



## **WOLA Commentary**

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### **Steps Toward A Functioning Local Prosecutor's Office: The Mexico City Model**

In recent years, Mexican civil society has led a historic push for reforms meant to strengthen the role of public prosecutor's offices in combating violence, corruption, and impunity. A large part of this push has involved reforms designed to [guarantee the autonomy](#) of prosecutors—an effort to reduce political influence over sensitive criminal investigations. The [federal government](#) and [all but four](#) of Mexico's 32 states have completed or initiated a transition from an attorney general's office to an autonomous prosecutor's office separate from the executive branch.

But the need for reform goes beyond autonomy. Prosecutor's offices across the country are under-resourced and understaffed. Many prosecutors, police, and forensics experts [lack training and guidelines](#) on how to prioritize cases, investigate complex crimes, handle sensitive evidence, and properly tend to victims. In most cases, these transitions have done little to address the underlying [structural and bureaucratic inefficiencies](#) that have allowed impunity and [public mistrust](#) in the criminal justice system to flourish.

The Mexico City experience, however, is one to watch. **The capital has employed a unique, innovative approach focused on rebuilding the city's prosecutor's office from the ground up.** Below, we analyze the Mexico City model, lay out next steps for ensuring a successful transition, and make a case for why other states should take similar steps to guarantee the full autonomy and optimal efficiency of their prosecutor's offices.

#### **The Technical Commission**

What is perhaps most unique about the Mexico City model is the legal mandate given to civil society to lead the city's transition toward a new and improved prosecutor's office. After 2016 political reforms established Mexico City as a federal entity on par with Mexico's other 31 states, a [new local constitution](#) entered into force in September 2018. A transitory article in the constitution mandated that the local Congress would have to select a **“Technical Commission” made up of seven civil society leaders to design a proposal for how to complete the city's transition toward an autonomous prosecutor's office.** Congress [selected these experts](#) in

November 2018. Each of the selected commissioners are respected leaders in the fields of human rights, law, and criminal justice.

### **Main Goals for the Transition**

After spending over half a year visiting the prosecutor's office facilities and interviewing victims, public officials, and experts, the Commission found several key structural and investigative shortcomings. With these [findings](#), the experts drafted a proposed "[Implementing Law](#)" (*Ley Orgánica*)—the document that will define the structure and function of the new autonomous Mexico City Prosecutor's Office. The main goals outlined in the draft law include:

#### ***Improving results in high-impact cases***

- **Criminal Prosecution Plan:** The draft law calls for the creation of a Criminal Prosecution Plan that lays out investigative priorities and dictates which types of crimes the new institution will devote most human and financial resources toward resolving. Ideally, this will promote a culture where personnel prioritize cases based on the gravity of the crime and the threat posed to the victim rather than the arbitrary systems—often based on bribery—that currently dictate case prioritization. The law also calls for the creation of separate units to investigate low-impact crimes.
- **Investigative protocols:** The Technical Commission found that prosecutors spend more time putting together meticulous, written case files with extraneous information rather than working quickly with forensics officials and investigative police to collect evidence and interview key witnesses within critical timeframes. The draft Implementing Law calls for the development of clear investigative protocols that personnel should follow when investigating homicides, kidnappings, sexual violence, and other high-impact crimes. This aims to provide law enforcement officials with guidelines on how to promptly identify and follow concrete lines of investigation.
- **Forensics capacity and investigative police:** The draft law clearly outlines the different roles of prosecutors, investigative police, and forensics experts in criminal investigations. According to the Commission, funds allocated to the new prosecutor's office must prioritize the hiring of additional forensics experts and investigative police, as these are areas where institutional capacity is lacking most. New hires must receive rigorous and specialized training.

### ***Managing case flows and complaint reception efficiently***

- **Support for victims and witnesses:** The draft law recognizes the importance of the participation of victims and witnesses in criminal investigations. As such, it proposes mechanisms for guaranteeing their protection and keeping them informed of progress in their cases. The law also proposes establishing units specialized in providing medical, legal, psychological, and other assistance to victims and witnesses. It would also create a specialized unit to investigate domestic violence cases, given the unique needs of victims of these crimes.
- **Alternative justice:** As is the case in the [majority of Mexican prosecutor's offices](#), prosecutors in Mexico City do not make full use of their power to negotiate plea deals, reparation agreements, and other alternative dispute resolutions that could reduce their caseload and provide victims with a prompt resolution. The draft Implementing Law calls for greater use of the alternative justice system.
- **Reception of complaints:** It takes victims an average of four hours to file a complaint at the prosecutor's office. The Technical Commission has outlined a detailed process for how to expedite case intake and quickly channel cases to the correct unit based on the crime reported. The proposed law also lays out a system that allows victims to report certain crimes by phone without having to come to the office in person.
- **Criminal Analysis Unit:** The draft law proposes creating a Criminal Analysis Unit that will analyze crime trends. This takes into account that while some crimes are common yet difficult to solve, such as muggings, thorough analyses of trends in criminal activity can strengthen law enforcement officials' understanding of how to combat these crimes and support specific investigations.

### ***Strengthening institutional professionalization***

- **Institutional infrastructure:** The draft law calls for funds to modernize the physical infrastructure within the prosecutor's office. This includes the construction of new forensics labs, the digitalization of case files, among other efforts. The proposal also calls for the creation of a specialized office responsible for defining and implementing new rules, procedures, and trainings.
- **Professional development and evaluation:** The Technical Commission found that performance evaluations assessed personnel based on their completion of administrative requirements, not the results of their work. Additionally, the government measures the success of the prosecutor's office itself based on crime rates and its success in solving high-

profile cases. The draft law proposes a new form of evaluation based on the prosecutor's office's compliance with internal protocols, its success in reducing overall impunity, and its efforts to improve attention to victims. The proposal also aims to establish a civil service to strengthen professional development and job security for public servants within the prosecutor's office.

### ***Ensuring strong internal controls***

- **Sanctioning powers:** The draft law calls for the creation of a centralized Internal Control Unit for the new prosecutor's office. According to the Technical Commission, this unit should not only have administrative sanctioning powers but also criminal prosecution powers in order to act as a credible counterweight to prevent corruption and other wrongdoings.
- **Independence:** The Internal Control Unit must be physically and bureaucratically separate from the prosecutor's office to ensure its autonomy.

### **Next Steps**

#### ***Finalize the Implementing Law***

The Technical Commission presented the law proposal to Mexico City's Congress on September 30. Congress is scheduled to begin debating the draft during the last week of November. According to Mexico City's constitution, the Implementing Law is supposed to [enter into force](#) by December 5. It is important that the final law passed by Congress takes into account the Technical Commission's recommendations.

#### ***Select the first autonomous general prosecutor***

Mexico City's constitution originally prohibited anyone who had held an elected office or a leadership post within a political party within the past three years from being selected as the first autonomous general prosecutor. On October 22, the MORENA party and its allies in the local Congress voted to reduce this requirement from three years to one.

This has [raised concerns](#) that the Congress passed the reform specifically to allow the current general prosecutor, Ernestina Godoy, to remain in her post throughout the transition. Godoy served as a congresswoman for MORENA in Mexico City's Congress until November 2018 and is a close ally to Mexico City's mayor, Claudia Sheinbaum.

[Eleven candidates](#) have submitted their names to become the head of the new prosecutor's office. From this list, the [Citizen Judiciary Council](#)—a group of 11 civil society leaders selected by the local Congress—will choose a select few names to send to Mayor Sheinbaum, who will send one name back to the Congress for a final evaluation and vote.

**All parties involved should work to ensure that the selected candidate is qualified and dedicated to leading the new institution with complete autonomy, honesty, and the utmost respect for human rights and the rule of law.**

### ***Secure the funds needed for proper implementation***

The new prosecutor's office is supposed to begin operations by January 10, 2020. The Technical Commission estimates that the transition will take [four years](#) to roll out. According to Ulises Lara, the spokesperson for the current prosecutor's office, implementing the new institution is [expected to cost](#) 4 million pesos, 2 million of which are needed in the first four years of the transition. **The Mexico City Congress must appropriate these funds to ensure a prompt, complete, and successful transition.**

### **A Model to Follow**

In the coming months, the content of the final Implementing Law, the credibility of the nomination process of the first autonomous general prosecutor, and the amount of funds allocated to the new institution will determine whether this important transition is on the right track.

If completed effectively, the Mexico City transition toward an autonomous prosecutor's office could serve as a strong model for other states to follow as they look to reform their law enforcement institutions. The Mexico City experience has proved that civil society participation in such reforms is critical to guaranteeing that the needs of victims and the general public are at the center of the debate. **As public officials work to fully implement the new office going forward, they must continue to allow for strong civil society input and oversight.**