

## **Strengthening Security and the Rule of Law in Mexico**

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Chairman Sires, Ranking Member Rooney, and Members of the Subcommittee: Thank you for the opportunity to testify on behalf of the Washington Office on Latin America (WOLA) on ways to strengthen security and the rule of law in Mexico. I am submitting my written testimony for the record.

In recent months, high-profile acts of violence in Mexico have garnered national and international media attention. In October, gun battles erupted on the streets of Culiacan, Sinaloa when Mexican security forces attempted to detain Ovidio Guzmán López, the son of the infamous drug kingpin Joaquin “El Chapo” Guzmán, and in November, nine women and children—all dual U.S. and Mexican citizens—were tragically murdered in a rural area of Sonora. Both incidents highlighted the extensive security challenges facing the Mexican government one year after Andrés Manuel López Obrador assumed the presidency of Mexico.

Chronic impunity and rampant corruption have facilitated the expansion of organized criminal groups in Mexico, whose reach and power is one of the main drivers of violence and insecurity in the country. Mexico’s previous two presidential administrations laid the groundwork to address these long-term issues and to strengthen the weak rule of law. In 2008, the Mexican Congress passed constitutional reforms to its criminal justice system and in 2014, additional reforms were approved granting autonomy to the federal attorney general’s office.

Landmark anti-corruption measures were also put into place in 2015 and 2016, including the creation of a National Anti-Corruption System. While these reforms were crucial, their implementation is not complete. The challenge moving forward is to solidify Mexico’s criminal justice institutions so that crimes and human rights violations are investigated and the perpetrators are brought to justice. My testimony will discuss the status of the measures adopted by the Mexican government to strengthen the rule of law since 2008, particularly regarding the criminal justice system, the role of U.S. assistance in this area, and suggestions for future U.S. engagement with Mexico on these issues.

### **Mexico’s security crisis**

Since 2006, Mexico’s security strategy has consisted largely of going after the leaders of criminal organizations. This U.S.-backed strategy has played a key role in fragmenting Mexico’s organized crime organizations: there are now an estimated nine predominant organizations and some 200 smaller local based organizations, resulting in renewed competition between groups for routes and “plazas.” Mexican

criminal organizations have also expanded their activities well beyond drug trafficking to include extortion, pirated goods, kidnapping, oil theft, vehicle theft, human trafficking, and human smuggling.<sup>1</sup> The fragmentation of criminal groups combined with Mexican federal security forces' frontal assault against them has caused violence to explode in several parts of the country. Analyses of crime data suggest that between a third and a half of homicides in Mexico can be attributed to organized crime groups.<sup>2</sup>

2018, the last year of the Peña Nieto presidency, was Mexico's most violent year on record. Over 33,000 homicides were registered in the country, a 33 percent increase over 2017.<sup>3</sup> 2019 likely will surpass 2018's record, with 32,604 homicides registered in the first 11 months of the year (December's numbers are not yet published). This makes up an average of 97 people killed each day, including at least nine women.<sup>4</sup>

Homicide statistics point to only one aspect of Mexico's security challenges. Cases of kidnappings and extortion are also prevalent. According to the most recent national victimization survey, 33.9 percent of Mexican households had at least one member who suffered a crime in 2018, while 82 percent of women surveyed reported feeling insecure.<sup>5</sup> A 2019 study by the business association COPARMEX (*Confederación Patronal de la República Mexicana*, Employers' Confederation of the Mexican Republic) found that 65 percent of businesses in Mexico have been the victim of a crime, and 35 percent have experienced some act of corruption.<sup>6</sup> In the World Economic Forum's 2019 Global Competitiveness Report, Mexico ranked 140 out of 141 countries for the indicator of organized crime, which rates the extent to which "organized crime (mafia-oriented racketeering, extortion) impose costs on businesses." Only El Salvador ranked lower for this indicator.<sup>7</sup>

### **Prevalence of human rights violations**

In addition to this violence, human rights violations also remain widespread. From 2006 to 2019, the Mexican government discovered 3,631 clandestine graves and registered over 60,000 cases of

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<sup>1</sup> Congressional Research Service, "Mexico: Organized Crime and Drug Trafficking Organizations," December 20, 2019, <https://fas.org/sgp/crs/row/R41576.pdf>.

<sup>2</sup> Laura Y. Calderón, Kimberly Heinle, Octavio Rodríguez Ferreira, and David A. Shirk, "Organized Crime and Violence in Mexico," Justice in Mexico, April 2019, <https://justiceinmexico.org/wp-content/uploads/2019/04/Organized-Crime-and-Violence-in-Mexico-2019.pdf>.

<sup>3</sup> Arturo Angel, "Primer bimestre de 2019, el inicio de año más violento del que se tenga registro: 5,803 personas asesinadas," *Animal Político*, March 21, 2019, <https://www.animalpolitico.com/2019/03/homicidios-primer-bimestre-2019-violencia/>.

<sup>4</sup> "Más de 30,000 homicidios en México de enero a noviembre en 2019: datos oficiales," *Aristegui Noticias*, December 23, 2019, <https://aristeguinoticias.com/2312/mexico/mexico-terminara-2019-con-mas-de-30000-asesinatos/>; ; Melissa Galvan, "14 datos de la violencia de género que explican el enojo de las mujeres," *Expansion Política*, November 25, 2019, <https://politica.expansion.mx/mexico/2019/11/25/datos-sobre-violencia-contra-mujeres-mexico>

<sup>5</sup> Instituto Nacional de Estadística y Geografía, "Encuesta Nacional de Victimización sobre Seguridad Pública," September 24, 2019, [https://www.inegi.org.mx/contenidos/programas/envipe/2019/doc/envipe2019\\_presentacion\\_nacional.pdf](https://www.inegi.org.mx/contenidos/programas/envipe/2019/doc/envipe2019_presentacion_nacional.pdf).

<sup>6</sup> See COPARMEX's DATA COPARMEX database: <http://coparmex.org.mx/data-coparmex/>.

<sup>7</sup> World Economic Forum, "The Global Competitiveness Report 2019," October 9, 2019, [http://www3.weforum.org/docs/WEF\\_TheGlobalCompetitivenessReport2019.pdf](http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf).

disappeared people. (The border states of Tamaulipas, Chihuahua, and Nuevo Leon rank in the top five states with the highest number of disappeared people in the country.<sup>8</sup>) In its 2019 periodic review of Mexico, the UN Committee Against Torture recognized a “very high frequency” of torture committed by security forces and investigative officials.<sup>9</sup> Moreover, human rights defenders and journalists face substantial risks for investigating government corruption and organized crime, seeking justice for human rights violations, and defending the fundamental rights of the Mexican people: 21 human rights defenders and 10 journalists were killed across the country in 2019.<sup>10</sup> According to the Committee to Protect Journalists, Mexico accounted for half of the journalists who were killed in the line of duty across the world in 2019.<sup>11</sup>

### **Mexico’s weak rule of law**

In order to address Mexico’s security crisis, Mexican President Andrés Manuel López Obrador has emphasized the need to prioritize addressing the socio-economic factors contributing to violence, including by establishing youth scholarship programs to disincentivize young people from joining criminal organizations.

However, he has also transformed the federal agencies tasked with public security and combating organized crime through the creation of the military-led National Guard which has assumed federal policing functions. The armed forces themselves will continue participating in public security tasks for up to five years while the National Guard becomes fully operational. Far from focusing on strengthening civilian policing, this militarized public security strategy risks repeating the errors of the past. More than a decade of the deployment of Mexican soldiers across the country to patrol streets and crack down on organized crime has not effectively reduced crime and violence while resulting in grave human rights violations.<sup>12</sup> Several academic studies have shown that homicides have tended to increase in Mexican states where the military is deployed.<sup>13</sup> In this regard, we believe the Mexican government should work to demilitarize its public security strategy and focus on strengthening and professionalizing its civilian police forces.

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<sup>8</sup> Mexican Ministry of the Interior, “Informe sobre fosas clandestinas y registro nacional de personas desaparecidas o no localizadas,” January 6, 2019,

<http://www.alejandrocencinas.mx/wp-content/uploads/2020/01/REGISTRODEPERSONASDESAPARECIDAS.pdf>.

<sup>9</sup> UN Committee Against Torture, “Observaciones finales sobre el séptimo informe periódico de México,” May 17, 2019, [https://www.hchr.org.mx/images/doc\\_pub/CAT\\_C\\_MEX\\_CO\\_7\\_34944\\_S.pdf](https://www.hchr.org.mx/images/doc_pub/CAT_C_MEX_CO_7_34944_S.pdf).

<sup>10</sup> “México reporta 21 defensores de derechos humanos asesinados en 2019, dice ONG,” *Efe Noticias*, January 1, 2020,

<https://www.efe.com/efe/america/sociedad/mexico-reporta-21-defensores-de-derechos-humanos-asesinados-en-2019-dice-ong/20000013-41420>; See Article 19’s database of journalists murdered in Mexico:

<https://articulo19.org/periodistasasesinados/>.

<sup>11</sup> Committee to Protect Journalists, “Number of journalists killed falls sharply as reprisal murders hit record low,” December 17, 2019, <https://cpj.org/reports/2019/12/journalists-killed-murdered-syria-mexico-impunity.php>.

<sup>12</sup> Ximena Suárez-Enríquez and Maureen Meyer, “Overlooking Justice: Human Rights Violations Committed by Mexican Soldiers against Civilians are Met with Impunity,” Washington Office on Latin America, November 7, 2017, <https://www.wola.org/analysis/wola-report-overlooking-justice-human-rights-violations-committed-soldiers-civilians-met-impunity/>.

<sup>13</sup> Carlos Galindo, “El equivocado diagnóstico detrás de la guardia nacional,” *Nexos*, January 14, 2019, <https://seguridad.nexos.com.mx/?p=1196>.

At the same time, it is also clear that any effort to tackle organized criminal groups and reduce crime, including through violence prevention efforts, will not be effective unless the government also fully commits to strengthening the capacity of prosecutors and police to investigate crimes and secure convictions in court.

Weak justice institutions have played a central role in allowing violence, corruption, and human rights abuses to flourish. In 2019, Mexico ranked 97 out of 126 countries in the World Justice Project's Rule of Law Index. Regionally, Mexico ranked higher than only four out of the 30 countries in Latin America and the Caribbean: Nicaragua, Honduras, Bolivia, and Venezuela.<sup>14</sup> The consequences of Mexico's weak rule of law manifest themselves in the country's high impunity rate, which experts estimate to be around 98 percent.<sup>15</sup> With less than five out of every 100 murders ever solved, it is easy to conclude that "in Mexico people kill because they can."<sup>16</sup>

Due to weak public trust in justice institutions, less than 10 percent of crimes are ever reported or investigated in the country. According to Mexico's most recent national victimization survey, most victims opt not to report crimes because they believe it is a waste of time or because they lack trust in the authorities.<sup>17</sup>

### **Criminal justice reforms**

Recognizing the need to overhaul Mexico's justice system, the Mexican Congress approved sweeping constitutional reforms in 2008. The reforms mandated the nationwide adoption of an adversarial criminal justice system, a tool meant to strengthen Mexico's capacity to counter violence and impunity.

A shift away from the country's previous inquisitorial system—in which court procedures were largely oriented around written documents presented to a judge—the new system is based on oral trials in public courtrooms. The transition to oral trials has aimed to address the inefficiency, opacity, lack of due process guarantees, and corruption that characterized the old system.<sup>18</sup> In an important shift, the reforms established the presumption of innocence until proven guilty.<sup>19</sup>

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<sup>14</sup> World Justice Project, "Rule of Law Index 2019," February 27, 2019,

<https://worldjusticeproject.org/sites/default/files/documents/ROLI-2019-Reduced.pdf>.

<sup>15</sup> Patricia de Obeso González and Alejandro Anaya Muñoz, "Los Costos de la Impunidad," 2019

<http://www.costosdelaimpunidad.mx/wp-content/uploads/2019/10/Los-Costos-de-la-Impunidad-2019.pdf>.

<sup>16</sup> "To Murder in Mexico: Impunity Guaranteed," *Animal Político*,

<https://www.animalpolitico.com/kill-murder-mexico/>.

<sup>17</sup> Instituto Nacional de Estadística y Geografía, "Encuesta Nacional de Victimización sobre Seguridad Pública," September 24, 2019,

[https://www.inegi.org.mx/contenidos/programas/envipe/2019/doc/envipe2019\\_presentacion\\_nacional.pdf](https://www.inegi.org.mx/contenidos/programas/envipe/2019/doc/envipe2019_presentacion_nacional.pdf).

<sup>18</sup> Gina Hinojosa and Maureen Meyer, "Mexico's Rule of Law Efforts 11 Years After Criminal Justice Reform," Washington Office on Latin America, November 13, 2019,

<https://www.wola.org/analysis/mexico-criminal-justice-reform/>.

<sup>19</sup> Clare Ribando Seelke, "Supporting Criminal Justice System Reform in Mexico: The US Role," March 18, 2013, <https://fas.org/sgp/crs/row/R43001.pdf>.

Trials now take place with judges, prosecutors, and defendants all in one room, which has helped to reduce excessive judicial and prosecutorial discretion. Moreover, the reforms required that courtrooms have audio and visual recording equipment, making trials more transparent. In addition, the reforms aimed to reduce stress on Mexico's overburdened justice institutions by giving judges and prosecutor's offices more room to negotiate plea bargains and other alternative dispute resolutions for certain low-level crimes. In theory, this means many non-violent crimes don't have to be tried in court.

The reforms gave federal and state government eight years to complete this transition. While this period ended in June 2016, a fully reformed and effective system is still a far way off. Justice institutions remain backlogged and many personnel continue to lack the necessary training and specialization to carry out their functions effectively.

Police forces, in particular, lack the training needed to carry out their new investigative functions under the adversarial system. In June 2019, the Mexican government reported that only 42.7 percent of the country's police had taken at least one of the three required training workshops on how to carry out their new role.<sup>20</sup> Poor training can lead to the contamination of the crime scene and the improper processing or loss of evidence, without which, cases may fall apart in court.

Torture and other human rights violations remain prevalent in criminal proceedings, despite the reforms.<sup>21</sup> The widespread use of torture has undermined criminal investigations and put many innocent people behind bars. In some cases, the use of torture in investigations has facilitated the release of individuals who were likely guilty of the crimes they were accused of. In August 2019, one of the leaders of the criminal group behind the September 2014 disappearance of the 43 students from Ayotzinapa was absolved of the crime after a judge determined that the government had obtained the majority of the evidence against him illegally, including through torture.<sup>22</sup>

Most prosecutor's offices also continue to lack specialized personnel capable of closely analyzing the details of criminal cases. The country's forensics capacity is particularly wanting. According to the

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<sup>20</sup> Gina Hinojosa and Maureen Meyer, "Mexico's Rule of Law Efforts 11 Years After Criminal Justice Reform," Washington Office on Latin America, November 13, 2019, <https://www.wola.org/analysis/mexico-criminal-justice-reform/>.

<sup>21</sup> According to Mexico's most recent national survey of detainees (from 2016), 75.6 percent of detainees interviewed for the survey reported being subjected to some type of psychological violence at the time of their arrest, while 49.4 percent reported suffering such abuses while they were at the public prosecutor's office. This included being held incommunicado, threatened with false charges, undressed, tied up, blindfolded, pressured to incriminate someone, subjected to asphyxiation, and threats against their family. Similarly, 63.8 percent of individuals reported being subjected to some type of physical abuse at the time of their arrest, while 39.4 percent reported physical harm later in their detention. Abuses include being kicked or punched, hit with objects, injuries as a result of being crushed, and electric shocks. (Instituto Nacional de Estadística y Geografía, "Encuesta Nacional de Población Privada de la Libertad 2016," July 2017, [https://www.inegi.org.mx/contenidos/programas/enpol/2016/doc/2016\\_enpol\\_presentacion\\_ejecutiva.pdf](https://www.inegi.org.mx/contenidos/programas/enpol/2016/doc/2016_enpol_presentacion_ejecutiva.pdf).)

<sup>22</sup> José Raúl Linares, "Liberan a 'El Gil' acusado de ordenar la desaparición de los 43," *Proceso*, September 3, 2019, <https://www.proceso.com.mx/598152/liberan-a-el-gil-acusado-de-ordenar-la-desaparicion-de-los-43>.

Mexican think tank México Evalúa, only 22 of Mexico's 32 state prosecutor's offices report having forensics units. Of those, only 21 have areas specialized in ballistics, genetics, chemistry, or forensic medicine, 18 have psychology or psychiatry units, 10 have fingerprinting specialists, and eight have areas specialized in facial composite.<sup>23</sup>

Although many challenges remain, multiple Mexican states have made important advances in implementing the reforms and strengthening the rule of law. As the World Justice Project shows in its Mexico States Rule of Law Index, some states score higher in different indicators, such as the areas of criminal justice, civil justice, and fundamental rights.<sup>24</sup>

USAID has played an important role in building up the capacity of state criminal justice systems. For example, states targeted by USAID experienced a 59 percent increase in the use of alternative dispute resolution, thus freeing up the capacity of courts to adjudicate cases involving violent crimes.<sup>25</sup>

México Evalúa, which produces annual reports monitoring Mexico's progress in implementing the adversarial criminal justice system, assessed in 2018 that it would take another decade for the criminal justice system to become fully functional.<sup>26</sup> While progress has been uneven and delayed, the adversarial system presents the best way to strengthen the rule of law and reduce impunity in Mexico.

### **Autonomy of justice institutions**

In many cases, political influence over criminal investigations—particularly investigations into corruption and grave human rights violations—has stymied the ability of Mexican prosecutors to honestly and credibly carry out their work. Consequently, Mexican civil society organizations, the business community, and victims' groups have supported reforms to guarantee the autonomy of prosecutor's offices.

In 2014, Mexico's Congress enacted a constitutional reform to replace the country's Attorney General's Office (*Procuraduría General de la República*, PGR) with an autonomous National Prosecutor's Office (*Fiscalía General de la República*, FGR), separate from the executive branch. The new institution officially began to function in December 2018. This reform presents the opportunity to create an institution that is more independent, effective, and capable of rebuilding public trust in the country's justice system.

However, after working with government officials on the framework law for this office, civil society organizations have subsequently expressed concerns about the lack of transparency of Mexico's first

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<sup>23</sup> Gina Hinojosa and Maureen Meyer, "Mexico's Rule of Law Efforts 11 Years After Criminal Justice Reform," Washington Office on Latin America, November 13, 2019, <https://www.wola.org/analysis/mexico-criminal-justice-reform/>.

<sup>24</sup> World Justice Project, "Mexico States Rule of Law Index 2018," October 3, 2018, [https://worldjusticeproject.org/sites/default/files/documents/WJP-Mexico-States-Index-2018\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP-Mexico-States-Index-2018_0.pdf).

<sup>25</sup> Gina Hinojosa and Maureen Meyer, "Mexico's Rule of Law Efforts 11 Years After Criminal Justice Reform," Washington Office on Latin America, November 13, 2019, <https://www.wola.org/analysis/mexico-criminal-justice-reform/>.

<sup>26</sup> México Evalúa, "Hallazgos 2017," August 9, 2018, <https://www.mexicoevalua.org/2018/08/09/hallazgos2017/>.

National Prosecutor, Alejandro Gertz Manero, especially his unwillingness to meet with civil society and victims, as well as his failure to abide by the established timeframe to present his plan for the transition and his naming of special prosecutors outside of the process established by law.<sup>27</sup>

The actions by the National Prosecutor in the coming year and the priorities he lays out for criminal prosecutions in Mexico will be clear indicators of the extent to which Mexico is truly transitioning away from the troubled and inefficient old institution to a modern, autonomous body that responds to victims' long overdue demands for justice.<sup>28</sup>

### **Investigating government collusion**

The collusion of government officials and security agents with criminal networks presents an additional challenge in cracking down on violence and impunity.<sup>29</sup> For example, the U.S. Department of Justice (DOJ) recently indicted Genaro García Luna, a former secretary of public security in Mexico (2006-2012), for allegedly colluding with the Sinaloa Cartel. The indictment includes three counts of cocaine trafficking conspiracy and one count of making false statements. As the DOJ states, "in exchange for multimillion-dollar bribes, the defendant allegedly permitted the Sinaloa Cartel to operate with impunity in Mexico."<sup>30</sup>

The accusations against García Luna serve as just the latest example of how government corruption has allowed criminal groups to freely operate in several parts of the country.<sup>31</sup> In the case of members of the LeBaron family—the nine women and children killed in Sonora in November 2019—Mexican officials

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<sup>27</sup> Marisol Velázquez, "ONGs piden a la FGR participar en Plan de Persecución Penal," *El Economista*, November 4, 2019, <https://www.economista.com.mx/politica/ONGs-piden-a-la-FGR-participar-en-Plan-de-Persecucion-Penal-20191104-0099.html>.

<sup>28</sup> In addition to the federal government, all but four of Mexico's 32 states have completed or initiated a transition toward an autonomous prosecutor's office separate from the executive branch. Mexico City's transition has demonstrated particular promise, given the central role the Mexico City government has allowed civil society to play in carrying out. Gina Hinojosa and Maureen Meyer, "Mexico's Rule of Law Efforts 11 Years After Criminal Justice Reform," Washington Office on Latin America, November 13, 2019, <https://www.wola.org/wp-content/uploads/2019/11/WEB-JUSTICE-REFORMS-REPORT-ENG.pdf#page=4>

<sup>29</sup> Maureen Meyer and Gina Hinojosa, "Mexico's National Anti-Corruption System: A Historic Opportunity in the Fight against Corruption," Washington Office on Latin America, May 2018, <https://www.wola.org/wp-content/uploads/2018/05/ENGL-Corruption-Report.pdf>.

<sup>30</sup> Eastern District of New York U.S. Attorney's Office, "Former Mexican Secretary of Public Security Arrested for Drug-Trafficking Conspiracy and Making False Statements," December 10, 2019, <https://www.justice.gov/usao-edny/pr/former-mexican-secretary-public-security-arrested-drug-trafficking-conspiracy-and>.

<sup>31</sup> U.S. prosecutions of former Mexican officials also provide a window into the level of collusion that exists between public officials and organized crime groups in the country. Apart from García Luna, Tomás Yarrington, former governor of Tamaulipas, was extradited to the United States in 2018 to face charges of racketeering, money laundering, bank fraud, and drug smuggling. Another former governor of Tamaulipas, Eugenio Hernández Flores, was also indicted in the United States in 2015 for his involvement in a money laundering scheme. In March 2017, the state attorney general of Nayarit was arrested when entering the United States at the San Diego port of entry because of an arrest warrant against him in New York for his involvement in international drug trafficking.

have arrested a local police chief for his possible connection to the crime. The police chief is believed to have ties to a criminal group that serves as the enforcer arm of the Juárez Cartel.<sup>32</sup> Similarly, in the emblematic case of the 43 forcefully disappeared Ayotzinapa students, the local police officers that arrested the students were working on behalf of *Guerreros Unidos*, an organized criminal group involved in trafficking heroin and other drugs to the United States.<sup>33</sup>

A report by the Human Rights Clinic at the University of Texas School of Law further describes the intricate links between corruption and organized crime-related violence in Mexico. In analyzing first-hand testimonies of former Zeta Cartel members in U.S. federal trials, the report documents the scores of kidnappings, killings, and disappearances carried out by this particularly brutal cartel in the border state of Coahuila from 2006 until the arrest of their last key leader in 2015. The testimonies expose the nature and degree to which these crimes were purportedly allowed to take place with the consent, and sometimes direct assistance, of government officials and police officers at the municipal, state, and even federal level.

According to the testimonies, the Zetas paid bribes, contributed to political campaigns, and integrated authorities into their hierarchy to ensure the cartel could operate without resistance and to secure impunity for violence and human rights abuses. The Zetas' control allegedly extended "over the entire state of Coahuila," from municipal police and state politicians all the way up to federal prosecutors and sectors of the Mexican Army and Federal Police.<sup>34</sup>

President López Obrador has made combating corruption a central piece of his government's agenda. According to Transparency International, public perceptions of corruption have improved during his presidency.<sup>35</sup> While the Peña Nieto government was criticized for dragging its feet on corruption investigations, National Prosecutor Alejandro Gertz Manero is working to move select cases forward. This includes pressing several charges against Emilio Lozoya, former head of the state-owned oil company PEMEX, who has been accused of accepting bribes from Odebrecht between 2012 and 2014. The charges are related to bribes Lozoya allegedly received from the steel company Altos Hornos de México (AHMSA) in exchange for PEMEX's purchase of an inoperative fertilizer plant in 2014.<sup>36</sup> In addition, Rosario Robles, former Secretary of Agrarian, Territorial, and Urban Development, has been

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<sup>32</sup> Elisabeth Malkin, "Mexican Police Chief Arrested in Massacre of Mormon Family," December 27, 2019, <https://www.nytimes.com/2019/12/27/world/americas/mexico-mormon-police-chief.html>.

<sup>33</sup> U.S. Department of Justice, "Eight Defendants Charged With Distributing Heroin In Chicago Area On Behalf Of Guerrero Unidos Mexican Drug Cartel," December 10, 2014. <https://www.justice.gov/usao-ndil/pr/eight-defendants-charged-distributing-heroin-chicago-area-behalf-guerrero-unidos>

<sup>34</sup> "Control...Over the Entire State of Coahuila: An analysis of testimonies in trials against Zeta members in San Antonio, Austin, and Del Rio, Texas," University of Texas School of Law Human Rights Clinic, November 2017, <https://law.utexas.edu/wp-content/uploads/sites/11/2017/11/2017-HRC-coahuilareport-EN.pdf>.

<sup>35</sup> Transparency International, "Barómetro global de la corrupción América Latina y el Caribe 2019: Opiniones y experiencias de los ciudadanos en materia de corrupción," September 2019, <https://transparenciacolombia.org.co/wp-content/uploads/gcb-lac-report-web.pdf>.

<sup>36</sup> Gina Hinojosa, "What's Happening With Mexico's National Anti-Corruption System? Progress and Continued Challenges at the Federal and State Level," WOLA, October 28, 2019 <https://www.wola.org/analysis/progress-challenges-corruption-mexico/>

arrested for her involvement in the *Estafa Maestra* case, which involved the diversion of more than USD\$192 million worth of government funds through shell companies and public universities between 2013-2014.<sup>37</sup>

While prosecuting high-profile cases such as these will help combat impunity, other anti-corruption efforts remain in doubt. López Obrador has not demonstrated a firm commitment to the National Anti-Corruption System, a mechanism designed to coordinate Mexico's anti-corruption initiatives at all levels of the government in the areas of prevention, investigation, and sanction. The System was established as part of sweeping anti-corruption reforms passed in 2015 and 2016. A key part of the System is the Citizen Participation Committee—a civilian oversight body meant to serve as a bridge between anti-corruption institutions and civil society—which gives citizens a lead role in the anti-corruption fight. Without the administration's full support, the National Anti-Corruption System could be deprived of the resources it needs to be successful.<sup>38</sup>

### **Continuing U.S. engagement with Mexico**

Transnational criminal activities, including drug trafficking, jeopardize the wellbeing of communities on both sides of our shared border with Mexico. In turn, resolving these challenges requires coordination and commitment from both the U.S. and Mexican governments. For over a decade, the Mérida Initiative (a multi-year U.S. aid package to Mexico) has served as the central point of this cooperation. Since 2008, the Mérida Initiative has provided Mexico with over USD\$3.1 billion in assistance to strengthen security and the rule of law. Although these funds make up only 2 percent of Mexico's estimated total security budget of USD\$10 billion per year, the aid package has become the centerpiece of bilateral security cooperation between the two countries.<sup>39</sup> While an assessment of this aid package is long overdue, the focus areas of future assistance must be based on both governments' shared interests. Implementation of security assistance should be conducted in a climate of mutual respect.

Strong, effective, rights-respecting police and justice institutions have the best chance of addressing the problems of insecurity, violence, and corruption in Mexico. While this involves building professional police forces with strong internal and external controls over their actions, and the removal of the military from public security tasks, a strong criminal justice institution is also paramount. An increased number of detained drug traffickers or corrupt officials will be ineffective unless there is a judiciary who is capable of prosecuting them while guaranteeing due process. As such, in bilateral discussions about future cooperation, we believe that the current pillar 2 of the aid package "Institutionalizing the rule of law while protecting human rights," should be a priority.

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<sup>37</sup> "La Estafa Maestra: graduados en desaparecer dinero público," *Animal Político*, <https://www.animalpolitico.com/estafa-maestra/>

<sup>38</sup> Gina Hinojosa and Maureen Meyer, "WOLA Report: The Future of Mexico's National Anti-Corruption System," August 7, 2019, Washington Office on Latin America, <https://www.wola.org/analysis/report-anticorruption-lopez-obrador-mexico/>.

<sup>39</sup> Congressional Research Service, "Mexico: Evolution of the Mérida Initiative, 2007-2020), June 28, 2019, <https://fas.org/spp/crs/row/IF10578.pdf>.

U.S. assistance has already contributed to improvements in the criminal justice system. For example, ESF and INCLE funds have been used to equip Mexican courtrooms with audio and video recording technology and to train police on how to conduct their work under the adversarial system. USAID's rule of law projects in Mexico have provided important support to state attorneys general offices and courts in developing analytical capacity, improving victims' access to justice, and building public support for the criminal justice system. USAID has also provided assistance to Mexican prosecutors' offices to develop standardized protocols for investigating sensitive crimes against journalists and human rights defenders and to strengthen state forensic capacity to identify disappeared victims. In addition, the Department of Justice's Office of Overseas Prosecutorial Development Assistance and Training (OPDAT) has trained justice sector personnel on the adversarial system and has collaborated with the Mexican government in drafting several pieces of legislation to facilitate its transition to the adversarial system.<sup>40</sup>

Moving forward, assistance should also aim to ensure that all U.S. agencies involved in justice reform and trainings are coordinating their efforts and measuring the impact of U.S.-supported training, including through indicators capable of demonstrating whether training has increased the effectiveness of justice sector officials and their capacity to apply the skills required under the new system. As Mexico transitions to the autonomous National Prosecutor's Office and similar transitions occur at the state-level, both governments should consider whether U.S. assistance can be beneficial in this process.

Mexican civil society has an essential role to play in strengthening the rule of law in their country. U.S. officials should establish a consultation process with Mexican civil society organizations for any future assistance aimed at protection measures and investigating crimes against human rights defenders and journalists. U.S. assistance should continue to support civil society organizations engaged in the criminal justice reforms, anti-corruption efforts, and human rights.

At the end of the day, the responsibility for addressing Mexico's security crisis lies with the country's elected politicians and State officials. While López Obrador has called for an end to corruption and impunity, from his first year in office, it is not yet clear whether he will prioritize strengthening Mexican institutions' ability to do so. The United States can and should encourage Mexico to make progress in these areas.

But the United States must also do its part, and this should not be overlooked in any discussion about the security crisis in Mexico. The Mérida Initiative was originally framed as a cooperation agreement between the two countries, yet it contains no commitments of funds for actions to be taken on the U.S. side of the border. U.S. illicit drug markets and the revenues they generate are a key source of funds for organized crime groups in Mexico and are a driving factor for much of the organized-crime related violence in the country. Meanwhile, an average of 180 people die every day in the United States from drug overdoses, including from illicit drugs trafficked through and from Mexico.<sup>41</sup> Although federal,

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<sup>40</sup> Gina Hinojosa, Virry Schaafsma, and Maureen Meyer, "Turning the Tide on Impunity: Protection and Access to Justice for Journalists and Human Rights Defenders in Mexico," Washington Office on Latin America and Peace Brigades International, March 29, 2019, <https://www.wola.org/analysis/report-impunity-mexico-violence-journalists-human-rights-defenders/>.

<sup>41</sup> Center for Disease Control, Provisional Drug Overdose Death Counts

state, and local governments are investing billions in prevention, treatment and recovery efforts, far more must be done to address this public health crisis. Our systems still lag dramatically behind the need in terms of access to treatment, as well as in developing and taking to scale innovative harm-reduction interventions that can save lives.

U.S.-sourced guns also fuel violence in Mexico. 70 percent of the guns seized by Mexican authorities and submitted for tracing between 2011 and 2016 were originally purchased from a licensed dealer in the United States. In one case, a criminal groups used American-made high caliber weapons in an ambush against state police in Michoacan in October 2019. The ambush left 13 agents dead. The Sinaloa Cartel used similar weapons in the shootout that took place in Culiacán late last year, and these weapons were also used in the massacre of the nine members of the LeBaron family.<sup>42</sup> While the recently announced Mexico-U.S. Binational Strategy on Illicit Arms Trafficking is a welcome step forward, U.S. policymakers should consider other measures to combat illicit arms trafficking to Mexico, including by requiring universal background checks for gun purchases, classifying gun trafficking and straw purchasing as federal crimes, and requiring the reporting of multiple sales of long guns.<sup>43</sup>

I want to thank the Subcommittee for holding this hearing and for including a focus on ways to strengthen the rule of law in Mexico. For far too long, Mexico has been dramatically impacted by high rates of violence, corruption, human rights violations, and impunity, while transnational criminal organizations continue to traffic drugs and harm communities on both sides of the border. To reduce impunity, the Mexican government must work to create trustworthy, rights-respecting criminal justice institutions that are capable of effectively investigating and prosecuting crimes. In this regard, as U.S.-Mexico cooperation moves forward, both governments should ensure that strengthening the rule of law is a centerpiece of these discussions.

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<https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>

<sup>42</sup> “American-Made .50-Caliber Rifles Help Fuel Mexican Cartel Violence, The Trace, October 29, 2019; <https://www.thetrace.org/rounds/american-made-50-caliber-rifles-help-fuel-mexican-cartel-violence/>; Dennis Wagner, “Made in America. Dead in Mexico. The massacre of a family this week highlights 'grave problem' of gun smuggling,” USA Today, November 8, 2019

<https://www.usatoday.com/story/news/nation/2019/11/08/mexico-homicides-rising-us-arms-weapon-choice/2522384001/>

<sup>43</sup> Chelsea Parsons and Eugenio Weigend Vargas, “Beyond Our Borders How Weak U.S. Gun Laws Contribute to Violent Crime Abroad,” Center for American Progress, February 2, 2018, <https://www.americanprogress.org/issues/guns-crime/reports/2018/02/02/445659/beyond-our-borders/>