established the Mechanism to Protect Human Rights Defenders and Journalists, which is designed to take on cases of violence and abuse. In practice, this involved documenting cases of journalists under threat and providing protections such as panic buttons or relocation to mitigate potential risks. The legislation, however, has come under intense scrutiny as it failed to adequately provide the protections it championed.

According to a report issued by the Washington Office on Latin America, the Mechanism has faced numerous funding and staffing challenges. In fact, under the auspices of SEGOB, Mexico's Interior Ministry, the Mechanism lost a third of its staff in spring 2014, including the head of the Human Rights Unit. According to WOLA, this staff was "poorly trained, under-qualified, and temporary," and as a result, the Mechanism has not been able to adequately coordinate with state and local authorities.[496] Many human rights defenders have complained of insensitivity and incompetence on the part of the staff members, and inadequate resources led to a backlog of cases and problems implementing security measures.[497] Furthermore, a report issued by *Organizaciones de la Sociedad Civil* (*El Espacio OSC*) criticized the law's lack of political support at all levels of government. The report also critiqued the Mechanism for its inability to adequately recognize journalists and human rights defenders' work, its limited ability to investigate crimes against journalists, and its poor performance in implementing the tools defined by the Mechanism to limit abuse and attacks.[498]

In an attempt to rectify the mismanaged agency, Mexican policymakers implemented a new law in 2015 that sought to strengthen it. Fortunately, there has been demonstrable progress. For instance, the Mechanism has largely overcome its backlog of cases, and its long-awaited unit for Prevention, Follow-Up, and Analysis was finally established in August 2015.

Problems, however, still persist. In a follow-up to the 2015 report, WOLA outlined a number of ongoing issues with the Mechanism. For example, in 38 percent of cases brought forward, the presumed aggressors have been government authorities. Furthermore, the Mechanism continues

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[495] Freedom Press, "Mexico | Country Report | Freedom of the Press | 2016."
[496] WOLA, "The Mechanism to Protect Human Rights Defenders and Journalists in Mexico: Challenges and Opportunities," January 2015, https://www.wola.org/sites/default/files/MX/Jan%202015-The%20Mechanism%20to%20Protect%20Human%20Rights%20Defenders%20and%20Journalists%20in%20Mexico.pdf.
[497] Ibid.
[498] "Mecanismo Federal de Protección a Personas Defensoras y Periodistas Sin Respaldo Financiero Ni Voluntad Política" (Mexico, D.F.: Espacio OSC, July 28, 2015), http://www.ishr.ch/sites/default/files/article/files/150728_comunicado_espacioosc.pdf.

to be under-budgeted and under-staffed, protection measures are inadequate or poorly implemented, and a disconnect exists between recommended protection measures and the journalist's individual situation. Often, displaced journalists and human rights defenders have found it difficult to return to work after being relocated for their protection.[499] Despite its shortcomings, the Mechanism has potential to provide real protection to members of the press and those who advocate for human rights in Mexico.

Policy Recommendations

There is still a long way to go toward ensuring that journalists are protected and that the press can operate freely in Mexico. This section makes recommendations to Mexican policymakers for a better-functioning press in the interest of Mexicans' security and a government that adequately serves the needs of its citizens.

- **Publicly state a commitment to a free press and protections for journalists**. First and foremost, the incoming presidential administration should publicly reiterate its commitment to facilitating a free press in Mexico. The administration should openly state that its goal is to continue working with the press and civil society organizations, as well as federal, state, and local governments, to foster freedom of speech in Mexico. It should also publicly state its commitment to providing protections for journalists and human rights defenders. These statements would align the new administration's position with the interests of the media, thereby fostering the aforementioned goal of a robust and free interchange between the government and the press. Mexico's state and municipal governments should also follow the federal government's lead in publicly recognizing their commitment to a free and enabled press and to protecting the safety of the country's journalists and human rights defenders.

- **Demand a greater public presence by top officials in Mexico's federal Mechanism for Human Rights Defenders and Journalists and FEADLE**. The heads of these departments are best-suited to publicly state the importance of protections for freedom of speech, as well as the challenges that come along with protecting speech. Therefore, the federal government should demand that the head of the Mechanism as well as the head of FEADLE publicly state the goals of their offices and a commitment to their work. These officials should also continue to cultivate a public presence and should become figureheads for freedom of speech in Mexico. By continually interfacing with the public through the media, these officials can put the issue of journalist safety at the forefront of the national discourse and strengthen the credibility and voice of both offices. (Needless to say, this initiative should also come with greater public and private security measures for these officials, such as around-the-clock security detail.)

- **Continue to strengthen the Mechanism for Human Rights Defenders and Journalists**. Another way in which the Mexican government can encourage protections for journalists is to continue strengthening the Mechanism for Human Rights Defenders and Journalists. First, the government should require a complete commitment by the federal and state governments

[499] WOLA and Peace Brigades International, "Mexico's Mechanism to Protect Human Rights Defenders and Journalists: Progress and Continued Challenges," May 2016, https://www.wola.org/wp-content/uploads/2016/05/WOLA-PBI-Mexicos-Mechanism-to-Protect-Human-Rights-Defenders-and-Journalists.pdf.

to continue working toward the Mechanism's goals. It should also be open to the possibility of modifying the law after direct consultation with civil society groups.[500] According to a report issued by WOLA and Peace Brigades International, the federal government can also strengthen the Mechanism in the following ways:

a) Continue working to improve risk analysis practices by ensuring that the protection measures granted to journalists are directly applicable to the beneficiary's unique situation, including gender, to assure that the measures adequately address the beneficiary's individual situation.

b) Greater staffing and training better-qualified employees will also allow the Mechanism to operate as it was intended.

c) Guarantee access to the Mechanism by ensuring that beneficiaries of protection are able to attend meetings in which their case will be discussed, and ensure that the Mechanism guarantees protections to journalists and other civil society actors as "human rights defenders," as defined in the Mechanism Law and the UN Declaration on Human Rights defenders.

d) Foster cooperation at the state and local levels by improving communication and coordination among varying levels of government by utilizing local contacts who are responsible for implementing protection measures.

e) Report on the effectiveness of protection measures by evaluating commonly granted protections and report these findings to the Mechanism's governing board. This information should also be made available to civil society organizations and the public.[501]

- **Mandate an evaluation of FEADLE**. The incoming administration should also mandate an evaluation of FEADLE. This evaluation, executed by the Office of the Attorney General of the Republic, would audit the office's budgeting and staffing decisions and should offer recommendations on how to use the office's capabilities to better protect journalists. Furthermore, the incoming presidential administration should encourage greater cooperation between FEADLE and other offices designed to protect human rights defenders and journalists such as the National Commission for Human Rights and the Mechanism for the Protection of Human Rights Defenders and Journalists.

- **Mandate educational training for law practitioners at all levels of the judicial system**. Another initiative the federal government should implement is mandatory training for legal practitioners in freedom of expression and international human rights protections for human rights defenders and journalists. Currently, a number of free Massive Open Online Courses, or MOOCs, exist that could educate lawyers, clerks, and judges on the international legal framework for the protection of journalists. One course, offered by the Knight Center for Journalism in the Americas, is already educating judges and law practitioners through a free

[500] Reporters Without Borders, "Law Protecting Journalists Goes into Effect in Mexico City," January 20, 2016, https://rsf.org/en/news/law-protecting-journalists-goes-effect-mexico-city.
[501] WOLA and Peace Brigades International ,"Mexico's Mechanism to Protect Human Rights Defenders and Journalists: Progress and Continued Challenges."

Spanish-language course in coordination with UNESCO and the Office of the Special Rapporteur on Freedom of Expression at the Inter-American Commission on Human Rights (IACHR).[502] This initiative will not only develop professionalism among lawyers, judges, and clerks, it will also strengthen national and regional judicial systems, and encourage Mexican jurists to standardize practices in accordance with international norms.

- **Pass a law that makes intimidating, attacking, killing, or otherwise engaging in violence against a journalist or human rights defender a federal offense.** The federal government should also work with the legislature to pass a law that explicitly defines violence against a journalist or human rights defender as a federal offense. This move would send a strong message to those who would harm journalists or human rights defenders, and would begin to address the culture of impunity associated with killing members of these groups. Overall, stronger sentencing for criminals who hurt or kill journalists will act as a deterrent for others who might do the same, thereby delivering justice to those affected while limiting future violent crime.

- **Pass legislation to regulate and to limit government advertising in the media**. Next, the president and his or her administration should attempt to build a broad-based coalition of support to pass a law that limits and regulates political parties' use of advertising in the media. Although this measure has been attempted a number of times, an independent press, free from financial obligations to political players, should be considered paramount to a free and functioning democracy in Mexico. According to a report issued by WAN-IFRA, the federal government should:

    a) Document all federal advertising expenditures through a publicly accessible ledger or website. This measure would create a culture of transparency and would demand accountability among the government's advertising budget.

    b) Pass a law guaranteeing fair and transparent official advertising. It should develop criteria for the allocation of funds for government advertising, limit the use of government advertising to proper public information purposes, implement adequate oversight of government advertising, and promote mechanisms to encourage media pluralism. (While this measure has been attempted in the legislature a number of times, there has been a consistent lack of political will to pass such a law, principally because policymakers have vested interest in their ability to advertise in the media for their own re-election.)

    c) Continue to implement and enforce the provisions of the 2013 constitutional reform on telecommunications that aim to boost pluralism and competitiveness in the Mexican media.

    d) Mandate that all broadcast licenses be regulated based on criteria that is fair, democratic, objective, and clear.

[502] Knight Center for Journalism in the Americas, "Judges Can Take an Online Course on Freedom of Expression, Offered by UNESCO and Knight Center," October 14, 2015, https://knightcenter.utexas.edu/00-16370-judges-can-take-online-course-freedom-expression-offered-unesco-and-knight-center.

e) Establish impartial audience measuring systems based on certified standards. This would ensure that government advertising metrics are based in real-world data.

f) Encourage public discourse on the relationship between the government and the press to "better discuss proposals for institutional reforms and the State's role in promoting information pluralism."[503]

- **Demand greater cooperation with civil society organizations and human rights protections NGOs**. As stated above, the new presidential administration should encourage a robust discourse with civil society organizations. Because Mexico is signatory to the UN Declaration on the Rights of Human Rights Defenders, it should facilitate cooperation with international and domestic NGOs that monitor and advocate for human rights and protections for journalists and human rights defenders. Again, these groups should directly participate in strengthening the federal Mechanism, and should be used as a resource in formulating new policies going forward.

Autodefensas: Prevention and Control

Civil society has been the catalyst for nearly every successful anti-organized crime campaign in Mexico, as discussed throughout this chapter. However, not all civil society activity is necessarily positive or productive. *Autodefensas* (self-defense groups) are a prime example. Cyclic, crime-related violence and incapable law enforcement have periodically forced local groups to organize themselves as community self-defenders.

This is not a new phenomenon for Mexico. In 1994, the Zapatista Army of National Liberation declared war against the federal government in a revolutionary attempt that melded leftist ideology with an indigenous rights narrative. The state of Guerrero also saw the rise of local armed groups in the mid-1990s as indigenous groups organized municipal police forces in response to a rise in violent crime and no effective law enforcement presence.

In these examples and today, the Mexican government has to consider two issues. First, what can be done to prevent *autodefensas* from forming in the first place? And, second, what to do when these groups do form? This section addresses the core drivers of modern *autodefensa* growth through the case study of Michoacán, analyzes key government responses to that case, and provides a few introductory policy recommendations for addressing *autodefensas*.

The Problem of Prevention

For most Mexican communities, security options are limited. Organized criminal group activity has been prevalent for decades, and policy interventions have not been fully effective at the federal, state, or municipal levels of government. Violence has not abated across the country, and in some areas it has spiked. Making matters worse is the lack of effective law enforcement or judicial institutions, especially at the local level. This combination of cyclic violence and

[503] World Association of Newspapers and News Publishers, "Buying Compliance: Governmental Advertising and Soft Censorship in Mexico."

ineffectual local security institutions has created an unsustainable environment, with some communities arming themselves in self-defense.

However, the idea of armed non-government groups instituting vigilante justice in their communities is antithetical to a peaceful, law-based society. Therefore, prevention must be the priority. But, in order to prevent *autodefensa* organization and growth, there needs to exist a responsive and effective judicial and law enforcement structure. These systems have faced years of reform efforts, but prevention will require Mexico to address these perennial challenges.

The Problem of Control

While the prevention of *autodefensas* should be the primary goal, the Mexican government must decide how to address the organizations that already exist and break the cycle that produces them.

Before the Calderón Administration, efforts at local self-defense were primarily political and indigenous, such as the Zapatistas and the Guerrero communitarian security forces. In 1994, the Zapatistas declared war against the Mexican government, after championing anti-government, indigenous ideas since 1983. The goal was not always revolutionary independence, and since the guerillas' quick defeat in 1994 and 1995, the focus has been on autonomy for indigenous populations. The narrative in Guerrero was similar, although less hostile to the government. In response to a rise in violent crime and a lack of attention from federal law enforcement, the state's four native ethnic groups organized community police forces.[504]

These examples provide historical context, but they also lay a foundation for a proper government response. A fundamental tenet of a law-based society is that the state has a monopoly on the use of force, making the militarized response to the Zapatista guerillas both justified and correct. The situation in Guerrero was more nuanced. Technically, the police forces were illegal, as—unlike the states of Chiapas and Oaxaca—Guerrero does not have state-level legal protection for indigenous groups. However, the process of allowing local police forces, including the election of village assemblies, selection of law enforcement personnel, judicial hearings, and meting out of punishments, has continued, albeit under strict surveillance.[505] In this case, the government decided to balance the lack of legal clarity against the dramatic need for

[504] See Figure 2 and 3, Kimberly Heinle, Cory Molzahn, and David Shirk, "Drug Violence in Mexico: Data and Analysis Through 2014," Justice in Mexico Project, University of San Diego, April 2015, https://justiceinmexico.org/wp-content/uploads/2015/04/2015-Drug-Violence-in-Mexico-Report.pdf; and see Footnote 5, Clifford C. Rohde and Barbara A Frey, "Massacre in Mexico: Killings and Cover-up in the State of Guerrero," Minnesota Advocates for Human Rights, 1995.

[505] The indigenous security system has been described as "fast, efficient, and very sophisticated" by lawyers defending the CRAC. "Mexico Govt Moves Against Vigilante Leadership in Guerrero," *Insight Crime*, September 18, 2013, http://www.insightcrime.org/news-analysis/mexico-authorities-move-against-vigilante-leaders-in-guerrero.
The legal argument has focused on the inability of the state to properly enforce the constitutional provision allowing indigenous groups to "'apply their own normative systems of regulation and internal conflict resolution' as long as human rights and gender equality are respected." The CRAC has appealed to a convention of the International Labor Organization and to other sovereignty argument in the Mexican constitution, but the organization remains legally questionable. María Teresa Miller, "Indigenous Justice Faces the State: The Community Police Force in Guerrero, Mexico," *NACLA* 43 (October 2010):34-40.

local law enforcement—only five of the state's eighty-one municipalities has sufficient law enforcement personnel. As of 2013, 46 of Guerrero's municipalities have local communitarian defense forces, though some estimates put the number as high as 53.[506]

The rise of modern vigilante self-defense groups is equally complicated. Their organization and proliferation directly mirrors Mexico's current security situation. For a variety of reasons relating to Mexico's security strategy and inter-criminal group dynamics, Mexico's criminal landscape has fractured into rival splinter groups that violently clash as they battle for control of trafficking lanes and attempt to maintain local control.[507] Local law enforcement often made the problem worse, with their ill prepared and/or willfully corrupt officials. When the federal government further militarized this approach in 2007 with 50,000 federal troops, it did little more than to restart the cycle.

Nowhere has this phenomenon been more apparent than in Michoacán. The state has been a hub of drug-related organized crime since the 1970s. For two decades, motivated agricultural families grew cannabis and poppy plants rather than the avocados for which the region is known. By the 1990s, these growing operations coalesced into the Milenio Cartel, and the sale and trafficking of these illicit products brought the cartel into contact with the Sinaloa and Juárez Cartels. This balance changed in the early 2000s, when a member of the Milenio group branched out to create his own organization. Carlos Rosales Mendoza—the splinter group's leader—aligned himself with the Gulf Cartel and the Zetas. The situation devolved into violence, as Rosales fought a bloody campaign against the Milenio Cartel, using many of the brutal tactics made famous by the Zetas.[508] By the time of Felipe Calderón's inauguration in December 2006, La Familia Michoacán—the splinter group's new moniker—was the most prominent organized criminal group in the state.

This devolving situation was at the top of President Calderón's mind when he began his counter-narcotics crusade. He famously donned a military uniform and announced the deployment of more than 65,000 troops backed by helicopters and navy gunboats.[509] These new federal forces targeted organized criminal groups' leadership and networks, and also investigated corruption by state and local officials. In that regard, Calderón's policy was successful. Many of the drug kingpins were arrested and nearly 40 government officials were removed on corruption

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[506] Víctor Manuel Sánchez Valdes, "How to Reduce Violence in Guerrero," Mexico Institute - Woodrow Wilson International Center for Scholars, September 2015, https://www.wilsoncenter.org/sites/default/files/how_to_reduce_violence_in_guerrero.pdf.

[507] "Falling Kingpins, Rising Violence," December 16, 2010, *The Economist,* http://www.economist.com/node/17733279.

"One might have expected the methodical elimination of most of the country's leading criminal kingpins to put the cartels out of business. In fact, it did no such thing. Throughout Calderon's presidency, the quantity of drugs being smuggled over the American border showed little sign of diminishing, and the number of young men going into the narcotics business remained high. The one very noticeable change during his six years in office was that violence soared. The mild-mannered man from Michoacán inherited Mexico with its murder rate at its all time low….By 2012, the rate had doubled, and Calderon left Los Pino the most unpopular president in Mexico's recent history." Thomas Wainwright, *Narconomics*. (New York: PublicAffairs, 2016), 30.

[508] Kimberly Heinle, Cory Molzahn, and David Shirk. "Citizen Security in Michoacán." Mexico Institute - Woodrow Wilson International Center for Scholars, September 2015, https://justiceinmexico.org/wp-content/uploads/2015/05/2015_Heilnle-Molzahn-Shirk_Citizen-Security-in-Michoac%C3%A1n.pdf.

[509] Grillo, Ioan, *El Narco* (London: Bloomsbury Press, 2012), 112-113.

charges.[510] However, violence continued. Groups that had not previously operated in Michoacán saw a growing power vacuum and seized the opportunity. The Knights Templar were particularly aggressive and began to clash with La Familia.

In 2011, a group of Michoacán locals organized themselves into the first *autodefensa* in the state. La Familia had been killing, kidnapping, and threatening the people of Cheran—a small town in northwest Michoacán.[511] La Familia and the Knights Templar had also expanded their financial reach into lumber operations, with logging operations outside Cheran destroying nearly 80 percent of the wooded communal land. The cartels' bottom line kept rising as they levied "protection charges" for each truck that then moved logs to market. According to some locals, the logging operation netted 180 trucks per day and the cartels charged each more than MX$1,000.[512]

Inspired by the indigenous rights narrative from 1990s Guerrero, the Cheran *autodefensa* aggressively took action in April 2011. They attacked a logging convoy, "…took loggers hostages, expelled the town's entire police force and representatives of established political parties, and forcibly closed the roads. The Mexican government authorities had previously ignored their repeated pleas for help, the residents said, so the people of Cherán simply took the law into their own hands."[513] After seven months of controlling the town, the *autodefensas* won a battle in federal court and were allowed to continue operations under the same 'Uses and Customs' provision used in Guerrero.

The do-it-yourself entrepreneurial attitude toward local security and law enforcement has also expanded to non-indigenous communities. By 2013, the *autodefensa* model had expanded across Michoacán and into neighboring states. Mirroring the Guerrero model, groups under the leadership of José Manuel Mireles—memorialized in the documentary *Cartel Land*—and others began arresting individuals that they believed were tied to the Knights Templar, conducting court proceedings, handing out sentences, and seizing control of seemingly inept government institutions.[514]

Government Response

The government's response has been mixed. At their height in 2014, *autodefensas* in Michoacán claimed more than 20,000 members and had tactical successes against organized criminal groups in places like Apatzingán. But, *autodefensas* continue to be on questionable legal footing and have at times clashed with law enforcement and military forces. In Cheran, the *autodefensas*

[510] Heinle et al., "Citizen Security in Michoacán."
[511] Melissa del Pozo, "Town Booted Out Mexico's Political Parties, But Now Some Residents Want Them Back," *VICE News*, https://news.vice.com/article/town-booted-out-mexicos-political-parties-but-now-some-residents-want-them-back.
[512] Gloria Munoz Ramirez, "La Jornada: En Cherán Nos Cansamos de Agachar La Cabeza," *La Jornada*, May 28, 2011, http://www.jornada.unam.mx/2011/05/28/politica/036n1pol.
[513] Karla Zabludovsky, "In Mexico, Reclaiming the Forests and the Right to Feel Safe," *The New York Times*, August 2, 2012. http://www.nytimes.com/2012/08/03/world/americas/in-mexico-reclaiming-the-forests-and-the-right-to-feel-safe.html.
[514] Vanda Felbab-Brown, "Militias in Mexico: Citizens' Security or Further Conflict Escalation?," *Insight Crime,* December 22, 2015, http://www.insightcrime.org/news-analysis/militias-in-mexico-citizens-security-or-further-conflict-escalation.

were allowed to continue operating. However, the federal government has arrested and prosecuted certain *autodefensa* leaders from groups that adopt a more statewide or aggressive position.

The most substantive policy intervention has been the co-option of *autodefensa* groups into local and state law enforcement, called Rural Defense Corps. In January 2014, many *autodefensa* leaders reached a deal with Mexico's federal government that would incorporate their more than 20,000 members into quasi-military units. The agreement required that the organizations provide the government with a list of members and register their weapons with Mexico's Ministry of Defense (SEDENA).[515]

The agreement has not been met with unfettered optimism.[516] There are still questions about the practical mechanisms, the rule of law implications, and the ultimate effectiveness of the Rural Defense Corps. Additionally, not all *autodefensa* members or leaders are keen on the deal. It includes concessions that strip some of the groups' autonomy and requires members to register their weapons. Finally, the co-option strategy has not eliminated the threat of violent organized criminal groups. In January 2014, a group was arrested as they promoted a new organization—*La Nueva Familia*, or the New Family—using the same rhetoric as La Familia Michoacana and the Knights Templar.[517]

Policy Recommendations

Prevention

The primary goal, at all levels of government, should be the prevention of *autodefensas*. Local self-defense groups are legally dubious if not outright illegal, undermine the legitimacy of democratic institutions, and often perpetuate rather than curb violence. Prevention begins with local law enforcement and judicial institutions, which must be trusted, trained, equipped, and effective. Such an environment provides alternative, legitimate channels for communities when facing escalating violent crime.

However, this is not a new insight. The challenges of strengthening and professionalizing Mexico's law enforcement and judicial systems have been the subject of years of reform efforts. Yet, it is important to emphasize that both *autodefensa* groups and ineffective institutions are long-term problems and solutions will also likely be most effective over the long term.

[515] Associated Press, "Mexico Legalizes Vigilante Groups in Michoacan, Welcomes Them in Fight against Drug Cartels," CBS News, January 28, 2014, http://www.cbsnews.com/news/mexicos-vigilantes-legalized-and-put-under-military-umbrella/.
[516] "Autoridades Detienen En Michoacán a José Manuel Mireles," *Expansión*, June 27, 2014, http://expansion.mx/nacional/2014/06/27/autoridades-detienen-en-michoacan-a-jose-manuel-mireles.
[517] Associated Press, "Michoacan in Mexico Gets yet Another New Cartel," *CBS News*, February 8, 2016, http://www.cbsnews.com/news/michoacan-mexico-new-cartel-la-nueva-familia/.

Control through Co-option

The current situation of competing organized criminal groups, weak local government, and untrusted law enforcement will continue to incentivize the emergence of *autodefensas*. To address these groups, the government faces a series of flawed options.

First, the government could choose to allow *autodefensas* to continue operating. Such an approach would mean ignoring that these groups are operating outside the law. It would also mean ignoring their crimes. Only in a few cases have these groups helped to decrease the level of violence in a community. Instead, many *autodefensas* have been accused of using the same brutal tactics as organized criminal groups. Citizen arrests and extrajudicial court proceedings have devolved into torture, extortion, and violent clashes with the police.

Second, on the other extreme, the government could support a broader crackdown. It could surge military forces into areas with *autodefensa* activity, arrest those involved, and deter any other non-state use of force. However, this would likely perpetuate violence, as seen in other militarization efforts since 2006. Second, it's unlikely that the judicial and prison systems in Michoacán could handle the inflow of some 20,000 persons. And finally, a long-term surge of federal forces would undermine the local law enforcement institutions that are needed to prevent the *autodefensa* problem in the first place.

This is a simplified list of options, but it highlights the need for a middle-ground approach toward modern *autodefensas*. Michoacán offers a third model of such an approach: co-option. The Rural Defense Corps model achieved two important ends: (1) it eliminated the majority of the *autodefensas* in the state, and (2) it began to fill the ranks of the local police force.

Such an approach is not without concern. Primarily, local groups that self-organize, arm themselves, and carry out vigilante justice undermine government legitimacy and the rule of law. Not punishing them also perpetuates the problem. Additionally, there are questions of effectiveness and trust. Having former *autodefensa* members as part of the local police would likely lower community trust in the police forces and raise concerns about corruption. Finally, there are concerns about human rights. In Colombia, the federal government co-opted *autodefensas* during their war against the FARC and ELN. The paramilitary group ultimately carried out torture, massacres, and other human rights abuses against civilians, many times with government consent or collaboration, and the U.S. designated the group a terrorist organization in 2001.[518]

These are important concerns, but they should spur policy creativity rather than eliminate options. As mentioned before, each option comes with its flaws. Co-option is the solution that appears to be the most likely to positively address both short-term and long-term problems surrounding *autodefensas*. Therefore, the following recommendations outline a policy of co-option that balances opportunities and challenges.

[518] Richard Boucher, "U.S. Revoking Visas of United Self-Defense Supporters," Department of State, Bureau of Public Affairs, October 30, 2001, https://2001-2009.state.gov/r/pa/prs/ps/2001/5803.htm.

- **Clarify the legal foundation for *autodefensa* efforts.** If *autodefensa* co-option is to be a long-term, comprehensive strategy, then it needs federal and state-level legal footing. Here, the indigenous rights arguments in Guerrero and Cherán are useful (but should not be binding). First and foremost, there must be a specific grievance. To maintain government legitimacy, *autodefensas* cannot spring up anywhere and for any reason; that would make their violence no different than that of organized criminal groups. Second, an *autodefensa* must prove that local authorities have not been effective or are unavailable. Ideally, there should be a state-level mechanism for which petitions can be made to organize self-defense groups, which would make co-option a faster and simpler option. However, there should be legal protections for post hoc arguments as well. To avoid the national-level abuse seen in Columbia, all co-option efforts should be conducted at the state or local level.

- **Codify a formal co-option pipeline to include registration and vetting.** Co-opted *autodefensa* groups must provide a register of all members. Only registered members will be offered the legal protections outlined above; others will be subject to normal criminal procedures. Also, all weapons must be registered with the federal government. In Michoacán, the *autodefensas* resisted this requirement, but it is the only reasonable method of accountability for co-opted groups.

  Autodefensa members must be vetted by federal law enforcement officials to be considered for co-option. Local law enforcement must be trustworthy and above reproach. Those that participated in human rights abuses while members of a self-defense group should not be allowed to enter training.

- **Create a formal training pipeline for co-opted *autodefensa* personnel and groups.** Co-opted *autodefensa* members should be offered two choices: (1) enter a reserve force—similar to the U.S. National Guard, but with a law enforcement rather than warfighting function—or (2) enter a formal active trainee program. The reserve force should offer a basic training program and the active trainees should be included in the current formal training pipeline for local and state law enforcement personnel.

- **Create federal grants to fund state and local co-option efforts.** Drawing on funds currently allocated for federal military law enforcement activity, the federal government should create block grants for states and municipalities that are in the process of co-opting an *autodefensa*. These grants would allow for specificity on the federal level but flexibility in the way the money is spent on the local level. These funds should be used for the training, equipment, and salaries of those the local forces are bringing into the fold. Additionally, by pulling from current military spending, a grant program would put the onus on state and municipal forces to spend efficiently and organize effectively.

- **Create a formal disciplinary channel for *autodefensa* abuses.** Many recent *autodefensa* efforts have started as legitimate self-defense enterprises but have since adopted the same violent tactics as organized crime groups. Under a legal co-option system, this cannot be the case. Therefore, a formal disciplinary system is necessary. First, the system must bind co-opted *autodefensas* to the same legal parameters that constrain law enforcement. Second, there must be a formal system to oversee, cite, prosecute, and punish violators. As groups are co-opted, they must be held accountable on issues of human rights and rule of law.

Appendix A.
The Legal Basis for the Use of Force in Mexico

Internationally, Mexico is bound by the 1945 U.N. Charter; the 1949 Geneva Conventions and their Additional Protocols; the 1966 International Covenant on Civil and Political Rights and its Optional Protocol and Second Optional Protocol; the 1966 International Covenant on Economic, Social and Cultural Rights; and the 1998 Rome Statute of the International Criminal Court.

See the following sources for more information:

- U.N. Charter (entered into force Oct. 24, 1945) (ratified by Mexico Nov. 7, 1945).

- Geneva Convention for the Amelioration of the Condition of the Wounded and Sick of Armed Forces in the Field, opened for signature Aug. 12, 1949, 75 U.N.T.S. 31 (entered into force Oct. 21, 1950) (ratified by Mexico Apr. 29, 1953) [hereinafter GC I].

- Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, opened for signature Aug. 12, 1949, 75 U.N.T.S. 85 (entered into force Oct. 21, 1950) (ratified by Mexico Apr. 29, 1953) [hereinafter GC II].

- Geneva Convention Relative to the Treatment of Prisoners of War, opened for signature Aug. 12, 1949, 75 U.N.T.S. 135 (entered into force Oct. 21, 1950) (ratified by Mexico Apr. 29, 1953) [hereinafter GC III].

- Geneva Convention for the Protection of Civilian Persons in Time of War, opened for signature Aug. 12, 1949, 75 U.N.T.S. 287 (entered into force Oct. 21, 1950) (ratified by Mexico Apr. 29, 1953) [hereinafter GC IV].

- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), opened for signature June 8, 1977, 1125 U.N.T.S. 3 (entered into force Dec. 7, 1978) (ratified by Mexico Mar. 10, 1983) [hereinafter AP I].

- G.A. Res. 2200A (XXI), International Covenant on Civil and Political Rights, opened for signature Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) (ratified by Mexico Mar. 23, 1981) [hereinafter ICCPR].

    - Mexico has entered a reservation to ICCPR article 18, which states: "Under the Political Constitution of the United Mexican States, every person is free to profess his preferred religious belief and to practice its ceremonies, rites and religious acts, with the limitation, with regard to public religious acts, that they must be performed in places of worship and, with regard to education, that studies carried out in establishments designed for the professional education of ministers of religion are not officially recognized. The Government of Mexico believes that these limitations are

included among those established in paragraph 3 of this article." Depositary, United Nations Treaty Collection, accessed November 25, 2016, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&clang=_en.

- G.A. Res. 2200A (XXI), Optional Protocol to the International Covenant on Civil and Political Rights, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) (ratified by Mexico Mar. 15, 2002) [hereinafter First Optional Protocol].

- G.A. Res. 44/128, Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty, opened for signature Dec. 15, 1989, 1642 U.N.T.S. 414 (entered into force July 11, 1991) (ratified by Mexico Sept. 26, 2007) [hereinafter Second Optional Protocol].

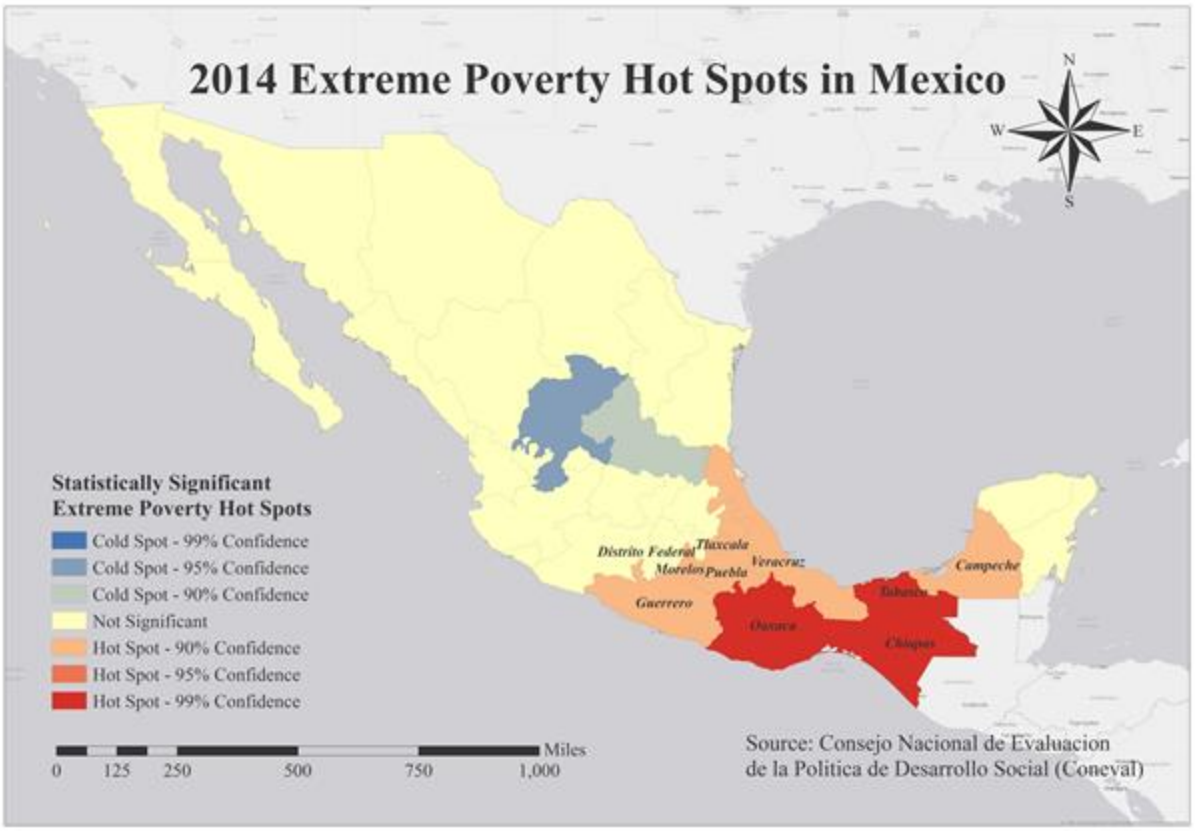
- G.A. Res. 2200A (XXI), International Covenant on Economic, Social and Cultural Rights, opened for signature Dec. 19, 1966, 993 U.N.T.S. 3 (entered into force Jan. 3, 1976) (ratified by Mexico Mar. 23, 1981) [hereinafter ICESCR].

- Rome Statute of the International Criminal Court, opened for signature July 17, 1998, 2187 U.N.T.S. 3 (entered into force July 1, 2002) (ratified by Mexico Oct. 28, 2005) [hereinafter Rome Statute].

Appendix B.
Socioeconomic Indicators and Drug Trafficking

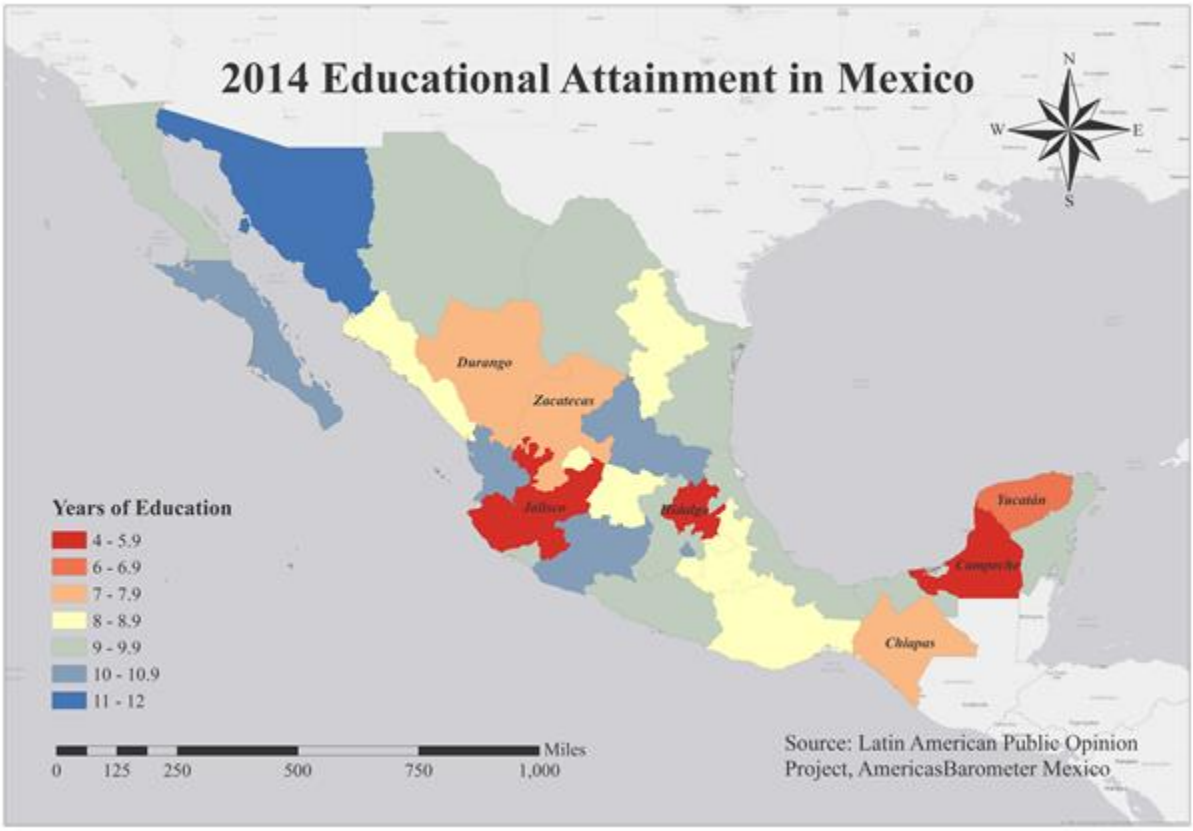
The following four figures show the range of additional socioeconomic indicators and drug trafficking problems in Mexico, referenced in Chapter 3.

Figure B.1
Hot Spot Analysis of Extreme Poverty by States in Mexico, 2014



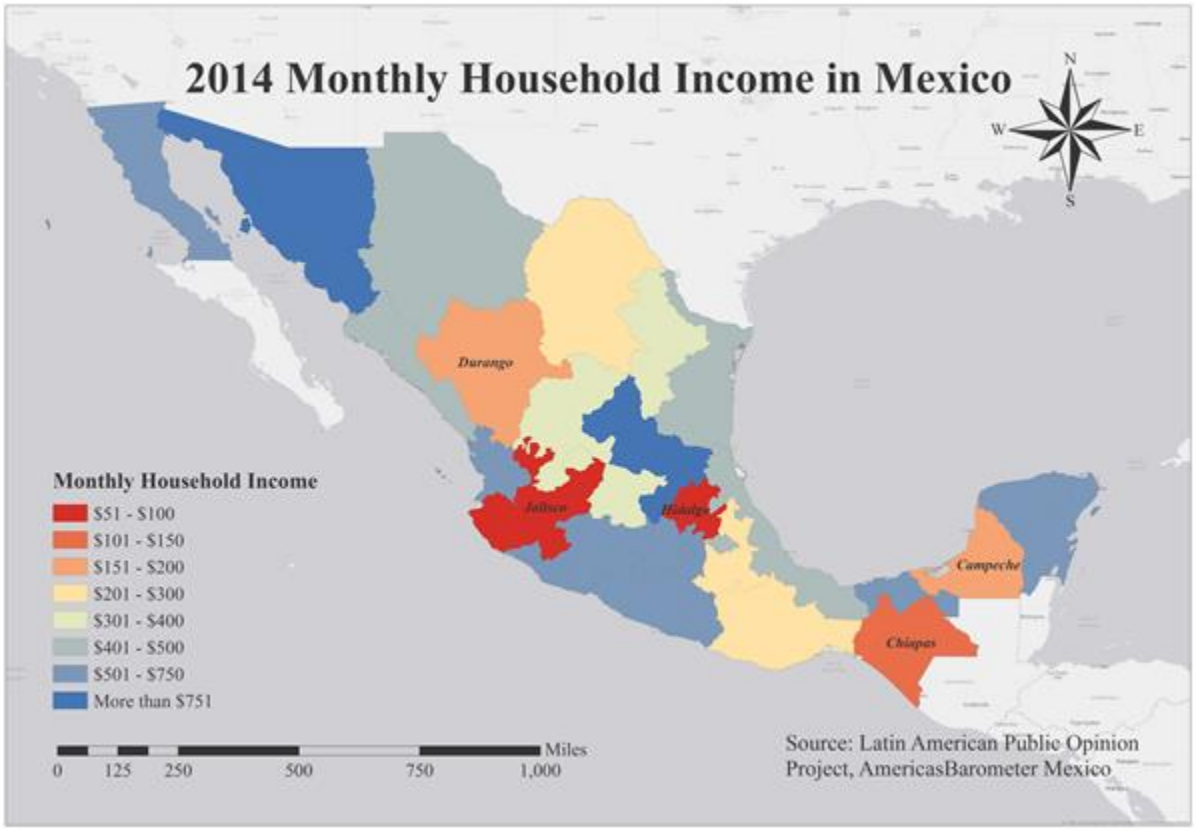
Source: Created by PRP students. Data from: CONEVAL, "Evolución de la pobreza y pobreza extrema nacional y en entidades federativas, 2010, 2012 y 2014," 2014, http://www.coneval.org.mx/Medicion/Paginas/PobrezaInicio.aspx; and INEGI, "Censo de Población y Vivienda 2010," 2010, http://www.beta.inegi.org.mx/proyectos/ccpv/2010/.

Figure B.2
Average Years of Education by States in Mexico, 2014



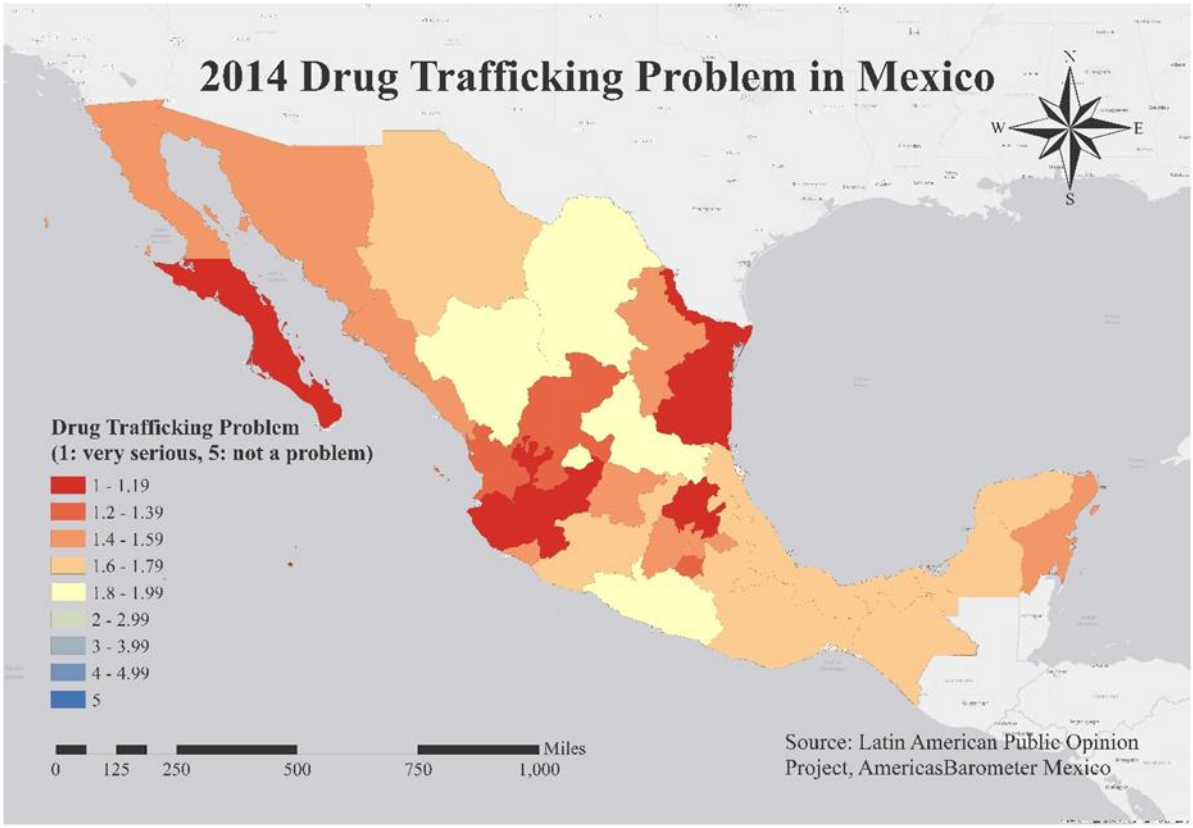
Source: Created by PRP students. Data from: The AmericasBarometer by the Latin American Public Opinion Project (LAPOP), "2014 Mexico LAPOP, Years of schooling," 2014, http://vanderbilt.edu/lapop/raw-data.php.

Figure B.3
Average Monthly Household Income by States in Mexico, 2014



Source: Created by PRP students. Data from: The AmericasBarometer by the Latin American Public Opinion Project (LAPOP), "2014 Mexico LAPOP, Monthly household income," 2014, http://vanderbilt.edu/lapop/raw-data.php.

Figure B.4
Drug Trafficking Problem by States in Mexico, 2014



Source: The AmericasBarometer by the Latin American Public Opinion Project (LAPOP), "2014 Mexico LAPOP, Drug-trafficking problem," 2014, http://vanderbilt.edu/lapop/raw-data.php.

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