

“Drug Violence and State Responses in Mexico”

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Introduction

From the beginning of his presidency, Mexican president Felipe Calderón made security a primary focus of his administration. Calderón took office in a time of trouble and uncertainty, after a come-from-behind victory in a highly controversial July 2006 election that severely divided the nation. Even as he took office in December, political protesters who viewed the leftist candidate Andrés Manuel López Obrador as the rightful victor continued to occupy the streets of Mexico City and even the Congress itself. Meanwhile the southern state of Oaxaca continued to simmer with unrest after a midsummer teachers’ strike erupted into violence. The Zapatista National Liberation Army, a long-standing insurgent group in the state of Chiapas, had returned to a state of “red alert” in reaction to a violent police crackdown on flower vendors in the city of Texcoco, outside Mexico City.

Amid all this, internecine violence among drug-trafficking organizations was contributing to a rising body count in states along Mexico’s Pacific Coast and northern border regions. In response to this specific challenge, Calderón requested an immediate 24 percent increase in the national security budget and promptly deployed tens of thousands of federal forces to the states most impacted by violence related to drug trafficking. More so than presidents in recent memory, Calderón also took pains to personally identify himself with Mexico’s new security agenda. On a ceremonial visit to the southern Pacific state of Michoacán in January 2007, one month after taking office, he donned an olive-drab military uniform and a cap with the five-star emblem of Mexico’s commander in chief, offering praise to the troops and federal police deployed to his native state to address the rising tide of drug trafficking–related violence that resulted in hundreds of killings in 2006. “I come as the supreme commander to recognize your work, to urge you to go boldly forward, and to tell you that we are with you.”¹

While the Mexican military had been involved in the war on drugs for several decades, Calderón’s unprecedented escalation of this role belied a serious problem for Mexico’s nascent democracy.² Despite a prolonged and much-heralded democratic opening, the country’s domestic law enforcement and judicial sector institutions—police, prosecutors, courts, and penitentiaries—remain severely under-resourced, inefficient, and in too many cases corrupted by unprofessionalism, graft, and organized crime. In this context, the Calderón administration viewed the military as a bulwark against broader instability and sent

¹ “Vengo hoy como comandante supremo a reconocer su trabajo, a exhortarlos a seguir adelante con firmeza, entrega y a decirles que estamos con ustedes.” Herrera and Martínez Enviada 2007, author’s translation.

² Roderic Ai Camp, *Armed Forces and Drugs: Public Perceptions and Institutional Challenges*, Washington, D.C.; San Diego, CA, 2010 , Marcos Pablo Moloeznik, “The Militarization of Mexican Public Security and the Role of the Military in Mexico,” in *Police and Public Security in Mexico*, edited by Robert A. Donnelly and David A. Shirk, San Diego: Trans-Border Institute, 2009.

tens of thousands of troops and federal police throughout the country in an effort to reduce the threat posed by drug-trafficking syndicates. In the process, his government dealt important blows to organized crime groups, including the arrest or capture of several top leaders and thousands of criminal operatives. The Calderón administration also succeeded in laying the groundwork for long-term improvements to the criminal justice sector, with major constitutional and legislative reforms to Mexican policing, criminal investigation, and courtroom procedure.

Amid these efforts, organized crime groups have continued to proliferate in many areas of the country, increasingly diversifying their activities to include kidnapping, bank robbery, extortion, and other criminal activities. Moreover, while support for the Calderón administration's fight against organized crime—and particularly support for the military—remains high, the legitimacy of the government's drug-fighting efforts and the prestige of the military have been tarnished by a growing list of alleged human rights abuses and the failure to get high-impact violence under control. Indeed, public frustration with inability of authorities to provide basic public security has triggered several high profile nationwide protests, led by prominent family members of crime victims, such as Alejandro Martí in 2008 and Javier Sicilia in 2011.

This paper examines the responses of the Mexican government to the problem of drug trafficking and other organized crime activities. I argue that Mexico's current strategy for combating organized crime primarily includes the following components: (1) direct involvement of military personnel and federal police in sequential targeting of specific drug trafficking organizations for the dismantling of leadership structures; (2) long-term investments and reforms intended to improve the integrity and performance of domestic law enforcement institutions, including efforts to identify and purge corrupt government officials; (3) new judicial reforms intended to strengthen due process rights, improve efficiency, and introduce transparency to criminal procedure; and (4) cooperation with the United States in terms of operational intelligence, extradition and prosecution of traffickers, southbound interdiction of weapons and cash, and strengthening judicial sector institutions (through consultations and trainings with judicial sector personnel).³

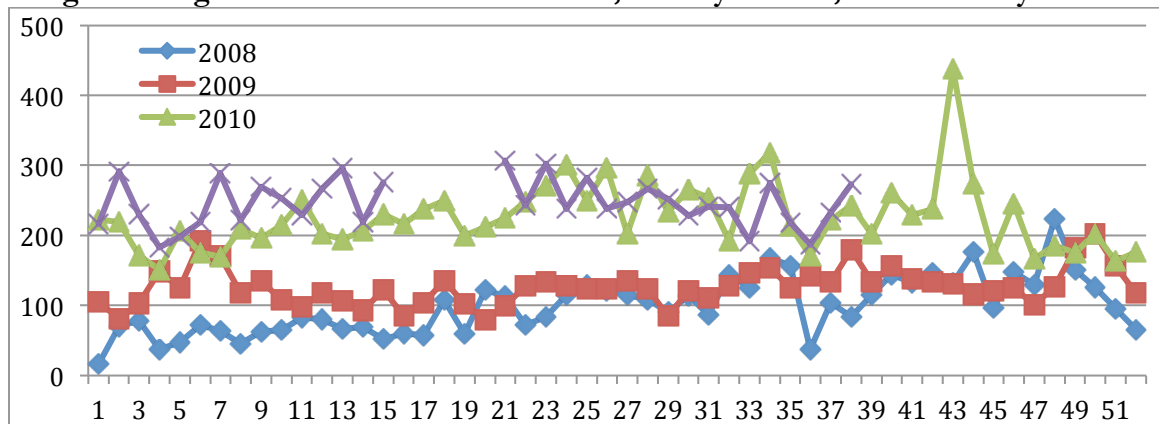
In evaluating these strategies throughout the paper, two main arguments emerge that I refine at the conclusion. First, I argue—as do numerous other observers—that inter-cartel dynamics and the government's chosen strategy to combat organized crime groups by targeting top leadership structures has contributed to the fractionalization of organized crime groups, more severe and disorganized violence, and a diversification of organized criminal activities. Second, I note that the policy options available to Mexico partly reflect the policies and priorities of the United States, which is presently opposed to any alternative to the criminalization of drugs and strongly supports counter drug efforts in Mexico. Third, I argue that the best possible hope for Mexico to strengthen the rule of law lies in its longer-term efforts to improve the effectiveness and integrity of the criminal justice system.

³ Efforts have arguably been made on other fronts, such as decriminalizing minor possession to aid in treatment of drug abuse and developing targeted social development programs in communities affected by high-impact violence (e.g., *Todos Somos Juárez*). However, these are left aside in this particular paper.

The Rise of Violence in Mexico

Estimates regarding the magnitude of Mexico's current security crisis vary greatly, but there is no question that crime and violence now presents a severe challenge to both the state and society.⁴ Using official homicide rates, there were perhaps 40,000 homicides from January 2007 to December 2010.⁵ Meanwhile, Mexican authorities also reported that there were roughly 34,000 killings attributable to organized crime during the same time period. Adding the more than 9,500 "drug related" homicides tracked by Reforma newspaper from January through September of 2011, the total number of organized crime related homicides has now reached at least 45,000 since the start of the Calderón administration. What is more, recent trends suggest that violence in 2010 has at least matched the previous year, and will likely be the worst year on record. (See Figure below).

Figure: Drug related Homicides in Mexico, Weekly Trends, 2008 to mid-year 2011



Source: Reforma data gathered by Trans-Border Institute. Note that the institute was unable to collect data for a five week period in March and April.

Mexico's recent violence exhibits two larger trends. First, while violence remains relatively concentrated in key areas central to the drug trade, there has been a dispersion of violence over a wider geographic area. Roughly eighty-percent of these homicides are found in just 168 out of Mexico's 2,456 municipalities, making transit cities like Ciudad Juárez, Culiacán, and Nuevo León among the deadliest places in the world. Moreover, over the last decade, dozens of reporters have been killed or disappeared, making Mexico one of the world's most dangerous places for journalists.⁶ Since such statistics fail to convey the ghastly beheadings, dismemberment, torture, and other acts of unimaginable cruelty, Mexico's brazen assassins take great pains to advertise their handiwork through banners, internet videos, and popular

⁴ These data on drug-related violence come from the Mexican government's tally of 34,000 reported in January 2011 for the specific dates in question.

⁵ General homicide data is unavailable for all years for which the government has reported data on organized crime related violence. Thus, for consistency, the calculation of total homicides during the same period is approximated at 40,000 based on rates reported by the United Nations Office on Drugs and Crime (UNODC) and CIA World Factbook population estimates for 2007, 2008, and 2009.

⁶ El Universal, "Periodistas demandan justicia y abatir violencia," *El Universal*, July 9, 2010, ———, "Urge frenar ataques a medios: CIDH y SIP," *El Universal*, August 28, 2010.

ballads, or *narcocorridos*.⁷ In this context, it is unsurprising that few Mexican citizens feel safer today than they did a decade ago, and most believe that their government is losing the fight against organized crime.⁸

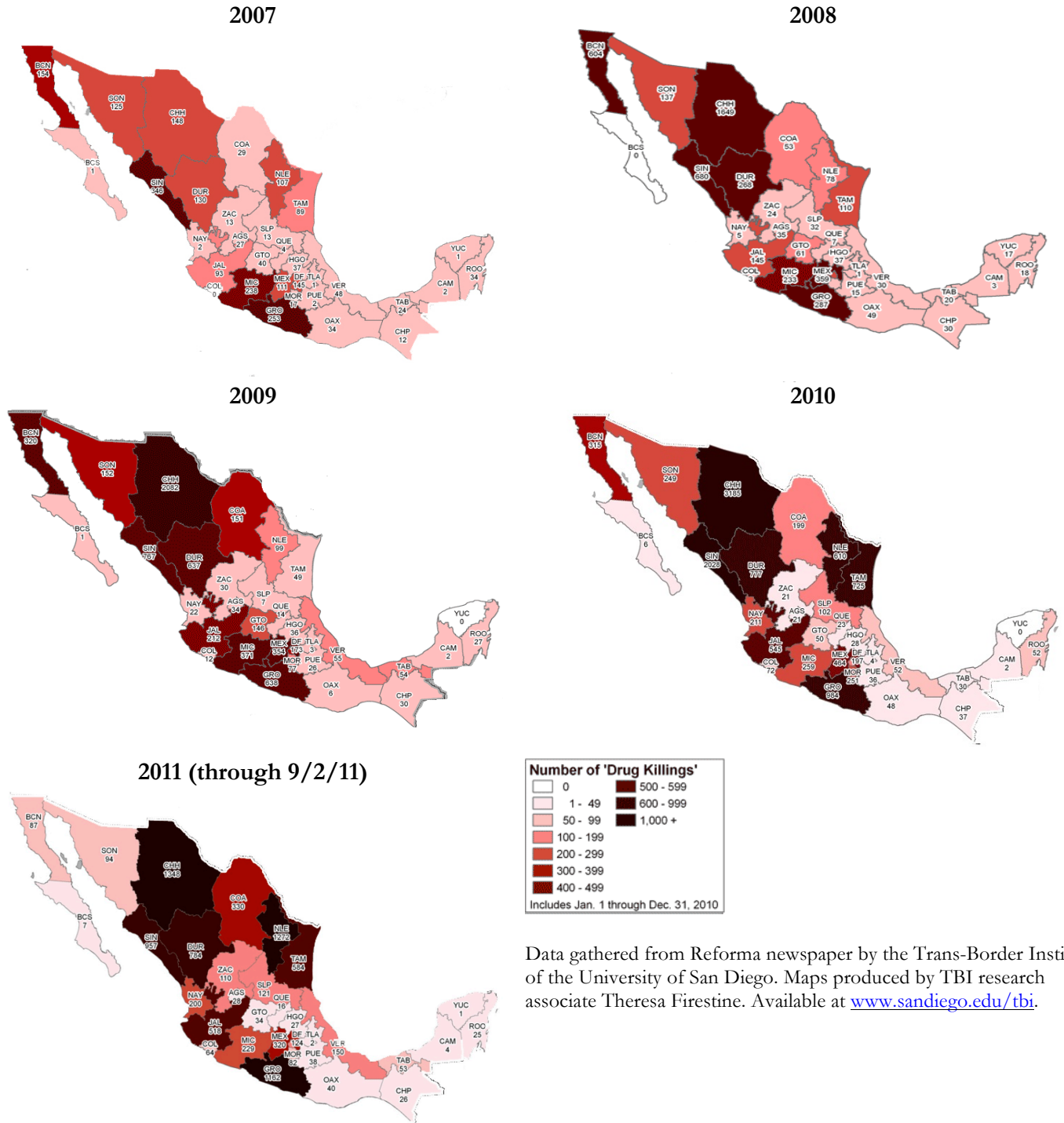
While previously concentrated primarily in Mexico's Pacific Coast and production regions, violence has spread to key trafficking routes throughout northern Mexico. From 2008 to 2010, the most intense violence was found in Ciudad Juárez, an industrial border town neighboring El Paso, Texas. Juárez experienced an economic boom in the 1980s and early 1990s, but has faltered significantly due to increased global competition from China and elsewhere. In 2009 alone, with just over a million inhabitants, Ciudad Juárez had more than 2,000 homicides; more than New York, Chicago, Los Angeles, and Washington, D.C. combined. Meanwhile, violence has also spread to other parts of the border region that were once relatively calm, notably Tamaulipas, Coahuila, Nuevo León.

Indeed, Monterrey, the country's third most populous city (located 140 miles south of the Texas border), has become the new epicenter of Mexico's drug violence. On June 15, 2011, 32 people were killed in 12 separate incidents throughout the city, followed on June 28 by the assassination of Germán Pérez, the police chief of a Monterrey suburb called Santa Catarina. On July 8, a late-night massacre reportedly killed over 20 people—among them 18 employees—in a Monterrey nightclub known as Sabino Gordo. On August 25, 2011, assailants killed over 50 people in a grenade ignited gasoline fire targeting the Casino Royale, located in the western portion of Monterrey, the capital city of the northern state of Nuevo León. Violence in the city began to escalate in March of last year due to a turf battle between the so-called Gulf Cartel and their former enforcers, known as the Zetas.

⁷ Richard Marosi, "A City Goes Silent At His Name," *Los Angeles Times*, A-1, Thursday, December 18, 2008, Rubén Tinajero Medina and María del Rosario Hernández Iznaga, *El narcocorrido: tradición o mercado?* Chihuahua, México: Universidad Autónoma de Chihuahua, 2004.

⁸ Consulta Mitofsky, "Economía, gobierno y política," *Consulta Mitofsky*, January 2010.

Map: Drug Related Killings in Mexico 2007-2010



Data gathered from Reforma newspaper by the Trans-Border Institute of the University of San Diego. Maps produced by TBI research associate Theresa Firestone. Available at www.sandiego.edu/tbi.

Another important trend is that, although the Mexican government estimates that ninety percent of drug violence impacts individuals closely associated with organized crime, there has been an increased targeting of both high-profile victims (including politicians and public officials) and ordinary citizens. For example, while there were no known assassinations of

Mexican mayors from 2000-05, at least twenty have been killed since then (including six in 2010 alone). In addition, dozens of military personnel and hundreds of police officers have been killed in the line of duty. Also, several high-ranking politicians—including governors, legislators, and a former-presidential candidate—have been targeted by organized crime groups. Furthermore, a growing spectrum of ordinary citizens has been affected by the violence, with increasing rates of victimization among recovering drug addicts, women, minors, and visitors to Mexico.

Given the conditions described thus far, it is understandable why some observers equate Mexico's troubles with narco-terrorism, insurgency, and state failure.⁹ After Mexico's sharp increase in violence in 2008, a report by the U.S. Joint Forces Command pointed to Mexico as one of two countries worldwide—along with Pakistan—most likely to suffer a sudden collapse into a failed state.¹⁰ More recently, there is an emerging discourse in Washington suggesting that Mexico's woes are a sign of narco-terrorism or domestic insurgency. Such alarmist depictions blow Mexico's recent violence out of proportion, misdiagnose the problem, and lead to inadequate or inappropriate remedies and solutions. Indeed, Mexico is far from being a failed state, at least on widely accepted measures of the concept. In 2010, Mexico was ranked 96th with a score of 76.1 on the Fund for Peace's Failed State Index (see Table 1). By comparison, Pakistan is ranked 10th on the index, with a score of 102. The countries with the worst ratings—Afghanistan, Congo, and Somalia—exhibit serious problems of governance that are not even remotely similar to those found in Mexico.¹¹

With the exception of very limited geographic areas, as noted earlier, the Mexican state maintains a coercive monopoly in controlling its defined territory and continues to serve a wide array of functions well beyond this. Also, while the tactics of Mexico's drug trafficking organizations may *resemble* those of insurgents or even terrorists, they lack the kind of political agendas generally associated with such threats.¹² Moreover, violence elsewhere in the Western hemisphere is actually far worse than in Mexico. Even though homicide rates in Brazil and Colombia have actually fallen in both countries, since 2007 they still saw more than 80,000 (20 per 100,000) and 50,000 (30 per 100,000) murders, respectively, many of which are also drug related.¹³ Homicide rates have also seen a significant increase in Guatemala, Honduras, and Venezuela, or have otherwise remained disturbingly high elsewhere in the Americas (See Table).¹⁴

⁹ Some analysts describe Mexico as a “narco-state” overrun by violence, corruption, and “narco-terrorism.” Barnard R. Thompson, “The Drug War in Mexico: By Any Other Name it's Terrorism,” *Mexidata*, August 9, 2010. Others, influenced by recent military doctrine, have tended to portray Mexico's recent violence as the equivalent of a domestic insurgency. John P. Sullivan and Adam Elkus, “State of Siege: Mexico's Criminal Insurgency,” *Small Wars Journal*, 2008.

¹⁰ Specifically, the report asserted, “In terms of worst-case scenarios for the Joint Force and indeed the world, two large and important states bear consideration for a rapid and sudden collapse: Pakistan and Mexico...” (United States Joint Forces Command 2008).

¹¹ 2010 Failed State Index. <http://alturl.com/cfhzs>

¹² Russell D. Howard and Reid L. Sawyer, *Terrorism and Counterterrorism: Understanding the New Security Environment, Readings & Interpretations*. Rev. and updated. ed. Guilford, Conn.: McGraw-Hill/Dushkin, 2004.

¹³ Figures are calculated the same as for Mexico above.

¹⁴ There were more than 40,000 homicides in Venezuela from 2007 to 2010. Simon Romero, “Venezuela, More Deadly Than Iraq, Wonders Why,” *The New York Times*, August 22, 2010.

Table: Homicide Statistics in the Americas, Select Countries (2003-2008)
Homicides Per 100,000 Inhabitants

<u>Country</u>	<u>Source</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Jamaica	National Police	37.1	55.5	62.8	49.9	58.7	59.5
El Salvador	Observatorio	58.8	64.5	62.4	64.6	57.3	51.8
Honduras	Observatorio	33.6	31.9	35.1	42.9	50.0	60.9
Venezuela	NGO	47.5	43.2	36.4	36.4	44.2	47.2
Colombia	National Statistics Office	61.4	52.8	43.8	41.2	40.1	--
Belize	National Police	24.8	28.6	28.7	31.9	32.9	34.3
St. Kitts & Nevis	National Police	20.9	22.7	16.3	34.2	31.7	35.2
Anguilla	National Statistics Office	15.8	7.6	7.3	28.4	27.6	--
Dom. Republic	Attorney General	17.8	24.1	25.2	22.2	21.5	--
Brazil	Ministry of Justice	--	--	--	--	20.4	22.0
Puerto Rico	National Police	20.3	20.5	19.7	19.0	18.5	20.4
Guyana	National Statistics Office	27.1	17.2	18.6	21.3	15.1	20.7
Nicaragua	National Police	11.9	12.0	13.4	13.1	12.8	13.0
Paraguay	National Statistics Office	17.1	17.4	15.0	12.3	12.2	--
Bolivia	National Statistics Office	29.0	41.6	9.5	29.1	10.6	--
Mexico	NGO	12.4	11.2	10.7	10.9	9.6	11.6
Costa Rica	National Police	9.5	6.6	7.8	8.0	8.3	--
Chile	UN Survey	12.5	9.8	8.2	19.2	6.6	8.1
Uruguay	Ministry of Interior	5.9	6.0	5.7	6.1	5.8	--
USA	UN Survey	5.6	5.4	5.5	5.6	5.5	5.2
Argentina	Ministry of Justice	7.6	5.9	5.5	5.2	5.2	--
Canada	UN Survey	1.5	1.7	1.8	1.7	1.6	1.7

Source: Countries selected based on available data from the United Nations Office on Drugs and Crime, table on "Homicide Statistics, Criminal Justice and Public Health Sources - Trends (2003-2008)." Observatorio refers to the Observatorio Centroamericano sobre Violencia.

Still there is no question that Mexico's situation has gotten much very bad very quickly, and its violence is of relatively greater significance for its neighboring countries than perhaps has the case elsewhere in the hemisphere. Mexico is a preoccupation for the United States because so much of its recent violence (over a third of drug-related murders) is taking place along the border, where there have been several troubling but still isolated instances of "spillover" violence. More significantly, Mexican organized crime groups have increasingly begun operating in Guatemala and other Central American countries, both as a base of operations and supply route. As a result, the greater "spillover" concern for the region is the very likely prospect that any progress in confronting drug trafficking through Mexico will lead to the migration of illicit activities into Central American countries that are even less prepared to tackle them. This displacement described as the "balloon effect," since squeezing criminal activities in one location simply pushes them elsewhere. Critics see this as a perpetual failing of the drug war that has produced devastating effects, first starting in Colombia and now Mexico.

The Fantasia Strategy: The Unintended Consequences of Cartel Fragmentation

The most hotly debated question regarding Mexico's drug war is whether the current strategy of direct confrontation against organized crime has actually caused Mexico's

violence, or whether the violence has followed its own logic as a result of internecine conflicts among organized crime groups. Both are probably true. The arrest of top cartel bosses disrupts their operations and contributes to greater infighting between and within competing organized crime groups. Moreover, the determination of government officials to combat drug trafficking during recent presidential administrations represents a sea change in political will compared to previous administrations. During the 1980s, Mexico's highly centralized, single-party political system provided a favorable environment for organized crime groups. Indeed, many recent accounts suggest that there existed in Mexico a system-wide network of corruption that ensured distribution rights, market access, and even official protection to drug trafficking organizations in exchange for very lucrative bribes dispensed at very high levels of power.¹⁵ In this context, many current top cartel operatives—virtually all of them with roots in Sinaloa—worked together within the same loosely knit set of allied organizations that controlled different commissions, or *plazas*, for smuggling drugs into the United States.

Certainly, there are other significant contributing factors that have increased competition among traffickers: volatility in U.S. drug demand (market cycles), increased border interdiction (rising costs), varying drug prices (lower profits), growing domestic demand in Mexico (competition for new markets).¹⁶ Still, what stands out about Mexico's drug-related violence in recent years is the extent to which increased counter-narcotics efforts have served primarily to intensify the competition among drug trafficking organizations. This process arguably began with the 1989 arrest of Mexico's top trafficker, Miguel Angel Félix Gallardo. Félix Gallardo's arrest came as Mexico was under intense U.S. pressure because of alleged official corruption that resulted in the 1985 torture and murder of DEA agent Enrique "Kiki" Camarena. After Felix Gallardos' arrest, there were several years of intense conflict among the four major cartels that rose to prominence during the 1990s, each identified with one of four cities or regions: Tijuana, Juárez, Sinaloa, and the Gulf of Mexico.¹⁷

By the early 2000s, Mexico's government began to aggressively dismantle these leading organizations. In 2002, the Fox administration arrested cartel boss Benjamin Arellano Felix, shortly after his brother and co-leader was killed by police in Sinaloa. Later, in 2003, federal forces arrested Gulf cartel boss Osiel Cárdenas and top lieutenant Adán Medrano Rodríguez.

¹⁵ Luis Alejandro Astorga Almanza and David A. Shirk, "Drug Trafficking Organizations and Counter-Drug Strategies in the U.S.-Mexican Context," in *Shared Responsibility*, edited by Eric Olson, Andrew Selee and David A. Shirk, Washington, D.C.; San Diego, CA: Mexico Institute (Woodrow Wilson International Center for Scholars); Trans-Border Institute (University of San Diego), 2010, Richard Snyder and Angelica Duran-Martinez, "Does Illegality Breed Violence? Drug Trafficking and State-Sponsored Protection Rackets," *Crime, Law, and Social Change* 52, 2009:253–73.

¹⁶ Peter Reuter, *How Can Domestic U.S. Drug Policy Help Mexico?*, Washington, D.C.; San Diego, CA, 2010 .

¹⁷ The Tijuana Cartel is headed by members of Arellano Félix family, who are originally from Sinaloa and believed to be kin to Félix Gallardo. The Juárez Cartel, the most powerful organization of the 1990s, was headed by Amado Carillo Fuentes, an associate of Felix Gallardo. The Sinaloa Cartel is headed by Joaquín "El Chapo" Guzmán and Ismael "El Mayo" Zambada, the protégés of Félix Gallardo's former-associate, Hector Palma. The Gulf Cartel was brought to national prominence by Osiel Cárdenas Guillén, who in 2001 recruited elite Mexican military personnel—who became known as "Zetas"—as enforcers for his organization. These cartels maintained relationships with—and, in some cases, accepted tribute from—smaller, mid-level drug trafficking networks, like the Sonora-based Caro Quintero organization and the Colima-based Amezcua organization.

These blows significantly altered the balance of power, contributing to intense conflict and splintering among the cartels. In particular, the Sinaloa cartel soon began to encroach on the territories of its rivals, causing four of the seven major regional conflicts currently identified by Mexican government authorities. The Sinaloa organization's conflict with the Juárez cartel alone has accounted for more than a third of Mexico's recent drug-related violence. Meanwhile, combining the Sinaloa cartel's clashes with their former allies in the Beltran Leyva Organization (who broke away in 2008), its battles with the Tijuana and Gulf cartels account for roughly 50% of all recent violence.

At the same time, the dynamics among Mexico's smaller regional and breakaway organizations—notably, La Familia Michoacana (LFM) and the Zetas—has greatly fueled the violence as they clash with the larger cartels and with each other.¹⁸ Indeed, the Mexican government's killing of Arturo “El Jefe de Jefes” Beltran Leyva in December 2009 (and the later arrest of his brother Carlos) produced a record level of violence in the holiday season and into January 2010, the bloodiest month on record in Mexico's drug war. Likewise, a new split between the Gulf Cartel and their former partners, the Zetas, has contributed to unexpected fronts in the Mexican drug war, as the Zetas have branched out to establish their own territorial and sectorial spheres of dominance. The Zetas clashes with the Gulf, La Familia, and Sinaloa drug trafficking organizations have contributed to spikes in violence in other states, including Aguascalientes, Coahuila, Michoacán, Tamaulipas, Veracruz, and Zacatecas, many of which previously had relatively low levels of violence.

Mexican officials have long stipulated that they must break cartels into smaller, more manageable pieces. Specifically, they want to downsize drug traffickers from a national security threat to a public security problem. There are three problems with this approach. The first is that, while the splintering and proliferation of organized crime activities has been driven partly by deliberate government efforts, organized crime groups vying against each other often manipulate the state to attack their enemies. Organized crime groups do so by corrupting government officials, infiltrating government agencies, and providing intelligence that is harmful to the interests of their rivals. As a result, it is often difficult to know when the state is being effective in asserting its own agenda, as opposed to those of organized crime groups.

The second problem is that smaller does not necessarily mean more manageable. Indeed, thus far, the result of cartel fragmentation has been a much more chaotic and unpredictable pattern of violent conflict among drug trafficking groups than Mexico has ever seen. Moreover, as Mexico's cartels have splintered into smaller organizations, their crimes have become more diversified, branching into kidnapping, bank robbery, human smuggling and trafficking, oil siphoning, and other illicit revenue-generating activities that increasingly place ordinary Mexicans at risk. In this sense, the stated goal of reducing the level of the threat to the state is highly questionable, since the state is no more capable of tackling smaller, more decentralized organizations than it is larger, hierarchical organizations.

The third and arguably most important problem with the fragmentation strategy is that it has not been applied evenly across all cartels. While few authorities are willing to advocate direct

¹⁸ Drug Enforcement Agency, “La Familia Michoacana Fact Sheet,” <http://www.justice.gov/dea/pubs/pressrel/pr102209a1.pdf>

negotiation with organized crime groups, officials increasingly advocate focusing primarily on those organized crime groups that present the greatest danger to society, particularly those that engage in kidnapping, extortion, and other low level organized crime activities. There are good reasons to do so, particularly as these crimes have proliferated in recent years. However, in a sense, this approach effectively abandons the original objectives of the fragmentation strategy to attend to its unanticipated consequences, since in doing so large, well-positioned organized crime groups are able to go about their business relatively undisturbed. Mexico's largest and most powerful organized crime group, the Sinaloa cartel, stands out as the major beneficiary, as there is no evidence that its overall operations, scale, or capacity have been reduced in any substantial way. On the contrary, the reduced capacity of its rival cartels—notably the Gulf, Juárez, and Tijuana cartels—has simply shifted the power dynamics in its favor. One wonders if Sinaloa's good fortune was not an accident.

The Militarization Strategy: Unleashing the Dogs of War

In the face of rising violence, the Calderón administration has resorted to intense military involvement in the fight against organized crime. The Mexican military has been involved in a “permanent campaign” against drug trafficking for decades, with major eradication initiatives that included the “Great Campaign” of the late-1940s and “Operation Condor” in the 1970s. However, its role has greatly expanded over the last three decades. In 1987, for the first time, President Miguel de la Madrid declared narco-trafficking to be a national security problem, opening the door to deeper involvement of the military in counter-drug efforts. In 1996, President Ernesto Zedillo integrated the military into Mexico's security cabinet, a move that directly involved military officers in the elaboration of public and national security policy.¹⁹ Under President Vicente Fox, in an effort to enhance the integrity of the criminal justice system, civilian law enforcement personnel were replaced by career military officers, as in the appointment of General Rafael Macedo as Mexico's Attorney General.²⁰

Yet, during the Calderón administration military involvement in the war on drugs has increased dramatically. The federal government has deployed thousands of federal troops to man checkpoints, establish street patrols, and oversee other domestic law enforcement functions in high drug violence states. Precise data on the number of federal troops deployed by the Calderón administration are lacking, primarily because the government refuses to release such statistics for security reasons. However, media reports of deployments—which typically blur federal police and military personnel—provide an approximation of the size and distribution of deployments in recent years. The first major deployments began at the outset of the Calderón administration, with the introduction of 6,700 troops in the state of Michoacán in December 2006, which at the time was the epicenter of drug-related killings in Mexico. Deployments gradually expanded to other areas in Baja California, Guerrero, Nuevo León, Tamaulipas, Veracruz and the Golden Triangle area in 2007 and 2008. Since 2008,

¹⁹ That same year, a critical decision by the Mexican Supreme Court also expanded the constitutional interpretation of the military's role in civilian-led public security operations related to drug trafficking and organized crime.

²⁰ It is worth noting that, prior to taking office, Fox pledged to abolish the PGR but instead relied heavily on the agency during his term. See: James F. Smith and Ken Ellingwood, "Fox Lays Out Plan to Overhaul Justice System in Mexico," *Los Angeles Times*, A1, July 5, 2000

Mexico's major deployments have been concentrated the state of Chihuahua, which presently accounts for the largest proportion of Mexico's drug violence. However, with the recent increase in violence

There are serious questions about the effectiveness of the military strategy even as a short term measure. First, in terms of the reduction in drug violence, Mexico's military deployments have brought only mixed success, at best. Some states, like Michoacán and Tamaulipas, saw significant reductions in drug-related violence shortly after federal forces were deployed there. Other states, like Chihuahua, Guerrero, and Nuevo León, suffered continued or increased violence after the arrival of the military. Second, the military's role sometimes leads to confusion and confrontation among authorities, as in Baja California where a military commander issued damning accusations of corruption against state and local law enforcement authorities in 2008. Third, the militarization of public security in Mexico has contributed to increased accusations of human rights abuses, greater military corruption, and the increased militarization of organized crime. Indeed, according to Mexico's National Human Rights Commission, about 1,500 abuse claims against the National Defense Ministry were reported in 2010, compared to fewer than 200 claims reported in 2006.²¹ Finally, the fact that Mexico regularly experiences a significant number of military defections —averaging around 20,000 troops per year— raises potentially serious concerns. While most defections are low-level enlisted personnel, the defection of elite military personnel who formed the Zetas introduced new, intensely militarized tactics to the drug war, and drove existing organizations to employ more extreme forms of violence.

All of these things threaten to seriously erode the legitimacy of the military and the state itself in the eyes of the public. As locals in high-intensity drug trafficking areas increasingly view the federal government as a “hated occupier,” the threat of insurgency could become a self-fulfilling prophecy.²² Alternatively, as a result of an incident in Veracruz in September 2011 where an armed group proclaimed itself to be a vigilante, paramilitary force, some observers fear that recent trends will add a new and troubling dimension that will “Colombianize” Mexico's violence.

The Police Reform Strategy: The Limits of Law Enforcement

The rationale for militarization of the drug war is simple: Mexican police agencies suffer from low professional standards, severe resource limitations, frequent turnover and institutional reorganization, and troubling internal corruption, many of which are problems of institutional design. For example, under Mexico's traditional criminal justice system, most police were ostensibly dedicated to preventive functions, and —aside from detaining individuals *in flagrante delicto*— not considered central to the work of prosecutors and judges. Thus, until recently, as many as 75% of Mexico's more than 400,000 police lacked

²¹ Cattán, Nacha. “UN questions Mexican Army's role in drug war.” *The Christian Science Monitor* April 1, 2011. “Impunity a major issue as Mexico addresses enforced disappearances – UN experts.” UN News Centre April 1, 2011; Arvizo Arrijoja, Juan. “Ven riesgos en ley de seguridad.” *El Universal* April 25, 2011; Herrera, Claudia; “Se mantienen juicios militares para Ejército en Ley de Seguridad: PRI.” *La Jornada* April 25, 2011; “Se acelera la discusión sobre Ley de Seguridad Nacional.” *El Informador* April 25, 2011.

²² Camp, *Armed Forces and Drugs: Public Perceptions and Institutional Challenges*, William Finnegan, “Silver or Lead,” *The New Yorker*, May 31, 2010.

investigative capacity, were deployed primarily for patrol and crime prevention, and were largely absolved of responsibilities to protect or gather evidence. After recent reforms to Mexican criminal procedure (see below), police will now need to develop the capacity to protect and gather evidence to help prosecutors, judges, and even defense attorneys determine the facts of a case and ensure that justice is done. As police become more critical to criminal investigations and proceedings, it is essential and urgent that they be adequately prepared to carry out these responsibilities properly. New standards underscore the need to modernize Mexican police forces, which are now expected to demonstrate greater professionalism, objectivity, and respect for human rights.

The mandate to promote police professionalism has been supported by recent efforts of the Mexican federal government to increase investments in training, equipment, infrastructure, standardization, and integrity (*control de confianza*) for law enforcement. The two major sources of government grants to aid states and municipalities in strengthening law enforcement are the Municipal Public Security Subsidy (*Subsidio para la Seguridad Pública Municipal*, SUBSEMUN) and the Public Security Assistance Fund (*Fondo de Aportaciones para la Seguridad Pública*, FASP).²³ Both funds have directed millions of dollars in direct financial assistance to improve local and state level police agencies, respectively. However, the effectiveness of these funding mechanisms has been questioned, given that large amounts of money have gone unspent in recent years.²⁴ In the end, successful police reform requires not only more resources, but also the development of professional standards for law enforcement.

To begin to assess the development of such standards, in 2009, the Justice in Mexico Project, a multi-year research initiative coordinated by the Trans-Border Institute at the University of San Diego (USD), launched a series of studies to evaluate the perceptions and professional development of actors in Mexico's judicial sector. Working with an interdisciplinary, bi-national team of experts on Mexico's justice sector, this series of studies -- titled the *Justiciabarometro*, or "Justice Barometer" -- consists of surveys, interviews, and policy research to examine the strengths, challenges, and resource needs of Mexican law enforcement agencies and judicial institutions, and the justice sector in general. The initial *Justiciabarometro* study consisted of a major academic survey of municipal police in 2009, including 5,422 local law enforcement personnel in the six municipal governments that make up the Guadalajara metropolitan area. In 2010, a subsequent police study was conducted, involving more than 2,400 local police in the municipality of Ciudad Juárez, a city that has had a series of brutal homicides targeting women since the 1990s and severe levels of crime and violence since early 2008.

These studies have revealed that promoting police professional development is made more difficult by dangerous and deplorable working conditions, unpredictable career advancement, and high rates of turnover. Indeed, surveys of both the Guadalajara metropolitan areas and Ciudad Juárez found that nearly 70% of officers feel that promotions are not based on merit, and most (60%) think that personal connections drive one's career

²³ FASP was formerly known as the Public Security Funds (*Fondos de Seguridad Pública*, FOSEG). FASP is also sometimes listed under a slightly different name: *Fondo de Apoyo en Seguridad Pública*. Otero (2006).

²⁴ For example, in 2009, the Federal District and the states of Guanajuato, Jalisco, and Quintana Roo did not spend nearly 90% of their allocated FASP funds. Mejía (2010), Seminario (2009).

advancement on the force.²⁵ In both surveys, eighty percent of local police earn less than \$800 USD per month, lower than in other areas of public sector employment. The vast majority reported working more than fifty hours a week with no overtime pay, and many reported 12 and even 24 hour shifts that seriously diminish their performance on the job. Moreover, officers responses indicate that, due to weak civil service protections, promotions are not based on merit, personal connections drive career advancement on the force, and administrative changes result in a frequent reshuffling of personnel. Above all, officers' responses suggest that the problem of corruption is institutionally pre-determined, since an alarming percentage point to upper-level corruption on the force and inadequate mechanisms to investigate corruption.²⁶ Thus, one troubling development is the recent introduction of reforms that will further weaken police labor protections and give administrators greater discretion to dismiss officers. While these measures are intended to make it easier to eliminate corrupt officers, it could also expose police even more so to undue pressure or persecution at the whim of corrupt or abusive superiors.²⁷

Meanwhile, Mexican police also face a high degree of career uncertainty due to the continuous reorganization of Mexican law enforcement agencies. At the federal level, for example, multiple reorganizations have produced an alphabet soup of new and subsequently dismantled police agencies from the 1980s through the present. The Federal Security Directorate (*Dirección Federal de Seguridad*, DFS), oversaw domestic security matters from 1947 to 1985, was dissolved due to problems of rampant corruption and replaced by the Center for Investigation and National Security (*Centro de Investigación y Seguridad Nacional*, CISEN). Later, another federal police agency, the Federal Judicial Police (*Policía Federal Judicial*, PFJ), widely regarded to be corrupt, was replaced by the Federal Investigative Agency (*Agencia Federal de Investigación*, AFI) by presidential decree in 2001.²⁸ Although the AFI was viewed as a highly vetted force with capabilities similar to the U.S. Federal Bureau of Investigation, by December 2005 a fifth of its agents were found to be corrupt and the agency was

²⁵ More than 80% of the more than 5,400 participants in the study reported earning less than \$800 USD per month, relatively low compared to other public sector employment. Moreover, despite civil service protections in the law, over two thirds felt that the procedures used by police departments for raises and promotions are unfair and not based on merit. Many officers reported excessively long working hours (70% work more than 50 hours a week with no overtime pay); a fifth of the force reported extremely extended shifts (a 24-hour shift for every two days off); and 68% reported 30 minutes or less for meals and breaks. Moloeznik, et al. (2009).

²⁶ Marcos Pablo Moloeznik, David Shirk, and María Eugenia Suárez de Garay, *Justiciabarómetro: Ciudad Juárez*, San Diego; Ciudad Juarez, 2009, ———, *Justiciabarómetro: Zona Metropolitana de Guadalajara*, San Diego; Guadalajara, 2009.

²⁷ Zepeda Lecuona (2008).

²⁸ The AFI was created by presidential decree in 2001 to bolster the investigative capacity of the Federal Attorney General's Office (PGR). At that time, the AFI replaced the corruption-plagued Federal Judicial Police in order to bring about a more professional, scientific, and comprehensive investigative process that would take aim at the operational foundations of organized crime – similar to the stated goals of the new Federal Ministerial Police. The agency came under fire in 2005 under widespread allegations of corruption, and in December of that year the PGR announced that nearly one-fifth of its officers were under investigation for suspected involvement in organized crime. Agents of the AFI took to the streets in April 2009 to demand that the PGR and Congress not allow the agency to disappear. Nonetheless, the measure was approved by congress, and Pres. Calderón signed it into law on May 29, 2009. From the date the new law went into effect, the PGR had thirty days to purge its rosters of undesirable personnel. Former AFI agents able to pass toxicology, medical, psychological, and background checks were given priority in the new agency. Castillo and Mendez (2006), *Economista* (2005), *El Financiero* (2009).

dismantled.²⁹ More recently, hundreds of officers from the Federal Police—a new agency that supplanted the Federal Preventive Police in 2009—were dismissed and arrested on charges of corruption.

Continuing this pattern of reshuffling police agencies, the Calderón administration has proposed to dissolve Mexico's beleaguered municipal police forces and reintegrate them into state-level public security agencies. Local police forces are often so thoroughly corrupt that they themselves present a significant obstacle in the fight against crime and violence. Proponents hope that centralizing the functions of police at the state level will therefore bring greater efficiency, homogeneity, and capacity to Mexico's troubled law enforcement efforts. Under Article 115, Frac. VII, governors have long had the power to take command of local police forces to address severe public security problems affecting their states.³⁰ The 2008 reforms further specify that the State Law of Public Security will regulate municipal police forces, and federal and state authorities have been increasingly advocating the elimination of local police forces as a solution to Mexico's public security concerns.³¹ Still, while the administration's proposal to consolidate police agencies offers some advantages, opponents worry that the disappearance of local police will undermine community policing and may simply concentrate problems of corruption and inefficiency under one roof, providing a one-stop-shop for traffickers to further compromise police integrity at the state level.

The Judicial Reform Strategy: The Long Term Prospects of Court Reform

Ultimately, police professionalization depends on the establishment of checks and balances in the criminal justice system. Many observers believe that the key to strengthening the criminal justice system lies, paradoxically, in judicial reforms that will strengthen the due process rights of accused criminals, since doing so will raise the bar for police and prosecutors. Presently, due to a lack of confidence in the criminal justice system as a whole, an estimated 75 percent or more of common crimes go unreported, and a large number of reported cases are not investigated or fail to yield a suspect. The net result is widespread criminal impunity, with perhaps one or two out of every one hundred crimes resulting in a sentence.³²

²⁹ Justice in Mexico Project, *Justice in Mexico News Report*, June 2009.

<http://www.justiceinmexico.org/news/pdf/justiceinmexico-june2009news-report062309.pdf> (Accessed February 22, 2010).

³⁰ There is already some variation in terms of how states already exert control over local police forces: some state capitals are protected by state police forces in lieu of locals (e.g., Morelia), some state governors formally appoint the local police chiefs (e.g., Sonora), and the state of Durango has already initiated efforts to fuse all municipal and state police agencies. Cárdenas (2010), Cárdenas (2009).

³¹ It is worth noting, given recent debates about police reform, that Article 115, Section VII of the Mexican Constitution indicates that "The police will follow the orders of the governor of the State, in those cases where he or she judges that it needs extra force, or that there is a serious disturbance of the public order."

³² Guillermo Zepeda Lecuona, *Crimen sin castigo: Procuración de justicia penal y ministerio público en México*. Mexico, D.F.: Centro de Investigación Para el Desarrollo, A.C. Fondo de Cultura Económica, 2004.

On the other hand, once a suspect has been identified, a guilty verdict is highly likely, particularly when a suspect is poor and the crime is petty.³³ Meanwhile, the use of torture and forced confessions by police investigators is extremely common, and often provides the sole basis for indictment and conviction.³⁴ Once in prison —whether for pre-trial detention or final sentencing— inmates typically encounter severely overcrowded facilities, inadequate access to basic amenities, corrupt and abusive prison guards, violence and intimidation from other inmates, ongoing criminal behavior (including rampant drug use), and frequent riots and escapes.³⁵ In short, for both victims and perpetrators of Mexico’s recent crime wave, there is rarely any justice.

In recent decades, as in other Latin American countries, there have been significant efforts to reform Mexico’s judicial sector. As elsewhere, Mexico’s efforts have partly reflected concerns about judicial autonomy and transitional justice that are related to the processes of democratization and democratic consolidation, such as promoting higher professional standards,³⁶ stronger judicial review,³⁷ use of judicial precedent,³⁸ and retribution for past government abuses.³⁹ Yet, the main thrust of Mexico’s most ambitious recent judicial sector reform efforts has concentrated on improving the functioning and integrity of the criminal

³³ Although the probability of being arrested, investigated, and prosecuted for a crime is extremely low, as many as 85% of crime suspects arrested are found guilty. The fact that a preponderance of those found guilty are poor people charged with petty offenses suggests that some who can afford to do so may “buy” their way out of criminal charges. Indeed, nearly half of all prisoners in Mexico City were convicted for property crimes valued at less than 20 dollars. Hector Tobar, “Judicial Overhaul in Mexico OKd,” *Los Angeles Times*, March 07, 2008.

³⁴ According to the International Rehabilitation Council for Torture Victims (IRCT), a “majority of torture reports and other human rights violations continue to occur in the context of the administration of justice, particularly during the investigative and prosecutorial phases of criminal proceedings.” Indeed, according to Mexico’s human rights ombudsman, as many as 90% of reported torture cases are the result of the forced confessions of prisoners. According to the work of Bergman and Azaola (2007), police investigators are also the most likely judicial system actors to be identified by Mexican prisoners as the source of beatings and corruption. Ricardo Hernández Forcada and María Elena Lugo Garfias, *Algunas notas sobre la tortura en México*, Mexico City, 2004, p. 139; International Rehabilitation Council for Torture Victims (IRCT), *Country Assessment Report: Mexico*. Copenhagen, Denmark: International Rehabilitation Council for Torture Victims (IRCT), 2006, p. 8; Elena Azaola and Marcelo Bergman, “The Mexican Prison System,” in *Reforming the Administration of Justice in Mexico*, edited by Wayne A. Cornelius and David A. Shirk, pp. Southbend, IL; La Jolla, CA: Notre Dame Press; Center for U.S.-Mexican Studies, 2007.

³⁵ Elena Azaola and Marcelo Bergman, *Delincuencia, marginalidad y desempeño institucional: Resultados de la tercera encuesta a población en reclusión en el Distrito Federal y el Estado de México*. Mexico City: Centro de Investigación y Docencia Económicas, 2009.

³⁶ As elsewhere in the region, Mexican judicial reforms introduced in December 1994 created new judicial oversight through the Federal Judicial Council (*Consejo de la Judicatura Federal*, CJF), charged with evaluating the professional qualifications of judges prior to appointment. Some experts view the 1994 reforms as an “insurance policy” for the former ruling party in anticipation of its possible electoral defeat in 2000. See: Beer (2006), Begné Guerra (1995), Domingo (2000), Finkel (2008), Inclán Oseguera (2004), Inclán Oseguera (2009).

³⁷ The 1994 judicial reforms expanded the Supreme Court’s powers of review by introducing “motions of unconstitutionality” (*acciones de inconstitucionalidad*), establishing standing for challenges to the constitutionality of legislation or other government actions.

³⁸ The 1994 judicial reforms established a type of legal decision known as *jurisprudencia*, in which five or more similar Supreme Court decisions can set binding legal precedents for future decisions.

³⁹ Mexico has also made modest efforts at transitional justice, with special prosecutorial investigations to uncover and punish covert “genocidal” campaigns against leftist dissidents during Mexico’s 1970s-era “Dirty War.” McKinley Jr., James C. “Mexican Report Cites Leaders for ‘Dirty War.’” *New York Times* 23 Nov. 2006.

justice system, primarily by better targeting organized crime.⁴⁰ In 2006, the Mexican federal legislature approved a new juvenile justice reform requiring that criminal proceedings involving minors introduce oral, adversarial procedures. In 2008, federal legislators introduced a package of constitutional reforms and enabling legislation that radically alter the overall criminal justice system, including the introduction of new oral, adversarial criminal procedures.

While a full review of these reforms is beyond the scope of this paper, they involve three major sets of changes to the criminal justice system: 1) new criminal procedures (oral adversarial trials, alternative sentencing, and alternative dispute resolution mechanisms); 2) stronger due process protections for the accused; 3) police and prosecutorial reforms to strengthen public security, criminal investigations, and efforts to combat organized crime.⁴¹ Similar reforms had been attempted under President Fox in 2004, but had insufficient legislative support. The recent reform package passed under President Calderón thanks to a broad, multi-partisan majority in the federal congress and approval by a majority of state legislatures.⁴² That said, the administration's judicial reform initiative has run into significant criticism, due to a halting start, inadequate resources, and troubling gaps and inconsistencies.

Troubling gaps and inconsistencies remain, including the lack a new federal code for criminal procedure, which was only submitted to the legislature by President Calderón in September 2011. The reforms also fail to address the major institutional weaknesses of the judicial sector, particularly its corruption and lack of professionalism. Also, despite widespread agreement that massive investments are needed in the judicial sector, there is no concrete cost estimate available for the work that needs to be done. Moreover, there is a perception among many Mexican jurists that the reforms were pushed too aggressively by agencies from the United States, which severely aggravates Mexican sensibilities about national sovereignty.

Still, advocates hope that the reforms will help introduce greater transparency, accountability, and due process to Mexico's judicial sector. Also, because they will demand greater professionalism and effectiveness from police and prosecutors in the long term, progress on these reforms will eventually help Mexico to address the problems of rising crime, judicial sector corruption, and systemic human rights abuses. However, despite congressional approval at the federal level and progress in some states, the reforms will not be fully implemented until 2016. Full implementation will require the revision of existing legal codes and procedures; physical modification of courtrooms, police investigative facilities, and jails for crime suspects; and retraining of judges, court staffs, lawyers, and police. Even then, many experts believe the reforms will require a generational shift in among the key actors — police, prosecutors, public defenders, and judges— who will operate this new system. In addition, to ensure support for the reform initiative, authorities will need to provide public education and outreach to help citizens adjust to the new system.

⁴⁰ In November 1996, the Zedillo administration reformed the Federal Organized Crime Law (*Ley Federal de Delincuencia Organizada*, LFDO), and the 2008 federal judicial reform package introduced tough new measures to strengthen investigations and prosecutions of organized crime groups.

⁴¹ See the author's more substantial treatment of this subject. Ingram and Shirk (2010).

⁴² The bill passed in the Chamber of Deputies by 462 out of 468 legislators present (out of 500 total), and by a vote of 71-25 in the Senate (out of 128 total) on March 6, 2008. Tobar (2008).

In 2011, as part of its *Justiciabarometro* research initiative, the Trans-Border Institute conducted an unprecedented survey of more than 240 judges, prosecutors, and public defenders in nine different states, to gain insights into the challenges and opportunities for the progress of adversarial reforms. Among the findings, new judicial reforms were seen by some as ineffective, by many a result of foreign influence, and by most as unlikely to reduce crime (a realistic assessment since this is not the immediate purpose of the reforms). Respondents were more divided on the effectiveness and efficiency of Mexico's traditional criminal justice system, on whether that system was deliberately discredited to make way for the 2008 judicial reform, on whether foreign interests were behind the new judicial system, and whether judicial reform will reduce criminality. Even so, Mexico's new criminal procedures are generally well regarded, especially in states still awaiting reform (though the most negative perceptions are found in states where the reforms have already been implemented). Overall, most respondents were optimistic that the reform effort will improve efficiency and reduce corruption in the judicial system.

The Bi-National Strategy: U.S.-Mexican Counter-Drug Efforts

U.S. policies, priorities, and concerns are a major factor shaping the responses of Mexican authorities to the current security crisis. On the one hand, U.S. concerns have translated into unprecedented bilateral cooperation and financial assistance in the form of the Mérida Initiative, which was initiated in 2007 as a three-year, \$1.4 billion aid package to provide U.S. equipment, training and technical assistance, counter-narcotics intelligence sharing, and rule of law promotion programs.⁴³ The Mérida Initiative has also drawn criticism due to cumbersome U.S. bureaucratic procedures that have slowed the flow of funds and the failure to provide strong protections against human rights violations in Mexico. That said, the Mérida Initiative constitutes a major shift in U.S.-Mexico cooperation, and now provides a significant boost on top of the estimated \$4.3 billion that Mexico spends annually combating drug trafficking.

Working bilaterally with Mexico, the United States has developed a shared, bi-national strategy to develop the Mérida Initiative through four supporting "pillars."⁴⁴ (See Table) Moving beyond the Mérida Initiative, the Obama administration plans to provide greater funding for judicial and police reform, develop more effective interdiction efforts at the border, and implement new social programs to revitalize Mexican communities affected by crime and violence. In parallel, the U.S. government also plans to increase its efforts to address the central cause of Mexico's drug violence, with new funding to reduce illicit drug consumption in the United States. Reacting to recent public concerns, United States has also recently deployed additional manpower and money to the U.S.-Mexican border in an attempt to prevent undocumented immigration and stave off "spillover" of violence from Mexico.

⁴³ It is worth noting that some of this aid draws from other areas —business programs and social development— also important to the U.S.-Mexico relationship.

⁴⁴ Clare Ribando Seelke and Kristin M. Finklea, *U.S.-Mexican Security Cooperation: the Mérida Initiative and Beyond*, Washington, D.C., 2010 .

Table: Four Pillars of the Mérida Initiative

Pillar One	Combating organized crime	Continuing bilateral efforts to disrupt and dismantle organized crime groups through intelligence sharing and targeted, coordinated law enforcement efforts.
Pillar Two	Strengthening the judicial sector	Reducing challenges to the Mexican state from organized crime through strengthening the security and judicial sectors.
Pillar Three	Creating a 21 st century border	Enhancing bilateral efforts to secure the border and prevent the spread of criminal violence into the United States.
Pillar Four	Developing resilient communities	Helping to secure communities affected by violence through programs to strengthen civil society and improve access to education and employment.

The articulation of this new framework for U.S.-Mexico cooperation is an achievement in itself. For many years, U.S. and Mexican security cooperation floundered because of mutual suspicions and a lack of agreement on basic principles. Working in an intense, sustained, and bilateral manner to think about and beyond the Mérida Initiative, authorities from both countries have successfully identified their shared priorities, strategies, and avenues for cooperation. Moreover, the effort to move beyond the initial terms of the Mérida Initiative, deepening the U.S. commitment to judicial reform assistance and community development is extremely promising. With regard to judicial sector support, the United States has much to offer in terms of formal governmental assistance (e.g., USAID rule of law programs), as well as academic and non-governmental programs (e.g., CALEA, Open Society Justice Initiative, American Bar Association, National Center for State Courts, etc.). Also, since so many of Mexico's primary challenges are rooted in its social and economic underdevelopment, U.S. assistance in these areas could produce major dividends at relatively low cost in the coming years. However, aid to Mexico has traditionally been low, mainly due to political concerns in both countries about the prospect of greater U.S. government assistance to its neighboring country.

Concluding Observations

Ten years ago, few would have imagined that Mexico could be so severely tested by problems of crime and violence. Along with passing the watershed of its first democratic transfer of power between opposing political forces in 2000, Mexico has made impressive achievements over the last two decades by improving the transparency and credibility of elections, protecting the rights of indigenous people, strengthening judicial independence, and even investigating past government abuses. Moreover, after decades of crisis and restructuring, Mexico's economy has showed remarkable stability and even resilience, with laudable gains in poverty reduction and an emerging middle class, despite severe economic crisis. While Mexico remained far from realizing its full potential, it had achieved significant gains in a relatively short period of time.

Unfortunately, despite these other gains, Mexico's domestic security situation continued to worsen as a result of violence among organized crime groups, and a lack of capacity and integrity in the Mexican criminal justice system. Infighting among drug traffickers and a diversification of their illicit activities—including high profile homicides and kidnappings—

has made such violence a major preoccupation for authorities and ordinary citizens in Mexico. Criminal impunity, government ineffectiveness, corruption, and human rights violations — while not harbingers of imminent state collapse in Mexico— have presented grave challenges for Mexico and for the rule of law.

In evaluating Mexico's efforts to address these challenges, it seems clear that inter-cartel dynamics and the government's own efforts to decapitate top leadership structures has contributed to the fractionalization of organized crime groups, more severe and disorganized violence, and a diversification of organized criminal activities. If current trends continue, my estimation is that we are likely to see a reconfiguration of international drug trafficking networks —with a continued shift to Central America— and a gradual diminishing, but greater dispersion of crime and violence in Mexico. For some, this result will seem like a victory, since it would achieve the Calderón administration's stated goal of eliminating drug trafficking organizations as a national security threat. However, in my view, this result would merely illustrate the utter failure of counter-drug efforts, in that it would perpetuate the pattern of displacement —the so-called balloon effect— that has characterized the war on drugs for over 40 years. Meanwhile, little real progress has been made with regard to the two factors of greatest concern to ordinary people: significantly reducing drug violence and the accessibility of psychotropic substances. In fact, in both areas, the traditional strategies associated with the drug war —the disruption of cartel leadership structures, the concentration of interdiction efforts at the border, and the overall emphasis of a law enforcement approach to the shared problem of drug consumption— have arguably produced more harm than good.

Still, the policy options available to Mexico partly reflect the policies and priorities of the United States, which is presently opposed to any alternative to the criminalization of drugs and strongly supports counter drug efforts in Mexico. What most ordinary U.S. and Mexican citizens don't realize is that the vast majority of counter-drug efforts currently focus on the drug that is most widely used: marijuana. Indeed, last year marijuana represented 98% of the bulk tonnage seized by authorities at the U.S. Mexican border, although even the most generous estimates suggest that this represented no more than 5-10% of the total volume of marijuana flowing across the border. Meanwhile, more than half of U.S. drug arrests—and roughly 6% of all arrests in the United States— are related to the illegal possession, consumption, or sale of cannabis.

Efforts to restrict cannabis flows and consumption does little damage to drug cartels, since marijuana sales in the United States represent 20-25% of proceeds from exports by Mexican drug traffickers, at best. Some observers stress this point to argue that legalization of marijuana would do little to sway the fight against organized crime. Given that the repeal of marijuana prohibition would cause drug traffickers to lose roughly a fifth of their U.S. proceeds almost overnight, they are probably wrong. Indeed, repealing marijuana prohibition would likely do far more than our current, costly restrictions to deprive organized crime groups of profits, and it would also free up badly needed law enforcement resources to fight organized crime groups on other fronts and reduce consumer dependence on high risk drugs like cocaine and heroin. Marijuana legalization is therefore a potential first step toward a more rationale and effective approach to combating organized crime.

Yet few inside the beltway and corridors of power are willing to consider any step toward legalization as a possible solution to the ongoing problem of crime and violence in Mexico. There is a simple and completely justifiable reason for this: they still believe that the criminalization of marijuana is worth any price, including the loss of tens of thousands of lives and grave military human rights abuses in Mexico. What is needed to test this proposition—and to help those who prefer prohibition to properly weigh this price—is a careful cost-benefit analysis of current U.S. and Mexican counter-drug efforts, as well as a rigorous analysis of marijuana legalization in Portugal and medical marijuana initiatives in U.S. states like California.

Finally, while a significant revision of U.S. drug policy remains a remote and untested prospect, the best possible hope for Mexico to strengthen the rule of law lies in its longer-term efforts to improve the effectiveness and integrity of the criminal justice system. As should be clear from earlier discussions in this paper, with or without the presence of powerful organized crime syndicates, Mexico will suffer from the absence of strong and effective criminal justice system to support the rule of law. The means to achieve this is dependent on sustaining the political will to continue reform efforts, allocating the resources needed to support the modernization of the judicial sector, and promoting a shift toward greater professionalization of the judicial sector.