

MARCH 2019

AMLO'S SECURITY POLICY: CREATIVE IDEAS, TOUGH REALITY

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EXECUTIVE SUMMARY

- Improving public safety, especially reducing Mexico's soaring murder rate, is the toughest challenge of Mexico's new president, Andrés Manuel López Obrador (known as AMLO).
- In November 2018, AMLO unveiled his National Peace and Security Plan 2018-2024, describing it as predominantly focused on the roots of insecurity, as opposed to confronting drug trafficking organizations (DTOs). The plan combines anti-corruption measures; economic policies; enhanced human rights protections; ethics reforms; public health, including treatment for drug use and exploration of drug legalization; transitional justice and amnesty for some criminals; and broader peacebuilding, to include traditional anti-crime measures such as prison reform and security sector reform, plus a new law enforcement force, the National Guard.
- Various elements of his announced new security strategy—such as the formation of the National Guard—remain questionable and unclear and are unlikely to reduce violence quickly.
- AMLO's proffered security strategy will likely create friction with the United States. Jointly countering fentanyl smuggling, however, could provide one venue of U.S.-Mexico cooperation.

Corruption and Mexico's justice system

- Combatting corruption is a foundational element of AMLO's security policy, and his administration has adopted a wide set of anti-corruption measures, including highly controversial and questionable ones.

- However, AMLO has yet to appoint a dedicated anti-corruption prosecutor, make appointments to the National Anti-Corruption System, and support the 2016 National Anti-Corruption System reform.
- AMLO has not broken with politically powerful and immensely corrupt unions, proposing instead to reverse reforms and lay off 70 percent of non-unionized federal workers.
- It remains unclear whether AMLO will empower Mexico's civil society—crucial for reducing corruption—or continually define it as his antagonist.
- AMLO's administration has not yet focused sufficiently on implementing the judicial reform by properly implementing the new prosecutorial system.
- The administration has emphasized minimizing salary differences between public ministries, federal judges, prosecutors, and police officials. The weakness of prosecutors and their lack of cooperation with law enforcement and judges have been key stumbling blocks, keeping prosecution rates abysmally low. However, minimizing salary differences is inadequate.
- Deleteriously, AMLO has refused to allow the independent selection of an autonomous attorney general.

Focus on brutal crimes instead of drug trafficking groups and rejection of high-value targeting

- The AMLO administration suspended focus on DTOs, drug trafficking, and high-value targeting of DTO leaders. Instead, it prioritizes “brutal crimes.” But that strategy ignores the fact that key perpetrators of homicides, extortion, and robberies are DTOs.
- Large law enforcement deployments to Tijuana and efforts to combat fuel theft have been interpreted by DTOs as direct confrontation. Instead, AMLO should prioritize targeting the most violent criminal groups, while deterring new outbreaks of violence.
- The target should be the middle operational layer of a criminal group, seeking to disable the vast majority of the middle layer in one sweep, in order to reduce the group's regeneration capacity.
- The Mexican government remains challenged in implementing such a policy by the continual lack of strategic and tactical intelligence in an ever more fragmented, multipolar, and opaque criminal market, and by the continual corruption of Mexico's law enforcement apparatus.

The National Guard

- AMLO has not stopped using the Mexican military for domestic law enforcement. However, he has created a new structure combining military forces with Federal Police forces—The National Guard.
- To be completed in three years, the National Guard is to be 150,000-strong. Sent initially to 17 areas with high homicide rates, the first contingent of 50,000 is to start functioning by April 2019. The head of the National Guard is a civilian, but much of the leadership is military.

- Mexico is to be divided into 266 regions, each with a National Guard contingent for preventing crime, arresting suspects, and acquiring evidence. However, the logic of how the regions will be drawn and of the National Guard force deployments remains opaque.
- Also, it is unclear how specifically it should accomplish those objectives, gather intelligence, cooperate with state and local police and military units, and build trust with local communities.
- The National Guard is highly symptomatic of Mexican administrations' standard approach to public safety—namely, to create new institutions, rename old ones, and hire Mexico's military personnel into civil law enforcement roles.
- While decrying the continual corruption of Mexico's police forces, the AMLO administration has said little about strengthening police reform, beyond increasing wages of some police officers. However, police reform, particularly of local police forces, remains a fundamental need of Mexico's rule of law.

Amnesty for crimes

- A proposed amnesty law for certain crimes still remains underspecified but has profound implications for rule of law in Mexico, including a complex tangle of moral, legal, victims' rights, and rule of law dilemmas.
- The policy is to combine justice, truth, and reparations to victims, providing leniency or even full amnesty to some criminals and potentially entire criminal groups. Such an expansion could profoundly undermine rule of law in Mexico and weaken deterrence capacity of Mexico's justice system.
- But even the existing conceptualization of individual amnesty design is problematic.
- Critically, when transitional justice is employed in post-conflict settings, there is a presumption that violent conflict and human rights violations will not be repeated. But Mexico will continue to face violent criminality for years.

Prison reform

- The Felipe Calderón administration focused prison reform principally on building more prisons, but kept flooding them with new prisoners. The Enrique Peña Nieto administration increased government authority over prisons, including through international accreditation. The AMLO administration now needs to combine these improvements with better protection of prisoners' human rights.

Socio-economic policies to combat crime

- Consistent with AMLO's emphasis on reducing inequality, socio-economic policies to combat crime are billed as a dominant component of his security strategy.
- Well-designed and implemented socio-economic efforts sustained over a long time are vital. However, it is not yet evident what such programs will look like. It is problematic to assume that general socio-economic policies will produce robust anti-crime effects.

- Individuals who receive amnesty should be prime beneficiaries in order to reduce recidivism, but victims and their communities should receive benefits as well.
- The AMLO administration should anticipate difficulties with funding, legal job creation, the integration of the anti-crime socio-economic efforts, and local policing, and avoid the pitfall of labeling all anti-poverty efforts as anti-crime measures.

Marijuana legalization, poppy licensing, and public health

- Arguing that drug prohibition is a key driver of violence in Mexico, the AMLO administration is exploring legalizing marijuana production, sales, and consumption and licensing the cultivation of poppy for the production of medical opiates.
- The administration has requested that the United States re-allocate its budget for anti-crime programs in Mexico toward drug treatment.
- With rural farmers a key constituent, the AMLO administration wants to reduce the intensity of illicit crop eradication, risking friction with the Trump administration. Opium poppy cultivation in Mexico shot up a result of the U.S. opioid epidemic.
- Prior eradication efforts failed to reduce drug crops sustainably and often exacerbated the insecurity of marginalized populations, intensified violence, and increased the political capital of criminal groups.
- The AMLO administration's focus on providing alternative livelihoods is a positive development. But the AMLO administration's approach to legal livelihoods, centering on price support for legal crops, warrants skepticism. Price profitability is not the most important factor influencing farmers' cropping decisions.
- Poppy licensing is complex, and its effects on violence and rural development are highly contingent. For a licensing scheme to be consistent with the international counternarcotics regime, two difficult issues have to be addressed: preventing licensed opium from being diverted into the illegal trade and overcoming the insufficient demand for legal Mexican opioids.
- Marijuana decriminalization and the legalization of poppy for medical purposes will not defund criminal groups, as without the rule of law, they can easily tax legal cultivation, just as they extort other legal economies.
- If Mexico wants to legalize drugs in a way that reduces violence and criminality, it must first deliver effective rule of law to areas of production and beyond, by building effective law enforcement and justice deterrence.

Militias

- The AMLO administration has remained largely silent on the difficult and dangerous issues of the persistence of self-defense forces, in fact *militias*, which undermine Mexico's rule of law.
- Some militia members may qualify for amnesty. Others may persist in violent criminal activity and the AMLO administration will need to confront them with law enforcement and punitive measures, which may not be politically palatable.

Human rights and moral constitution

- AMLO promised to center his national security strategy around human rights protection and avoiding the egregious human rights violations perpetrated by state forces under previous administrations, such as by criminalizing government neglect of recommendations issued by the National Human Rights Commission or state-level human rights commissions and searching for Mexico's 40,000 missing people.
- In addition to upholding this promise, he also needs to define protection from militias as a human right.
- Moreover, in the context of widespread impunity, absolving crimes such as not paying for water or electricity (previously advocated by AMLO) set a bad precedent for effective regulatory management and contrasts with his promotion of a new moral constitution in Mexico, a set of ethical standards to be embraced by government officials, businesses, and society.

Recommendations

- The AMLO administration should focus on: Making interdiction more strategic, instead of giving up on it;
- Prioritizing targeting of the most violent and aggressive groups, such as Cartel de Jalisco Nueva Generación, rather than dropping focus its on DTOs;
- Prioritizing suppression of fentanyl smuggling and collaborating with the United States on reducing fentanyl flows;
- Switching to middle-layer targeting of violent criminal groups;
- Maintaining law enforcement focus on areas where violence has declined;
- Developing a gradual concentric circles strategy to transition away from policing by the military;
- Resurrecting momentum on police reform, especially of local police forces;
- Strengthening justice reform, particularly enhancing prosecutorial capacities and coordination among law enforcement, prosecutors, and judges;
- Improving the logic and integration of anti-crime socio-economic approaches with law enforcement, replacing limited handouts with transformative projects, even if that requires the concentration of resources and only gradual and long-term coverage throughout the country;
- Emphasizing human rights and accountability, including by taking on the militias;
- Refining the proposed amnesty law and avoiding designs that strengthen impunity; and
- Reinforcing the state's territorial control and legitimacy.

INTRODUCTION

Behind the crushing victory of Andrés Manuel López Obrador (known as AMLO) in Mexico's 2018 presidential elections was the fundamental disappointment of the Mexican electorate with incomplete democratization, entrenched social exclusion, inequity, corruption, and escalating violence. Improving public safety, which includes above all reducing Mexico's debilitating and record-breaking murder rate, is the toughest challenge of Mexico's new president who assumed office on December 1, 2018. Reducing the spreading extortion by armed criminal groups and militias is also imperative, and no less easy given the fragmentation of Mexico's criminal market and the continually lacking deterrence capacity of Mexican law enforcement. AMLO's security strategy appropriately recognizes and emphasizes the need to reduce violence in Mexico as the most important objective. Although he has put forward some innovative ideas and recognizing the failures of previous policies, the announced strategy also recycles previous policy attempts. Crucially, it still misses a solid and operationalized policing strategy.

In November 2018, two weeks before assuming office, López Obrador unveiled his eight-point security plan, The National Peace and Security Plan 2018-2024 (Plan Nacional de Paz y Seguridad 2018-2024). The soon-to-be Mexican president and his top security advisors, such as Alfonso Durazo Montañón, now head of the resurrected Ministry of Public Security, described the security strategy as "radically different" from those of the two preceding administrations, whose "repressive strategy" has been a "manifest failure."¹ The new strategy was characterized as "80 percent" focused on the roots of insecurity and public security, in comparison with previous policies that focused on confronting existing criminal groups.² The plan combines anti-corruption measures; economic policies; enhanced human rights protections; reforms of ethics; public health, including treatment for drug use and exploration of drug legalization; transitional justice and amnesty for some criminals; and broader societal peacebuilding with more traditional anti-crime measures such as prison reform and security sector reform, including the creation of a new law enforcement force, the National Guard.

Three months into AMLO's administration, various elements of his new security strategy are still vague or works in progress. Critically, the announced policing strategy, including the formation of the National Guard, remains questionable and unclear. Yet such a strategy is the requisite for developing a deterrence capacity and shaping the behavior of criminal groups. Still lacking is a robust plan to reform Mexico's police forces, particularly at the municipal and state levels. Many components of the announced strategy, such as anti-crime socio-economic policies, are also likely to run into serious but predictable and previously experienced operational and implementation challenges.

The proffered security strategy is also likely to create friction with the United States. Some of its core elements—particularly reducing focus on drug trafficking organizations (DTOs)—are at odds with the Trump administration's priorities and preferences. Nonetheless, a focus on countering fentanyl smuggling could eventually provide one venue of cooperation between Mexico and the United States.

Other public safety ideas of the AMLO administration are too simplistic. These include notions that legalizing the production and use of marijuana for medical and recreational purposes will substantially reduce violence and defund criminal groups. Similarly, licensing poppy for the production of medical opioids, an idea that the AMLO administration is also exploring but has not yet formally announced, will not necessarily

and on its own reduce violence or criminal funding. Other elements of the announced security strategy, including transitional justice and amnesty for criminals and even criminal groups, are also unlikely to bring down violence and criminality on their own, and also come with difficult complexities.

Mexico may well decide to legalize marijuana and poppy production—certainly, treating drug use through a public health prism is a wise and badly lacking policy. But legalization of particular substances and amnesty for criminals will only reduce violence and crime *if* Mexican law enforcement forces, including its multiple police forces, finally build up deterrence capacity. If they do not, legalization and amnesty will merely expand the portfolio of legal commodities in which Mexican criminal groups are already involved. Yet AMLO's announced strategy provides no clear pathway toward that fundamental institutional and strategic shift.

This report analyzes in detail the eight pillars of AMLO's announced security strategy and other policy pronouncements his security team has made. It discusses:

1. AMLO's anti-corruption policies and the absence of a corollary plan to strengthen the justice sector.
2. The reduced focus on combatting drug cartels and drug trafficking, the prioritization of "brutal" crimes, and the disavowal of high-value targeting.
3. Continual reliance on the Mexican military for domestic policing and the creation of a new National Guard, also substantially drawn from the military. Issues include police reforms, coordination among law enforcement actors, transitions and handovers of policing responsibilities, and recovery of public spaces.
4. The proposed amnesty law and peacebuilding efforts, including the vexing issues of eligibility, victims' rights, means of compensation, and the proposal that victims agree to grant forgiveness to perpetrators. This section also explores the creation of the Peacebuilding Council and its relationship to the National Guard, other law enforcement actors, and local and state government structures.
5. Prison reform and socio-economic policies of inclusion to combat crime;
6. The redirection of Mexico's drug policy toward public health, including the possibility of legalizing marijuana production and use as well as poppy cultivation for the production of medical opioids.
7. The problematic lack of focus on militias.
8. Human rights policies and AMLO's revitalization of societal ethics, which essentially amounts to a new social contract for Mexico.

In assessing the pros and cons of each policy and its articulated or undefined dimensions, the report also reviews the outcomes of previous similar policy proposals in Mexico, the expected challenges of their implementation, and implications for U.S.-Mexico relations. Linking the strategy to the crime trends in Mexico detailed in the companion paper "Mexico's Out-of-Control Criminal Market," this report also points out the gaps in the announced strategy. It concludes with a detailed set of policy recommendations.

LÓPEZ OBRADOR'S RESPONSES TO CRIME AND INSECURITY IN MEXICO

In November 2018, two weeks before assuming the presidency, AMLO announced his security strategy—The National Peace and Security Plan 2018-2024 (Plan Nacional de Paz y Seguridad 2018-2024)—which strongly prioritizes addressing root causes of violence and insecurity and de-emphasizes directly combatting drug cartels and other criminal groups. It promises to ensure that “families in Mexico recover peace and confidence in institutions,” and to “guarantee peace and improve the lives of each and every” Mexican citizen.³ Its eight pillars are:

1. anti-corruption;
2. economic inclusion;
3. human rights protection;
4. “societal ethics”;
5. public health and treatment;
6. peacebuilding;
7. prison reform; and
8. security reform, including the creation of a National Guard to combat crime.

Somewhat inaccurately, AMLO characterizes his security strategy as differing significantly from those of Presidents Felipe Calderón and Enrique Peña Nieto (EPN) in terms of its focus on socio-economic interventions to reduce crime.⁴ However, if the AMLO administration does indeed manage to walk away from confronting drug trafficking groups and maintain such a policy, its security strategy could end up being radically different from those of its predecessors. But implementing and maintaining such a policy is a very difficult and unlikely proposition because of public safety considerations in Mexico and pressure from the United States.

Although during the election campaign, AMLO and his advisors repeatedly stated that they oppose militarization of public security and would seek to pull back the Mexican military from carrying out policing functions, that ambition has been shelved. Already in August 2018, AMLO announced there was no responsible way of quickly withdrawing the Mexican military from carrying out law enforcement tasks. Instead, he announced the creation of a new National Guard composed extensively of military personnel.

An innovative centerpiece of AMLO's security strategy is the granting of conditional amnesty to some of those accused of criminal involvement after public consultation with victims and broader society—the “peacebuilding” pillar of the strategy.⁵ But its design remains inadequate and its implementation will be a challenge.

Also, in embracing public health and treatment approaches toward drug consumption, the new administration will consider legalizing marijuana and explore licensing Mexico's illegal poppy cultivation for the production of medical opiates. However, the expectations of the public safety benefits of either policy are much too optimistic.

Moreover, there remain questions about how to proceed with police reform and how to structure actual policing so that it avoids the fundamental problems of the past several years. Additionally, it remains to be seen how policing—whether conducted by federal, state, or local police forces, or the new National Guard—will actually be conducted on the ground. Nor has the AMLO administration detailed how it intends to strengthen justice reforms in Mexico.

The implementation of AMLO's ambitious agenda alone will be challenging, given Mexico's deeply rooted problems.

Fighting corruption, but what of Mexico's justice reforms?

Rooting out corruption was AMLO's key campaign message—both as a promise in of itself and a crucial means of funding AMLO's envisioned socio-economic policies by recovering stolen money. AMLO also describes eradicating corruption as a fundamental precondition for ending criminal violence.⁶ He has condemned the preoccupation with violent crime while white-collar crime has gone unpunished, arguing that the growth and power of criminal groups in Mexico can only be understood as the result of networks of corruption and institutional complicity.⁷ Those are well-accepted assessments, and nominally have been part of security sector institutional reforms over multiple Mexican administrations as well as a focus of the second phase of U.S. Merida Initiative assistance to Mexico.⁸ Nonetheless, the Peña Nieto administration egregiously dropped the ball on combatting corruption, such as in the notorious Odebrecht bribery scandal that rocked much of Latin America, and through which Mexican authorities allegedly received at least \$10.5 million.⁹ In fact, since its admission to the Organization for Economic Cooperation and Development (OECD), Mexico has yet to conduct a foreign bribery prosecution.¹⁰ Meanwhile, Mexico's highest officials, including the president and his wife,¹¹ were embroiled in multiple corruption scandals.¹² During Peña Nieto's reign, Mexico dropped 30 places in Transparency International's corruption ranking, to 138.¹³

To eradicate corruption, AMLO has designated it as a criminal felony not eligible for bail.¹⁴ His administration plans a new federal law to combat conflicts of interest. AMLO also calls for eliminating the *fuero*, political impunity for senior politicians. He plans to make it mandatory for all public officials to declare all of their financial assets, including inheritance, and disclose their taxes. Other crucial components are close monitoring of public procurement through real-time line-by-line supervision of budgets and performance, and mandatory verification of market prices before any public procurement is authorized.¹⁵ Finally, he plans to go after shell companies and cooperate with international partners to eliminate tax havens.

In addition to standardizing anti-corruption training of government officials, AMLO has sought to standardize pay across all government agencies, calling for public officials to live in "honorable modesty" and "Franciscan poverty" that would "transfer funds to the people."¹⁶ Indeed, to demonstrate his seriousness in combatting-corruption and to foster his image as man of the people, AMLO took a 60 percent cut in his presidential salary, setting his income at \$68,400 per year.¹⁷ Reminiscent of former California Governor Jerry Brown's symbolic actions during his first term, AMLO also turned the presidential villa into a museum, continuing to live in his modest house in southern Mexico City, despite the length of time required to get to the presidential office in the city's horrendous and unpredictable traffic jams, and being driven to work in his old

beat-up Volkswagen Jetta instead of a presidential limousine. Similarly, he has put the presidential jet up for sale, flying economy class on commercial flights even if that means adding traffic delays and unpredictability to his schedule. Daringly, AMLO also disbanded the secret service, instead using for protection 20 unarmed citizens from a cross-section of Mexican society.¹⁸

AMLO's team also proposed appointing an intermediary to oversee financial transfers from the federal government to states and strengthening existing financial oversight institutions, such as the federal comptroller's and auditing offices. During the Calderón and Peña Nieto administrations, state governments, and particularly state governors, such as in Tamaulipas, Veracruz, Chiapas, Guerrero, Michoacán, and Nuevo León, became notorious for massive public resource theft and corruption, huge public budget deficits, and outright cooperation with organized crime groups.¹⁹

However, as of this writing, AMLO is yet to appoint a dedicated anti-corruption prosecutor and fill eight seats in the 24-member regulating body of the National Anti-Corruption System. Similarly, the Specialized Investigation Unit for Crimes Committed by Public Officials within the attorney general's office has long been starved of resources and personnel. The AMLO administration is yet to beef it up.²⁰ President López Obrador has wobbled on whether corruption of previous administrations would be prosecuted or not, suggesting that he would leave the question to public referenda, a highly questionable proposition easily subject to political manipulation. His new attorney general nonetheless reiterated that ongoing investigations into past administrations' malfeasance would continue, and AMLO has promised to declassify and release all information in the Odebrecht case. Whether Mexico's involvement in the Odebrecht scandal will be investigated and how the accusations regarding Emilio Lozoya Austin, Peña Nieto's head of Mexico's national oil company PEMEX, will be handled will be an important test case of the independence and integrity of AMLO's anti-corruption efforts.

Strengthening the financial intelligence unit of the Ministry of Finance and Public Credit remains AMLO's priority. Although created in 2004 to combat tax evasion and money laundering, the unit has until now failed to diminish significantly the more than \$30 billion in untaxed and illegal transactions that flow through Mexico annually.²¹

Some of AMLO's initiatives are worthy and valuable tools in combatting corruption. Clearly, improvements in budget and public spending oversight are urgently needed. But it remains to be seen whether the AMLO administration will develop a sufficient institutional capacity to oversee in detail all relevant financial transfers and to investigate and prove malfeasance. Crucially, it is not yet clear whether the new oversight bodies will manage to maintain integrity or become subject to political and criminal coercion. Given the pervasive level of corruption across all types and levels of Mexican institutions, maintaining neutrality and strict adherence to rule of law is no easy task.²² If the anti-corruption bodies themselves become compromised, the locus of corruption will merely be reshuffled. AMLO has sought to mitigate this challenge by asking the United Nations to supervise and track all federal contracts, projects, and tenders, and provide assistance with the sale of government vehicles and aircraft, purchases of medication, and major economic projects, a request that the United Nations has accepted.²³

Some of AMLO's anti-corruption moves are already generating challenges. The standardization of government officials' salaries has been pegged to the president's wage, which is to be the ceiling. Thus, his decision to give himself a 60 percent pay

cut in comparison with Peña Nieto's salary produced across-the-board reductions for many government employees, with dramatic cuts for at least 30,000 of them. The new law also slashed the pensions of former presidents and triggered a spate of lawsuits, with the Supreme Court suspending the law's implementation until a final legal ruling. Meanwhile, however, the new policy has already produced a predictable exodus of experienced managers and bureaucrats.²⁴ AMLO may claim "good riddance," but he will need to deal with a resulting loss of institutional memory.

Alleging corruption and claiming support from citizens (based on a referendum organized by his party and involving fewer than 2 percent of Mexico's eligible voters), AMLO cancelled the previous government's contract for Mexico City's new airport, which was already partially built. The move sent the peso and Mexican markets tumbling, leaving investors dismayed, the partially built airport dormant, and his government responsible for paying restitution to investors as it wrestles with them over the terms of construction bond buybacks.²⁵

AMLO has also not broken ties with segments of what he decries as the "mafia of power" in Mexico, such as politically powerful and immensely corrupt unions that frequently engage in extortion. He has called for reversing the politically costly and necessary education reforms of the EPN administration, even though many of the teachers' unions are associated with government graft, deliver poor education, and are deeply implicated in nefarious political arrangements. Moreover, AMLO has proposed laying off 70 percent of non-unionized federal workers, potentially some 276,290 public employees.²⁶ Mexico's Supreme Court is yet to rule on the constitutionality of the measure. However, if it passes, it may not only undermine the functioning of public administration, but also greatly reinforce the power of unions, driving home the message that only unionized workers have access to jobs in the government.

Nor has AMLO acted against those accused of corruption within his own party, Morena. Instead, he has also been readily willing to admit public figures from the Institutional Revolutionary Party (PRI) and other vested interest groups accused of corruption into his political party.

Much to the disappointment of many anti-corruption advocates in Mexico, AMLO has shown no more enthusiasm about implementing the 2016 National Anti-Corruption System reform package than his predecessor. Core elements of the package included the creation of a committee to coordinate all federal and state anti-corruption efforts, providing greater citizen oversight, and creating an independent anti-corruption prosecutor. But like EPN in his last two years as president, AMLO has not yet moved to appoint the anti-corruption prosecutor.

Moreover, fundamental to a serious anti-corruption effort—as well as to effective policing and law enforcement—is a well-functioning, honest, and independent judiciary. Yet the AMLO administration has not focused sufficiently on implementing and reinforcing the judicial reforms. Initiated by President Calderón, the reforms center on switching from the centuries-old inquisitorial system to a prosecutorial system. Although the reforms should have been fully implemented since 2016, their on-the-ground takeoff has been slow and troubled.²⁷ The Peña Nieto administration, too, had failed to adequately support the implementation of the reforms. Worse yet, over the past two years, state and local government officials have come to blame intensifying criminal violence on the justice reform—a false but politically convenient analysis.

One element of justice sector reforms that the AMLO administration has emphasized is minimizing salary differences between public ministries, federal judges, prosecutors, and police officials. The objective is to incentivize lawyers to find it equally appealing to work in any capacity, whether as judges or prosecutors, and no longer be drawn to the previously higher salaries of judges.²⁸ Certainly, the weakness of prosecutors and the lack of coordination and cooperation between them and on-the-ground law enforcement forces has been a key stumbling block for effectively implementing the justice reforms. This lack of cooperation and competence has also kept effective prosecution rates abysmally low, with the overall impunity for violent crimes in Mexico still believed to be 98 percent—the same as at the beginning of the Calderón administration. However, simply equalizing salaries is hardly sufficient to strengthen prosecutorial capacities in Mexico, let alone stimulate better coordination across law enforcement and justice agencies.

The López Obrador administration has also proposed rotating judges around the country and imposing “confidence tests” that could potentially improve the quality of judges if administered independently, rigorously, and systematically, or further politicize the judiciary and subject it to the administration’s pressures.²⁹

Deleteriously, AMLO has refused to allow the independent selection of an autonomous attorney general through a transparent public procedure. Instead, he insisted on maintaining the president’s prerogative to appoint the attorney general, thus maintaining political influence over the office, just like his predecessors. AMLO picked for a nine-year term Alejandro Gertz Manero, a 79-year-old lawyer, law professor, and top official of Mexico City’s police and of the federal police in the 2000s, and a man very close to AMLO.³⁰

Yet during the EPN administration, the office of the attorney general and the attorney general himself were repeatedly implicated in numerous scandals—most significantly the obstruction of the investigation of the 43 students of the Ayotzinapa rural teachers’ college who disappeared and were likely murdered in Iguala, Guerrero in 2014, as well as for a general failure to investigate systematic graft during the EPN administration. Ultimately, under pressure from civil society, the attorney general was forced to resign in October 2017.³¹ López Obrador has at least created a truth and justice commission for the massacre, consisting of federal officials and victims’ representatives, as mandated by a Mexican federal court in June 2018.

Protecting and involving civil society as well as supporting freedom of the press and investigative journalism are also crucial for reducing corruption—indeed, as vital as more stringent laws. But instead of embracing civil society and journalists as his allies in the anti-crime fight, AMLO has taken a leaf from U.S. President Donald Trump’s populist playbook and repeatedly condemned civil society organizations and Mexican media, as well as the Supreme Court, the National Institute for Transparency, Access to Information, and Personal Data Protection, and other vital institutions for reinforcing the rule of law and reducing corruption.³²

As part of his anti-corruption drive, AMLO promises to combat money laundering and seize the finances of organized crime groups, a perpetual hope of anti-crime efforts around the world. Although often hailed as a silver bullet, chasing criminal money has not yet eliminated serious crime, such as violent drug trafficking, anywhere in the world. Even in Colombia, a country with some of the most stringent anti-money laundering laws on the books, drug trafficking and violence continue to thrive—and so does corruption.³³

With criminal groups becoming increasingly localized and involved in local extortion, much crime in Mexico will continue with relatively modest funding based on cash transactions. Cash seizures may significantly hamper the operations of small groups, but unless the groups themselves are rounded up and local law enforcement forces prevent their local operations, they will have continual access to local extortion targets and funding. Such activities will continue to have debilitating public safety repercussions.

Well-designed financial intelligence gathering can provide invaluable support for physical interdiction, arrests, and prosecution. Nonetheless, AMLO and his team have yet to specify how they will strengthen anti-money laundering efforts and develop such financial intelligence.

Focusing on “brutal crimes” over drug trafficking organizations

As part of the “radical change” in public security policy, both AMLO and his top advisors have highlighted a reduced focus on cartels and drug trafficking. Instead, they seek to prioritize combatting and preventing “brutal crimes.”³⁴ As Durazo boldly stated during the public unveiling of the security strategy: “Despite hundreds of thousands of lives lost, the billions of dollars invested, the military resources used and the intelligence and surveillance used in the war on drugs, the Mexican government has not been able to defeat the cartels and there’s no perspective [sic] of doing it any time soon.” AMLO himself went even further, declaring at the end of January 2019 that “[t]here is officially no more war” on drugs and cartels.³⁵

In addition to de-emphasizing the fight against the drug trafficking groups, the security priority of the new administration is to protect citizens from the most violent crimes, such as robbery, extortion, murder, human trafficking, and femicides.³⁶

Reducing criminal violence clearly is the most urgent priority for the Mexican government, with the extraordinarily high violence levels having debilitating impacts on many dimensions of Mexican society. The Calderón administration was profoundly wrong in minimizing the need to combat criminal violence on the grounds that the criminals were mostly killing criminals.³⁷ As long as the bullets continue to fly on the streets of Mexico, they crucially undermine economic, political, and social life as well as the fabric of society. Moreover, criminal violence in the form of extortion and violence perpetrated by Mexican armed forces and law enforcement actors has afflicted broad swaths of innocent civilians in Mexico.

But effectively implementing the AMLO administration’s announced policy will be a challenge, and the strategy itself is full of contradictions and red flags. First of all, the EPN administration came into office with the same commitment—to reduce homicide and extortion³⁸—but it fundamentally failed in accomplishing either. That does not invalidate the objective, but it should give AMLO’s team pause to consider what went wrong in implementation.

Second, key perpetrators of homicides, extortion, and robberies are the very same drug trafficking cartels that the AMLO administration wants to de-emphasize. Yes, many smaller criminal groups with limited capacity to smuggle drugs also engage in homicides, extortion, and robberies, but the big cartels are key drivers of these violent crimes. The AMLO administration cannot realistically focus on combatting and preventing violent crime while not taking on the DTOs.

This is unless the AMLO administration becomes tempted to resurrect Mexico's corporatist deal of the 1950s to the 1970s, which allowed DTOs to smuggle drugs into the United States as long as they did not engage in violence.³⁹ The AMLO team has given no indication that it wants to strike such a deal, instead proposing amnesty and transitional justice for some criminal groups (analyzed below). An effort to resurrect the old deal would generate an intense and lasting confrontation with the United States—and not just with the Trump administration—especially considering that drug overdose rates have reached catastrophic levels in the United States. Even a future drug reform-minded liberal administration in the United States will not disavow the goal of reducing the flow of drugs from Mexico, particularly if the flow of synthetic drugs such as fentanyl through Mexico to the United States increases.

Moreover, Mexican DTOs have not interpreted the announcements of the AMLO administration as either a new pact or a truce. The DTOs are implicated in the crimes that AMLO wants to tackle, such as extortions and oil theft. In cracking down on oil theft by shutting down major pipelines and sending soldiers to protect refineries and oil tankers, the AMLO administration has already set off a confrontation with the cartels. For example, a bomb was placed at an oil refinery in Salamanca to scare off the military deployment there, with an accompanying message against the AMLO administration from the Santa Rosa de Lima Cartel.⁴⁰ That group is fighting with the Cartel Jalisco Nueva Generación (CJNG) over the control of an oil bunkering corridor above a large oil pipeline in east-central Mexico. The Santa Rosa de Lima Cartel has also set up roadblocks with burning vehicles to hamper AMLO's anti-fuel theft operations in multiple municipalities of the state of Guanajuato.⁴¹

Similarly, after the AMLO administration deployed 1,800 soldiers and federal police to Tijuana at the end of January 2019 to combat the intense homicide rate, the Tijuana Nueva Generación Cartel—the remnants of the once powerful Arellano Félix Organization, or the Tijuana Cartel—posted a death threat to López Obrador.⁴² Since 2017, Tijuana has again been caught up in intense violence as the Sinaloa Cartel, Tijuana Nueva Generación Cartel, CJNG, and their small local affiliates fight over drug smuggling routes to the United States as well local methamphetamine and other criminal markets. In 2018, Tijuana registered 2,518 homicides, a 40 percent increase from 2017,⁴³ and another 218 in January 2019, the highest toll for that month on record and on par with *yearly* totals in some years.⁴⁴

Rather than adopting a naïve posture of not confronting the DTOs, the AMLO team should prioritize targeting the most violent criminal groups. That is still the most sensible strategy, and one that has been proposed by multiple criminology experts such as Mark Kleiman.⁴⁵ Both the Calderón and EPN administrations to some extent ended up adopting such a strategy by focusing on La Familia Michoacana, Los Caballos Templarios, and the Zetas. However, because of faulty implementation—including the preoccupation with high-value and opportunistic targeting as well a lack of intelligence and investigative capacities for attributing murders to specific perpetrators, which have led to an abysmally low prosecution rate—the targeting policy could not produce the desired effect of reducing and deterring violence.

Rather than dispensing with going after cartels, the AMLO administration would be wise to double down on a focused deterrence strategy to reduce violence in Mexico that fixes the problems that have plagued its effective implementation before.

Out with problematic high-value targeting, but what in its stead?

In rejecting a focus on combatting the cartels, the AMLO team has also rejected high-value targeting, also known as the kingpin strategy. In August 2018, Alfonso Durazo Montañó criticized high-value targeting of top leaders of criminal groups and pointed out that even though security forces caught 120 out of 122 designated high-value targets, insecurity and violence have continued to grow.⁴⁶ At the end of January 2019, AMLO declared that since his administration assumed office, “No capos have been arrested, because that is not our main purpose. The main purpose is to guarantee public safety. ... What we want is security, to reduce the daily number of homicides.”⁴⁷ He went on to add: “It is no longer the strategy to detain kingpins. ... Officially, there is no war, we want peace, we are going to achieve peace.”⁴⁸

Targeting the middle operational layer of a criminal group is a far more effective way to disable it, particularly if the vast majority of the middle operational layer can be arrested at once. Such a strategy limits the regenerative capacity of a criminal group: It is both more likely to put it out of business and reduce the violence, as another criminal group fills the vacuum without the need to resort to extensive violence. Moreover, a simultaneous arrest of much of the middle layer allows for effective prosecution of many members, including through plea bargains that generate evidence related to top bosses.

However, the Mexican government, including the AMLO administration, remains deeply challenged in conducting the middle-layer targeting pattern for several reasons: First, the administration continues to lack both tactical and particularly strategic intelligence on the DTOs. Second, the Mexican law enforcement apparatus also remains corrupt, making it risky to sit on any piece of intelligence or asset for long enough to build up a picture of a DTO's middle layer, as any such information, including precious intelligence on prominent targets, could leak out and go cold.

Third, with partial exception of the Cartel Jalisco Nueva Generación, all of the other major criminal groups, including the Sinaloa Cartel, have been experiencing fragmentation. This means that the intelligence challenges of developing an adequate picture of the middle layer of a group, let alone a comprehensive one, are immensely magnified. Thus, for the AMLO administration to understand the complexity of the criminal market in Tijuana, for example, the security forces would have to develop a detailed understanding of more than 10 smaller groups that operate in the city and whose affiliations with the Sinaloa Cartel, the Tijuana Nueva Generación Cartel, and CJNG are not stable. The infighting within even the smaller groups constantly rearranges the middle layer.

Finally, since the intelligence phase of middle-layer targeting takes such a long time, there can be extended periods in which political leaders have no visible results to display to the public even as criminal violence carries on. In contrast, high-value targeting, though of limited effectiveness and potentially counterproductive in reactivating violence, delivers bodies that can be shown to Mexican cameras and U.S. law enforcement counterparts as demonstrations of success and resolve.

However, in its current announcement, including the details provided about the deployment of the National Guard (analyzed below), it is not clear that the AMLO administration is interested in even middle-level targeting of criminal groups. Nor has it adequately specified what exactly enforcement efforts will look like on the ground.

Pulling the military back to its barracks? Not so fast

Throughout his election campaign, AMLO rejected the use of the Mexican military for domestic law enforcement. But as soon as he was elected, he and his security advisors backtracked, declaring there was no swift way to remove the Mexican military from law enforcement functions, given the continual corruption and weakness of Mexican police forces. At the same time, they reiterated that AMLO opposes the Interior Security Law that the Peña Nieto administration passed in December 2017 and that codified the role of the Mexican military in policing roles.⁴⁹

However, despite wavering on the idea of creating a new National Guard, Mexico's new administration ultimately followed through and extensively sourced the new agency from the Mexican military. The National Guard is to be completed in three years and will ultimately be 150,000-strong, three times larger than the existing Federal Police. (Currently, Mexico's federal, state, and local police together number some 250,000 personnel.) The AMLO team has likened the National Guard to the French National Gendarmerie and the Spanish Civil Guard. Oddly enough, AMLO himself described it as akin to a United Nations peacekeeping force, a characterization that confused many, given that U.N. peacekeeping forces in general do not have law enforcement, anti-crime, and policing roles.

The AMLO administration waged an intense battle with Mexico's civil society and courts over the leadership and supervision of the National Guard. AMLO originally sought to place the Guard under the operational command of the Defense Ministry that also directs the Mexican army and air force, which was a stunning preference for multiple reasons. First, in opting not to have a civilian in charge of the new law enforcement institution, AMLO went against Mexican laws and against the wishes of Mexican society. Second, between the Mexican army and navy, the latter, which is within a separate ministry and institution, is widely believed to be far less corrupted by criminal groups. For that reason, the United States has preferred the Mexican navy as its law enforcement counterpart.

Mexican civil society has mostly condemned the creation of the National Guard, seeing it as merely codifying a policy it has long opposed—the use of Mexican armed forces for civilian policing.⁵⁰ Moreover, just a day after AMLO and his security officials presented the national security strategy, including its National Guard element, the Mexican Supreme Court struck down the 2017 Internal Security Law that has extended the use of Mexican military forces for domestic policing, including by placing policing functions under military and not civilian authority.

Ultimately, AMLO compromised somewhat and agreed to place the National Guard nominally under civilian leadership—with the top official being a civilian, but much of the functional leadership remaining under the military.⁵¹ But AMLO also got the Mexican Congress to change the constitution to allow for a prolonged deployment of the National Guard, though also agreeing to a five-year limit for the force. Whether the force will be reauthorized after that timeframe remains to be seen.

AMLO also relented on allowing members of the National Guard accused of committing crimes to be prosecuted in civilian, not military courts. Stunningly, in unveiling the National Guard, AMLO originally blamed serious human rights violations, such as extrajudicial killings perpetrated by the Mexican military, on poor civilian oversight, thereby absolving the military of its role in such atrocities. He said:

If the army and navy have experienced processes of attrition and loss of trust among the population, this has been due to orders of the civilian command to carry out repressive actions or to participate in combat tasks that are outside of their missions and not part of their functions. Soldiers and sailors have not been trained or properly empowered to prevent and investigate crimes. This lack of correspondence between preparation and mission has resulted in violations of human rights and abuses of the population.⁵²

Both AMLO and Durazo also condemned the continual lack of capacities and the high levels of corruption among Mexican police, speaking of “a decomposition” of police forces at all levels.⁵³ They took aim particularly at the Federal Police, whom the Calderón and Peña Nieto administrations and the United States made the focus of competence development and reforms. Instead, the AMLO administration denied that any significant progress has been made with the Federal Police, condemning it as lacking “discipline, training, and professionalism.” They thus blanketly discredited the efforts of the preceding administrations as well as the United States, although they did add that those very same problems, including low salaries and lack of physical and social protections, apply to Mexico’s state and municipal police forces as well.⁵⁴ Moreover, adding insult to injury and further compromising civilian authority over policing, the AMLO administration also proposed placing the Federal Police under the Ministry of Defense.

The initial contingent of 50,000 National Guard personnel is to be comprised of members of the army, navy, military police, and the Federal Police. It is to start operating by the end of March 2019, once the majority of state legislatures approve it, a near certainty given that AMLO’s Morena party controls most of these bodies. The force will receive academic and procedural training in policing, criminal law, human rights, gender issues, civil rights and protection, and first aid. With ranks on par with the (remaining) army and navy, and subject to similar hierarchy and discipline structures, the National Guard is charged with *preventing* and *combatting crime* throughout Mexico.⁵⁵ Meanwhile, until the National Guard fully materializes, at least some military units currently deployed to fight crime in Mexico will retain that role.

Mexico is to be divided into 266 regions,⁵⁶ each with a National Guard contingent as part of crime prevention and for conducting investigations, detaining and arresting suspects, and providing evidence to prosecutors and the justice system. Like at the national level, at the regional contingent level, top authority will lie in the highest-ranking civilian in a coordination committee composed of members of the federal government, the attorney general’s office, the regional military command, state and local government representatives, members of selected line ministries, and accredited but voluntary civil society members. The regional civilian head is also to liaise with national authorities in Mexico City and tailor the security strategy to the region’s local context.⁵⁷ At the same time, the AMLO administration has promised that Mexico’s 31 states will have significant control over the local actions of the National Guard.

Instituting this proposed structure could easily result in conflicts over authority and overlapping responsibilities. Ensuring effective cooperation between National Guard investigators on the ground and prosecutors will be fundamental, but could be a monumental task—the kind of problem that hampered both the Calderón and EPN administrations.

At the national level, public security policy will be administered by a security coordination committee headed by the president and composed of the Ministry of Public Safety, the attorney general's office, and the Ministries of Army and Navy, which will meet daily.

How the boundaries of the 266 regions are drawn and what logic led to the decision to have 266 of them also remain opaque. Arbitrariness and lack of operational guidelines and coherence in dividing Mexico into anti-crime zones is something the Peña Nieto administration struggled with when it created its anti-crime socio-economic "polygon" program. The personnel size of each National Guard deployment will be either 300, 450, or 600, depending on each region's insecurity classification as low, medium, or high.⁵⁸ Again, there is little explicit logic to why 600 personnel is adequate for any highly violent region: Already, in its first deployment—to Tijuana—the administration tripled that number, sending 1,800 personnel there.

The National Guard concept is highly symptomatic of Mexican administrations' approach to public safety matters over the past four decades—namely, to create new institutions or rename old ones as a way of conducting police reform and improving public safety. The establishment of the gendarmerie announced early in the Peña Nieto administration is just one example of such constant institutional reshuffling. These continual disruptions of and change to institutional reform often divert energies from the painstakingly difficult but necessary reform of existing federal, state, and particularly local police forces. The recurrent institutional and policy shifts also undermine the maturation of policy reforms. Furthermore, since the 1980s, each successive Mexican administration has relied on the military for domestic policing and anti-crime strategies in one form or another, mostly recruiting current and former soldiers into police forces and appointing high-ranking military officials to top police posts. However, that decades-long approach systematically failed to produce effective police reform and reduce crime, or increase the deterrence capacity of Mexican law enforcement and rule of law in the country.

A fundamental and bewildering problem for both the Calderón and Peña Nieto administrations was how to pull back the military from policing functions. The Calderón administration merely stated that the military would be pulled back when police forces in the area were ready, never detailing what that meant in practice. The Peña Nieto administration came in with the very same ambition as AMLO of pulling the military back, but its experiment with the gendarmerie failed to alleviate the need to rely on the military and neither the justice nor police reform efforts matured enough to produce effective police forces and prosecutorial capacities. Local police forces in particular ended up being the reforms' orphan. Instead of moving away from militarization, the EPN administration resorted to deploying almost 53,000 soldiers—a fifth of Mexico's entire military forces and the same size as the initial National Guard contingent—to Mexican streets and rural areas.⁵⁹

The transition problem will not be fully obviated by the fact that the National Guard deployments are to be permanent. Durazo is indeed correct that there is a substantial difference between prior temporary deployments of military and Federal Police forces to highly violent areas on a supplemental, temporary basis compared to a permanent deployment.⁶⁰ But integration, de-conflicting, and transition challenges still persist. At minimum, at various points, the military units operating outside of the National Guard umbrella will need to give way to the National Guard. That can easily create the same difficulties that pervaded transitions between the military, the Federal Police, and state and local police from Tijuana and Ciudad Juárez to Michoacán. A viable strategy

requires specifying under what conditions the military starts gradually pulling back. It also necessitates a plan of how and when improved police personnel are to be deployed. Ideally, such a transition would take place simultaneously with—or better yet, precede—large military pullbacks and would determine how to expand the zone of improved public safety and redeploy forces there to create ever-enlarging circles of safety. Many different possibilities of such a transition can be imagined, but they need to be specified in advance. In short, a detailed plan and intense coordination among the multiple military and law enforcement agencies is essential. Yet such a transition away from militarized police forces has remained elusive and has failed in many places beyond Mexico, such as Rio de Janeiro. Nor has there been much specification so far as to how the National Guard will cooperate and integrate with Federal Police forces that remain outside of the National Guard and state and local police forces.

The unveiled operational guidelines for the National Guard deployments remain very broad and essentially unprioritized and underdeveloped. Prevention of crime and recovering public spaces are to be core elements, as well as preventing homicides. That remains the fundamental public safety problem in Mexico, with the country registering 9,400 homicides in AMLO's first 100 days.⁶¹ To bring this number down, the AMLO administration selected 17 regions with high homicides rates, together accounting for 35 percent of all homicides in the country in 2018, where 10,200 members of the National Guard will be deployed on a permanent basis. In addition to Tijuana, these regions include cities such as Ciudad Juárez, Acapulco, Chilpancingo, Monterrey, Nuevo Laredo, Reynosa, Salamanca, Guadalajara, and Cancún.

The forces deployed there, all part of the National Guard, are to patrol neighborhoods, detain suspects, investigate crimes, set up traffic checkpoints, and establish military outposts—in other words, a very broad and unprioritized menu of possible policing tasks. The AMLO administration has said little about how the contingents will gather intelligence; prioritize local anti-crime efforts, such as by focusing on specific crimes and neighborhoods; engage in intelligence-led policing; or develop trust and cooperation of local communities. In Tijuana, where the largest deployment is heading, at least some of the military outposts will be in the most violent neighborhoods. But it remains to be seen whether the units there will engage in proactive policing or hunker down in a static garrison mode, like their counterparts at other checkpoints in the city, merely displacing crime by a few blocks. Merely going on patrols, even if alongside civilians, as has been announced,⁶² is inadequate in deterring crime and dismantling criminal groups. Active and effective prosecutions need to take place, which requires intelligence-led arrests with robust evidence.

Occasionally, Mexican cities such as Ciudad Juárez, Tijuana, and Monterrey succeeded in reducing violent crime in a limited way—mostly only in the elite business areas and prosperous city centers. How the new National Guard units will extend such success into wider city spaces or rural areas, while avoiding overstretch, also remains to be resolved.

The AMLO team has remained deafeningly silent on how it intends to proceed with police reform, including the crucial and systematically neglected need to reform weak and corrupt local police forces. Along with state police forces, the municipal police carry out most day-to-day policing. AMLO and his team's comments regarding police reform have mostly centered on increasing salaries for police officials and integrating new technologies to public safety policies, such as to create cyber police units.⁶³ The latter emphasis on technology was the core element of Calderón police reform from the beginning, at the expense of deeper institutional reforms. Increasing police salaries has been a constant

talking point of Mexican governments since Calderón, but enactment has remained elusive. In cities, where police salaries did go up (such as in Tijuana and Monterrey at various times over the past several years), the salary boosts often came at the expense of policing equipment, as the cities struggled to raise adequate funding.⁶⁴ AMLO has also affirmed that the federal authorities will collaborate with state officials on cleansing municipal police forces of corrupt officers, though what will be different from prior such efforts remains to be seen.⁶⁵

Although AMLO has remained lukewarm at best toward incorporating civil society into anti-corruption efforts, he wants to systematize the incorporation of civil society into local policing processes. That can be most useful, and in cities such as Monterrey and Ciudad Juárez, civil society has often played a key role in stimulating better public safety policies.⁶⁶ Globally, that has also been the case in places such as Sao Paulo where joint police-civil society boards promoted better policies. But the effectiveness and sustainability of civil society involvement in security policies in Mexico has been highly varied, with civil society very weak and under systematic attack in places such as Acapulco and Veracruz. To make its involvement meaningful and lasting, AMLO will need to resolutely protect and encourage civil society, even when it gives him assessments that he and his administration do not want to hear.

Peacebuilding and criminal amnesty: Transitional justice for whom?

Dubbing it “*Abrazos, No Balazos*” (Hugs, Not Bullets), AMLO’s security team has characterized this pillar of his security policy—expected to become an amnesty law—as a form of transitional justice in Mexico. It is arguably the most innovative and radical element of the AMLO administration’s security policy, with potentially profound—and challenging—implications for rule of law in Mexico. While it can help reduce violence, it also risks entrenching impunity. By focusing on criminal behavior rather than the participants in a political conflict, the proposal goes much beyond the standard conceptualization of transitional justice.

The amnesty policy is supposed to combine justice, truth, reparations to victims, and long-term reform, and provide leniency and even full amnesty to some criminals. Eligible individuals and groups will benefit by “no longer dying young and in a violent manner, having a quiet life, enjoying the possibility of legal employment, and achieving social respectability.”⁶⁷ The policy is to be based on consultation with the public, a process AMLO’s team had started already during the transition period. The amnesty is not to resemble the non-transparent, negotiated political bargain without any accountability for top-level traffickers that the PRI had enacted with Mexican criminal groups through the 1980s. Instead, AMLO’s team characterizes the policy—dubiously—as similar to what happened in the United States, specifically in Las Vegas, Miami, and Atlantic City after the repeal of alcohol prohibition in 1933.⁶⁸

However, the scope and details of this plan are still evolving. During the transition period, the amnesty was characterized as pertaining to “political” crimes and only nonviolent crimes associated with drug trafficking. Led by the Ministry of Interior, the amnesty for political crimes was to be implemented from the day of AMLO’s December 3, 2018 inauguration: “Today,” AMLO declared, “the amnesty process began to release political prisoners or victims of reprisals by caciques [local politicians operating like feudal lords], officials or governors of the former authoritarian regime. The criminal accusations fabricated against activists and social fighters will be cancelled.”⁶⁹

But no precise specification of what crimes, particularly what non-political crimes, would be eligible for amnesty has been provided to date. However, the AMLO team has at various times suggested that such crimes could include poppy cultivation and transportation of drugs (within Mexico at least), if the offender was not personally involved in violence; nonviolent drug dealing; and the provision of other nonviolent services to DTOs, such as working as a *halcone* (lookout).⁷⁰ Because Mexico is a party to numerous international treaties regarding crimes against humanity (like torture), no individual who committed such offenses would be eligible for amnesty.

In a subsequent iteration of the proposal, only members of vulnerable groups—youth, farmers, and members of indigenous groups—would be eligible. But the law would also be applicable to those already arrested and sentenced to prison for crimes now specified as eligible for leniency.

Versions of the proposal have provided that high-ranking members of criminal organizations, public officials, and military and police members would be excluded from amnesty and leniency eligibility. However, the November 2018 formal unveiling of the policy included a statement that those already sentenced under previous laws, *including* police and military officials, will be eligible to have their cases reviewed and ameliorated under a future amnesty policy.⁷¹

As of this writing, the eligibility issues remain unresolved. Nonetheless, during the November 2018 unveiling of the national security strategy, the scope of the proposed amnesty law appears to have significantly expanded eligibility in two ways: First, AMLO's national security speech suggests that not only individuals, but entire criminal groups—"persons or collectives"—would be eligible for leniency.⁷² At the same time, his top security advisor Durazo stated that instead of "hardening laws," a policy he characterized as a systematic failure, "it is imperative ... to undertake a process of pacification with criminal groups ... [in order] to put an end to armed confrontations, enable disarmament and the surrender of offenders."⁷³ Second, the new description of the amnesty law now seemed to include leniency for serious crimes as well.⁷⁴ The expansion of the latter seems almost inevitable if the former is to be made possible, as most criminal groups in Mexico will have committed serious crimes.

Such an expansion, if it were to become a law or a policy, produces a complex tangle of moral, legal, victims' rights, and rule of law dilemmas. If serious crimes by criminal groups would become eligible for amnesty, the policy could amount to a surrender of rule of law to highly violent mafia groups. Essentially, such a deal would be akin to Pablo Escobar offering in the 1980s to pay of Colombia's national debt and stop engaging in drug trafficking, in exchange for immunity. Such extreme formulations for serious crimes and for entire criminal groups would eviscerate efforts to build deterrence capacity for the Mexican law enforcement apparatus, the most urgently needed improvement. In addition, a more expansive the scope of eligibility will likely create friction with the United States, as potentially many individuals designated as drug traffickers by the U.S. government could conceivably become eligible for amnesty in Mexico.

Colombia's current transitional justice model with the Revolutionary Armed Forces of Colombia (FARC), for example, provides amnesty or reduced sentences only for the FARC's past drug trafficking associated with funding the political-military struggle. Any drug trafficking after the deal or outside of the political struggle is not eligible for amnesty.⁷⁵ And FARC leaders accused of persisting in drug trafficking after the signing of

the peace deal have already been indicted. Colombia's President Iván Duque is seeking to revise the transitional justice deal, significantly toughening punishments for ex-FARC members.⁷⁶ El Salvador's 2012-14 highly controversial government truce with the street gangs known as *maras* did temporarily, if dramatically, reduce homicides. Based on state weakness and its inability to enforce it, the deal also relegated large swaths of El Salvador to the gangs' rule and extortion and failed to bring in stable and effective government policing or legal economic development. Ultimately, the gangs were not able to maintain the truce even between themselves.

Even at the level of amnesty for individuals, many complex challenges exist with AMLO's proposed policy.

In order to qualify, an individual requesting amnesty would have to provide a full disclosure of his or her crimes, stop associating with criminal groups, participate in judicial and truth-telling processes, "unmistakably manifest repentance,"⁷⁷ testify against those who do not receive amnesty, turn over all illegally obtained assets, contribute to victims' reparations, and refrain from committing new crimes or carrying weapons. Those eligible for amnesty would also have to receive "forgiveness from persons or communities that have been affected" by their crimes.⁷⁸ A new special tribunal or institution would be created to administer the law.

Multiple challenges in implementing such a proposal immediately come to mind.⁷⁹ If the eligibility is limited to youth, who will be defined as "youth"? Would the legal age of 18 apply? If yes, the eligibility pool will be small and unlikely to cut significantly into the recruitment base of the criminal gangs. And even if the eligibility pool is beyond the age of 18, what kind of investigative capacity will a tribunal have to determine whether those applying for amnesty are fully disclosing their crimes?

The requirement that "repentance be demonstrated unmistakably" is particularly challenging, containing the high potential for arbitrary decisions by an amnesty panel. One robber, for example, may be able to convince a panel of his repentance by being a good actor, while another perpetrator of the same crime may fail to persuade the panel, even if she is more genuine in her intent to desist from such behavior. Of course, all parole boards face that problem to a certain extent, but they have the behavior of the offender in prison as an important datapoint. In global anti-terrorism deradicalization efforts and defectors' programs for militants, the future-intent credibility problem is often dealt with by establishing categories of risk: low, medium, and high. Eligible offenders or defectors are then assigned to a risk category during screening. Yet the screening tools and criteria, when specified at all, often remain highly arbitrary, opaque, and difficult to aggregate in any consistent manner, resulting in a great deal of arbitrariness and outright capriciousness in rulings—from Somalia to Nigeria and beyond.⁸⁰

The requirement that those eligible contribute to victims' reparations also requires a lot of elaboration. What kind of "repair of damage" to the victim is to be required from a gang lookout who informed associates that a kidnapping victim was approaching the ambush point? Would there be a difference in the specified "repair of damage" for the lookout if the kidnapping victim ended up being tortured or killed during the kidnapping? Most easily, any such "repairs of damage" conducted by the perpetrator of the crime (as opposed to the state paying compensation to victims or victims' families) could be financial fines or indentured labor, such as community service. Community service is the most easily available mechanism, but it of course gives little emotional redress and

satisfaction to the victims or their families. Any payments of financial compensation to the victims or their families may come to resemble the paying of blood money practiced in Islamic countries and traditional justice systems from Africa to South Asia. But such practices remain fraught with complex trade-offs and dilemmas. Moreover, it could be quite rare that the perpetrator (say, a 20-year-old *halcone* from Acapulco) will have adequate financial resources for compensating the victims adequately. All of this means that some form of community service is the readiest operationalization of the requirement that the perpetrator *contributes* to repairing the damage of his crimes. The Mexican state itself will have to pay financial compensation and provide psycho-social therapy and other assistance to victims of crime and their families. The Peña Nieto administration had promised to do so when it took office and repeatedly after, but failed to systematically carry out such a policy.⁸¹

What kind of security mechanisms will be put in place to make sure that those who avail themselves of the amnesty are not killed by other members of the criminal groups or otherwise intimidated and coerced? Violent retaliation by former members has plagued demobilization efforts of *mara* (street gang) members in Central America as well as in most civil war or insurgency contexts. Especially given the requirement of denouncing crimes of other criminal group members and testifying against them, those who would apply for amnesty will become top targets of their former colleagues. Gruesome retribution against those who cooperate with law enforcement, such as informants and their families, has been a decades-long staple of Mexico's criminal market.

The requirement that victims—individuals and/or communities—agree to offer forgiveness hardly resolves those dilemmas, even regarding the issue of victims' rights. If the scope of crimes eligible for amnesty is wide and could include extortion, robbery, or murder, many victims probably will reject such a deal. Or if such an individual basis of forgiveness were implemented, some perpetrators may be given forgiveness for the very same crime that others would be denied, perhaps even by the very same victims. How the amnesty law will resolve these issues remains to be determined. But these dilemmas suggest that a national-level forgiveness in principle is a more fruitful venue to explore.

The proposed policy also raises complex questions of precedent. The announced details of the policy, reiterated in November 2018, insist that if individuals (and presumably also a group) commit new offenses after being granted amnesty, they will become disqualified from amnesty and subject to punishments. However, this no-repetition clause, as the AMLO administration refers to it, is only a small part of the precedent challenge.

When transitional justice is employed in post-conflict settings or during regime transitions, there is a presumption that a particular era of rights' violations and violent conflict has come to an end and will not be repeated. But that is not the case in Mexico: the country will continue to face violent criminality—frequently at an intense level—for a long time to come. In these circumstances, why should nonviolent drug dealing committed before the amnesty law comes longer be eligible for amnesty a year later? And why should potential perpetrators not assume that even if they commit the amnesty-eligible crime *after* the expiration of the leniency timeframe, they will not eventually find a way to also get amnesty? How will the time-constrained amnesty law be made consistent with deterring impunity, the crux of Mexico's rule-of-law problems?

Similarly, why is the act of corruption that AMLO wants to prosecute with an iron fist a greater violation than, for example, theft? After all, both are forms of robbery, yet theft appears to be eligible for amnesty within the current outlines of the proposed policy. Perhaps the eligibility distinction will be based on whether the perpetrator is a member of what the AMLO administration will define as marginalized sectors. Nonetheless, if group-level amnesty is offered to drug trafficking groups—many of whom will have inevitably committed homicides—while government corruption would not be eligible for amnesty, the policy becomes all the more questionable.

A second and related subcomponent of the peacebuilding pillar is the announced creation of a Peacebuilding Council, which is to mediate conflict at the local level and be staffed by three government representatives, three civil society members, a “guest” from the Human Rights Commission, and a U.N. observer.⁸² What kind of authority relationship the Peacebuilding Councils will have with the National Guard’s regional deployments, with local government authorities, and with the national government remains to be clarified. Yet obvious tensions between the Peacebuilding Council and the National Guard will come up: such as when the Council should seek to mediate with the perpetrators of violence or local anti-crime militias, some of whom are engaging in extortion and robberies, and when the National Guard should seek to forcefully prevent them from further violence and arrest them.

In addition to mediating local conflict, the Council is also to perform a public relations function: namely, to follow up on citizens’ forums and requests for “pacification” as well as promote a public policy message in media and schools that “peace is possible and that it is morally, socially, politically, and economically superior and preferable to violence.”⁸³

Getting prison reform right?

The amnesty policy is an important corollary to AMLO’s envisioned prison reform, which is another pillar of his national security strategy. A crucial element of AMLO’s strategy is to decrease the prison population, reversing a trend that began under the Calderón administration. That objective is a means toward multiple larger goals, including human rights protection, peacebuilding, and addressing root causes of criminal violence in Mexico, as well as tactical objectives, including improving conditions inside Mexico’s corrections facilities.

A second key aspect of AMLO’s proposed corrections system reform is to “recover prisons” from being controlled by mafias and prevent sentenced individuals from “ending up buried in decomposition and cruelty.”⁸⁴ Toward that end, the AMLO administration plans to separate inmates in preventative custody (i.e., those awaiting trial) from the general prison populations and improving conditions inside women’s prisons.⁸⁵

Like police reform, prison reform has been part of Mexico’s security policy since Calderón and before. Mexico’s prisons had long been overrun by criminal gangs that dictate life inside: They abuse other prisoners, including systematic and pervasive rape and murder, use prisons for recruitment, and engage in extensive violence, including with firearms. They also often operate their criminal ventures from prisons to the point that criminal bosses freely go in and out of prisons and criminal gangs can leave prisons *en masse* to conduct high-profile assassinations and massacres.⁸⁶ Both large-scale prison breakouts, involving dozens of prisons at a time, continued throughout the Peña

Nieto and Calderón administrations.⁸⁷ And of course, the escape of Joaquín “El Chapo” Guzmán, the world’s most notorious drug trafficker, generated headlines around the world and added to El Chapo’s power and glory. The levels of collusion, co-optation, and corruption of Mexican prison authorities have been notoriously high.⁸⁸

The Calderón administration focused prison reform principally on building more prisons. But at the same time, it kept flooding them with new prisoners, as tens of thousands of people were arrested, many low-level foot soldiers of the criminal gangs. The Peña Nieto administration sought to increase government authority over prisons. Assisted by the United States, it sought to raise the standards of prison control to a level that would achieve international accreditation.⁸⁹ Prisons with such accreditation have by and large seen significant improvements in prison authorities’ control over the inmate population. However, human rights organizations have complained that prisoners’ human rights have been systematically violated as a result (though obviously, they are also egregiously violated when prison gangs run the prisons).⁹⁰ The AMLO administration will now seek to maintain, expand, and improve control over corrections facilities while also protecting prisoners’ rights.

Socio-economic policies to combat crime: Getting it right the third time?

An effort to decrease inequality in Mexico and enhance the socio-economic conditions of the country’s less privileged citizens animates AMLO’s entire government vision and is also reflected in his security strategy. Not surprisingly, a socio-economic component is thus a fundamental core of the policy—part of the 80 percent thrust of the strategy—and listed as the second pillar of his strategy after anti-corruption efforts. This economic inclusion pillar supports plans to combat poverty and marginalization through guaranteed employment, education, welfare, health care programs, reforestation, and infrastructure development, particularly in Mexico’s underdeveloped south.⁹¹ Among them are financial support for small businesses, improvements to energy and telecommunications infrastructure, and a new oil refinery in Tabasco.⁹² Through the use of a referendum organized by his party and with minimal popular representation, AMLO has pushed through an environmentally questionable Mayan train to connect Campeche, Chiapas, Quintana Roo, Tabasco, and Yucatán.⁹³

Well-designed, well-resourced, and well-implemented socio-economic efforts sustained over a long period are a vital element of an effective anti-crime strategy, particularly in Mexico. The AMLO administration is correct to incorporate this element into its security strategy.

However, it is not yet discernable what such programs will look like on the ground. Worrisomely, it is also not yet clear whether there will be any programs specifically targeting ex-criminals or vulnerable populations, such as in slums, or whether AMLO’s general socio-economic policies will produce sufficiently robust anti-crime effects. AMLO’s broader commitments to increase scholarships for students and devote billions of dollars to job training and other programs for unemployed youth may well have positive effects on suppressing criminality.⁹⁴ Indeed, these programs are explicitly meant to “significantly reduce the social base that may have generated crime and restore the confidence of individuals in the collective.”⁹⁵

But at the same time, there are good reasons to be skeptical that economic growth or even poverty reduction programs systematically and robustly reduce crime on their own. For example, the economic growth and greater economic opportunities available through North American Free Trade Agreement (NAFTA) between 2014 and 2018 were not associated with greater resilience to crime in the communities that benefited strongly from NAFTA's job generation, such as Tijuana, Monterrey, and Ciudad Juárez. NAFTA's *maquilas* (factories in Mexico run by foreign companies and exporting their products to the companies' countries) generated jobs, income, and migration of people from other parts of Mexico to the *maquila* locations along the border with the United States. But the socio-economic shifts also came to be associated with social and physical dislocation and weakening of the social fabric in Mexico's north, such as by producing slums without public goods and communities disconnected from their neighbors.⁹⁶

Clearly, those benefiting from the proposed crime amnesty plan should be prime targets for receiving assistance in obtaining legal livelihoods to reduce recidivism. However, the need to assist demobilized and amnestied criminals often creates moral hazard and community resentment problems: Those who committed crimes (or joined violent political actors) are to receive more state assistance than non-participants and victims.⁹⁷ To be effective, the AMLO administration will explicitly need to design poverty-mitigating measures into its policy designs.

At the same time, designing and implementing effective *targeted* anti-crime socio-economic programs, beyond broad economic development measures or limited policy handouts, has also been excruciatingly hard in Mexico.

Seeking to differentiate its security strategy from the Calderón administration's approach, the Peña Nieto government at first also strongly embraced socio-economic and cultural policies to combat and prevent crime.⁹⁸ Funded at 2.5 billion pesos (approximately \$190 million) in 2013 on top of line ministry funding, the crime prevention program—the National Program for Social Prevention of Violence and Delinquency (Programa Nacional para la Prevención Social de la Violencia y el Delito, PRONAPRED)—was implemented in 57 specially selected zones called *polígonos* (polygons).⁹⁹

However, just as with other components of Peña Nieto's security strategy, its socio-economic crime prevention approaches left much to be desired in their operationalization and implementation. Putting aside the fact that the Calderón administration, with U.S. prodding, ultimately also came to embrace such socio-economic approaches and crime prevention (namely, in the *Todos Somos Juárez* program), and that Mexican states and cities were adopting such policies before Peña Nieto was elected (such as in Monterrey's *Colonia Independencia*), the theory, implementation, and monitoring parameters of EPN's national crime prevention strategy were not adequately worked out. At first, the focus was almost exclusively on the cultural aspects of the programs, such as its music, extracurricular activities, and the psychological problems of Mexico's youth, such as attention-deficit disorder. But the approach left unaddressed how these youth programs and cultural efforts were to interact with local and national policing.¹⁰⁰ Later on, numerous socio-economic initiatives were included—from distributing glasses to school children to various vocational programs. However, the Peña Nieto administration never effectively resolved precisely which socio-economic programs with public benefits would qualify to be included, nor what their expected specific anti-crime impact would be. Also unspecified were the questions of when and how these wide-ranging elements were supposed to reduce violent crime. Policies that kept kids off streets and prevented

gang recruitment seemed effective, but even they were highly contingent on security and presence of DTOs in a particular area. Legal job creation, was consistently the most elusive goal. Critically, the programs were never well integrated with local policing. And by 2016, the funding ran out.

Before launching such new programs, the AMLO administration would do well to study carefully the successes and failures of the *Todos Somos Juárez* and the *polígonos* programs.

The impact of drug legalization and licensing on public health

In unveiling the national security strategy, both AMLO and Durazo explicitly condemned the war on drugs and argued that drug prohibition is one of the causes of violence in Mexico.¹⁰¹ López Obrador characterized current drug prohibition as “discretionary and arbitrary” since it applies to “cocaine, marijuana, heroin, methamphetamines, and lysergic acid,” but not to “alcohol, tobacco, beverages containing taurine and caffeine or the free consumption of certain antidepressants and sleeping pills.”¹⁰² That is in fact a frequent talking point of those who advocate drug legalization, but it rather preposterously glosses over the fact that the effects of caffeine addiction are radically different from those of heroin or meth addiction. López Obrador opines further that “[s]uch a ban is ineffective from the point of view of public health and stimulates drug trafficking.”¹⁰³ But ending drug prohibition in Mexico would have “unavoidable international implications because Mexico is the neighbor of the United States, the largest drug market in the world.” Consequently, AMLO argues that the “only realistic” way to reduce drug use is to redirect U.S. resources for the war on drugs toward “massive, but personalized” detoxification, rehabilitation, and reintegration of drug addicts into society.¹⁰⁴

Since the announcement, the AMLO administration has already requested that the United States re-allocate its budget for anti-crime programs in Mexico toward drug treatment. Such a reorientation is not to the liking of the Trump administration, which has adopted a 1980s tough-on-drugs approach to drug supply and consumption, centering on incarceration of users and dealers.¹⁰⁵ Nor is such a budgetary shift—however desirable and badly needed to strengthen treatment assistance and prevention in Mexico and the United States—necessarily easy even with the new Democratic majority in the U.S. House of Representatives.

Along with potential for amnesty for farmers who cultivate drug crops, the AMLO administration intends to explore legalizing the consumption, production, and sale of marijuana,¹⁰⁶ and the licensing of poppy for medical purposes. AMLO has stated, for example, that “regulation of currently prohibited narcotics”—in other words, their legalization—will reduce the level of addiction and violence in Mexico as criminal groups lose profits and political capital.¹⁰⁷ Just before assuming the position of the secretary of interior in the AMLO administration, then-Senator Olga Sánchez Cordero submitted a bill to legalize the production and use of marijuana for recreational purposes, arguing that such legalization will be “a major contribution to bringing peace” to Mexico.¹⁰⁸

In February 2019, the Mexican Senate released a report detailing how various jurisdictions around the world regulate cannabis sales. Without providing explicit recommendations, the report explores potential regulatory measures such as product labeling, measures to manage retail, which methods of consumption to legalize, and whether to set prices on the basis of tetrahydrocannabinol (THC), the chemical compound in *cannabis* producing

euphoric highs, and potentially limit THC content. The Senate report also suggests that legalization efforts should prioritize the interests of communities engaged in nonviolent drug activities due to poverty, marginalization, and lack of opportunities—for instance, cannabis farmers and nonviolent users and dealers.¹⁰⁹

Mexico's Secretary of Public Security Alfonso Durazo has argued that legalization is very much part of the AMLO administration's strategy to reduce violence in Mexico and that even if the legalization of some prohibited drugs is not enough to eliminate all violence, "the regulation of some narcotics currently banned would put to an end one of the central motors of the violence, insecurity, and extended deterioration of the rule of law."¹¹⁰

Such statements suggest a radical diminishing of drug eradication in Mexico under the AMLO administration. That is not surprising, as farmers in Mexico's south, including in Guerrero and Michoacán where poppy cultivation is intense, have long been key AMLO supporters. Between 2016 and 2017, the Mexican government reported eradicating 29,692 hectares of poppy, an improbably high number given the total estimated area of cultivation of 30,600 hectares,¹¹¹ even given that most poppy farmers cultivate more than one poppy crop a year. Nonetheless, whatever level of eradication actually did take place, it mostly exacerbated local insecurity and violence and compromised human security of poppy farmers.

In fact, premature eradication has been ill-conceived and counterproductive in Mexico and there many good reasons to stop it. The cultivation of illicit crops in Mexico employs thousands, perhaps tens of thousands. Poppy cultivation is among the most labor-intensive illicit economies, enabling those who sponsor it—whether insurgent groups or organized crime groups—to obtain extensive political capital.

Eradication efforts in poppy areas have severely complicated the efforts of the Mexican military and law enforcement forces to pacify festering Michoacán and Guerrero—to rid them of the rule of violent organized crime and abuse of unruly militias, and hopefully for the first time bond its residents with the Mexican state.

Even though reducing premature eradication may provoke the ire of the Trump administration, it is an appropriate policy. The Trump administration has resurrected forced eradication as a hallmark of its anti-drug policies, for instance making strong demands on Colombia.¹¹² It also holds that the core of the U.S. opioid epidemic is the drug supply from and through Mexico, not the policies of U.S. pharmaceutical companies and their capture of oversight institutions.¹¹³

The intensification of opium poppy cultivation in Mexico is indeed deeply intertwined with the U.S. opioid epidemic, but the causality is reversed. In fact, it was the U.S. opioid epidemic that stimulated the expansion of poppy cultivation in Mexico.¹¹⁴

The fact that the AMLO administration wants to focus on providing alternative livelihoods is a positive development: Many previous Mexican administrations rejected such efforts. Other administrations sought to promote communal logging, fishing, tourism, and legal agriculture, but often in an ineffective top-down manner. Moreover, powerful local politicians and businessmen often usurped the resources meant for marginalized farmers, contributing to the persistence of dire poverty.¹¹⁵

But the AMLO administration's approach to legal livelihoods leaves many questions unanswered and should give rise to some skepticism. The AMLO administration wants to champion various agricultural support measures for farmers in Mexico, including, but not exclusively for poppy farmers, particularly through a food security program. In a visit to Guerrero in January 2019, López Obrador promised to provide price support for grains, setting the price of a ton of corn at \$300, as a way to dissuade farmers from cultivating opium poppy. Such a price would be competitive, given that the significant expansion of poppy cultivation in Mexico and the rise of Chinese fentanyl have reduced the price of Mexican opium to some \$260 per kilo, about a fifth of the price compared to two years ago and often not enough for survival.¹¹⁶ The likelihood that synthetic opioids, whether produced in China, India, or eventually Mexico, will continue to dominate the U.S. market also bodes well for long-term price competitiveness of alternative crops. But even if opium prices do not rise again, \$300 per ton of corn is nowhere near adequate to help marginalized Mexican farmers escape poverty and profound food insecurity.

Moreover, profitability is usually not the most significant factor influencing farmers' cropping decisions. Access to land and stable land titles, availability of microcredit, effective value-added chains, such as processing plants and exporting capacities, and good physical infrastructure for transportation and processing all critically determine the viability of alternative legal livelihoods. Poppy also outcompetes many other crops in its ability to grow in areas of poor soil, inadequate water, or difficult climate, even though it produces greater opium yields of higher potency under better conditions. In many areas of poppy cultivation, legal crops will likely not be viable. Crucially, good local security is a fundamental factor enabling the takeoff of legal livelihoods.¹¹⁷

Not surprisingly, many Mexican poppy farmers support legalizing poppy cultivation for medical purposes, a proposal the AMLO administration is exploring and is supported by former Mexican politicians, many Mexican think tanks, and even some members of the Mexican military.¹¹⁸ But poppy licensing is not an easy proposition: In fact, it is a complex and difficult policy to implement, and its effects on both violence and rural development are highly contingent.

For a licensing scheme to take place legally within the current counternarcotics regime, underpinned by the 1961 Single Convention on Narcotic Drugs, two particularly difficult issues would have to be addressed—preventing the diversion of licensed opium into the illegal drug trade and assuring sufficient legal demand for Mexican opium. Mexico could of course withdraw from the treaty and attempt to re-accede to it with exceptions for its opium market.

Preventing the diversion of licensed opium into the illegal drug trade would be extremely difficult in Mexico, given the lack of security and the lack of state presence in large parts of the country. “The concentrate of poppy straw” method avoids the collection of opium gum and hence minimizes the chance that the opium could be converted into heroin. Its adoption in Turkey successfully prevented the leakage of licensed opium into the illegal trade there.¹¹⁹ On the other hand, the failure to adopt this method in India has contributed to an estimated 25 percent of licensed opium making its way into the illegal trade.¹²⁰

Paradoxically, however, the adoption of the concentrate of poppy straw method would also reduce the labor-intensiveness of harvesting opium, thus reducing the number of farmers who could be employed in legal licensed production. But farmers who are not

granted a license, including because there are too many applicants, could simply shift production to new areas, as poppy cultivation does not require much arable land. And even if all existing farmers are given a license and adopt the poppy straw method, new growers could start illegally cultivating opium poppy for heroin production.

A licensing scheme crucially depends on intensive and effective law enforcement, unless, undesirably, all U.S. opiate users switch to 100 percent fentanyl. But in the highly violent *tierra caliente* of Michoacán and Guerrero where many Mexican DTOs, local criminal groups, and assorted militias operate and state presence is poor and corrupt, it is not clear how even basic monitoring of cultivation and diversion could take place. A robust policing plan in those areas was elusive for both the Calderón and the Peña Nieto administrations, despite the deployments of thousands of military and federal police forces to those states.

The second key issue is how to ensure adequate legal demand for the opium produced in Mexico. A study by Le Cour, Morris, and Smith estimates that Mexico currently imports and consumes only 0.7 tons of morphine, which would be satisfied by a mere 0.73 percent of Mexico's current production of illegal opium and perhaps not even produce sufficient income for one single village in Mexico.¹²¹ Of course, as is typical in much of the developing world, Mexico likely severely undertreats pain. A recent study, for example, claims that Mexico actually needs 20 tons of morphine per year to treat *chronic* pain, a demand that could absorb some 20 percent of Mexico's illegal opium production.¹²² But Mexico should avoid resorting to opioids for treating chronic pain, unlike severe short-term pain and the pain of terminally ill patients. Mexico should learn the bitter lesson from the United States that prescribing addictive opioids for chronic pain is a sure path to widespread and deadly addiction.¹²³

Mexico could instead or in addition seek to cultivate external markets for its morphine and other opioids, if it manages to address the difficult international requirements and compete with many other global suppliers of medical opioids. The legal, regulatory, and business competition challenges are significant.

Nor will marijuana decriminalization and the legalization of poppy for medical purposes defund criminal groups. Without robust state presence and effective law enforcement, there can be little assurance that organized crime groups would be excluded from the legal drug trade. Already, Mexican criminal groups extort all kinds of legal businesses, including mining and logging companies, avocado farmers, gas stations, and retail shops—most extensively in Michoacán and Guerrero. At best, such policies will simply shift the operations of criminal groups into other domains; at worst, they will continue the legal production of marijuana and poppy as well as the taxation and extortion of legal businesses, such as avocado cultivation. If Mexico wants to legalize drugs, the sequence needs to be the opposite: first deliver effective rule of law to areas of production and beyond, build effective law enforcement and justice deterrence, and only then will the legalization of drug production reduce violence and criminal control.

Even then, Mexico will have to grapple with drug addiction: While public health approaches for drug use are badly needed, assuming that legalization will *ipso facto* reduce drug addiction is foolish at best, since such policy outcomes are enormously contingent on many institutional, regulatory, and cultural factors.¹²⁴ The likelihood is in fact the opposite. Mexico would do well to study carefully the U.S. opioid epidemic.¹²⁵

Reversing the AMLO administration's silence on self-defense forces and militias

The persistence of self-defense forces, in fact militias, in Mexico—featuring their mutation, frequent co-optation by criminal groups, powerful politicians, and businessmen, and intense antagonism toward Mexico's law enforcement forces—remains a massive under-recognized challenge with profound long-term implications for rule of law and state capacity in the country. Yet the AMLO security team has remained mostly silent on the issue.

In 2018, at least 29 such militia groups operated in Michoacán, which AMLO's Secretary of Public Security Alfonso Durazo Montaña designated as a priority state, but did not specify plans for the militias. The self-defense forces meanwhile continue to mobilize, organize armed protests, and issue warnings against rivals as well as state authorities. When government authorities seek to arrest some of their members for alleged crimes such as extortion, murder, or illegal possession of arms, the government forces often fail and back off for fear of a major violent confrontation.

Finding an effective and resolute counter to the militias may turn out to be a particular challenge for AMLO. On the one hand, at least some members of the militia groups, particularly from among indigenous populations, may qualify for the proposed amnesty law. But what if they do not show any interest in amnesty, as was the case with militia forces in Cherán, Tancítaro, and Guerrero when Peña Nieto offered to combine some of Michoacán's militias into a state-sanctioned police paramilitary branch?¹²⁶ What about groups, many in Michoacán, that accepted the deal, but violated it and continue to act extralegally and illegally and refuse the authority of the state? What about the overlap of the self-defense groups with other militia groups involved in land theft and ethnic rivalries among indigenous groups in Chiapas? An effective response requires resolutely punishing violators, securing lasting prison terms for them (elusive up to now), and disarming and dismantling the group. AMLO, who defines himself as an insurgent politician fighting for the rights of indigenous and down-trodden Mexicans, and himself practicing politics of boycotts, protests, and extralegal behavior for decades, may be very sympathetic to such groups and their methods.

Beyond responding to the militias, one of the biggest challenges for improving rule of law and public security in Mexico paradoxically lies in AMLO himself. A rebel politician defining himself as someone who will fight and conquer Mexico's "mafia of power" and bring about a fourth revolution in Mexico, AMLO has shown a significant dislike of institutions. An individualistic governing style that disregards institutions bodes badly for the country. Mexico's rule of law needs to be strengthened, not disparaged and weakened, for the country to turn the corner away from criminality and insecurity. While many of the incoming AMLO administration's security strategy elements have real merit, even as they need to be refined and operationalized, an emphasis on institutional development is critically lacking.

Long overdue human rights protections

Well aware of societal dissatisfaction with human rights abuses perpetrated during the Calderón and Peña Nieto administrations, often with indifference or the outright complicity of government officials, AMLO promised to center his national security strategy around human rights protection. The third pillar of his security strategy insists that government forces will never be allowed to kill, disappear, or torture anyone and that

all human rights claims will be diligently investigated and prosecuted.¹²⁷ This includes proposing a new law to make it a criminal offense for government officials to ignore recommendations issued by the National Human Rights Commission or state-level human rights commissions, a modest but potentially effective accountability tool.¹²⁸ The commissions and such a new law will be further empowered by separating them from governors' offices and appointing their officials independently—not by governors. Ironically, however, AMLO has resisted building such independence into national level justice and rule-of-law appointments, such as the appointment of the attorney general or the chief anti-corruption prosecutor. It is also not clear why at the Peacebuilding Council, human rights commission representatives should be only guests, and not equal members.

Other elements include providing human rights training to military, National Guard, and other law enforcement forces. A culture of human rights is to be promoted by mandating that human rights assessments are included in all government study plans and public information campaigns.¹²⁹

In February 2019, the AMLO administration also unveiled a plan to search for Mexico's 40,000 missing people, identify the 26,000 bodies at coroners' offices, and fully examine 1,100 clandestine graves.¹³⁰ In addition to working with relatives and local NGOs, the administration plans to better implement the law on disappearances, empower the National Search System database, and establish the National Forensic Identification Institute. The priority is to search for people still presumed alive.

In describing the National Guard element of his policy, AMLO has called for the participation of civil society, human rights groups, and U.N. observers, with the regional committees to be established when the National Guard is deployed. That is a welcome change from the attitude of previous administrations, particularly if their participation will be protected, mandated, and imbued with equal power within the coordination committees.

But this initiative needs to be reinforced by the change of AMLO's own attitude toward civil society and media, both of which he had previously defined as his enemies and accused of malfeasance. Moreover, AMLO's announced plan to cut government advertising expenditures by 50 percent could severely negatively affect Mexico's violence-battered media, as they are highly dependent on government advertising revenues.¹³¹

AMLO has also promised to recognize the jurisdiction of the International Criminal Court (Mexico is a participating member already) and allow the court to prosecute crimes against humanity in Mexico.

As part of his emphasis on human rights, AMLO has focused on paying special attention to the rights of minors, women, indigenous communities, migrants, and people with disabilities.

AMLO has also committed himself to releasing all nonviolent political prisoners and protestors.¹³² On the one hand, such a position sounds most appealing, since arguably many such individuals should have never been imprisoned in the first place. However, in the context of Mexico's widespread impunity, this policy also gives carte blanche to protestors, such as teachers' unions that shut down traffic across Mexico to avoid reforms, extort contributions (often under the threat of violence) from any passerby, or define not paying fees for water and electricity as forms of resistance, rather than theft.

The latter are of course policies that AMLO has embraced, promoted, and advocated many times himself. For example, in Tabasco, where he unsuccessfully ran for governor, AMLO encouraged residents not to pay for their electricity bills to protest poor access and high costs.¹³³ Yet the outcome has been two decades of widespread refusal to pay for electricity, leading to the persistence of delivery, coverage, and price problems. Moreover, this culture of nonpayment also spread to not paying taxes for land and water bills. That record bodes poorly for AMLO's signature promise to protect Mexico's water resources and reform its water distribution—the core deficiencies of which are widespread industry, farm, and individual violations, and massive failures to pay for water.¹³⁴ And it is of course fully inconsistent with his anti-corruption drive that centers on increasing the payment of taxes and reducing tax avoidance.

In short, while extensive prison terms for nonviolent political protestors are a bad policy, so is encouraging systematic violations of contracts.

Revitalizing societal ethics

Linked to the issue of human rights, but emphasized as a separate point is the fourth pillar of AMLO's national security plan: the “regeneration of societal ethics through the creation of a Moral Constitution.”¹³⁵ Still a vague element of the national security plan, this pillar calls for the establishment of a “constitution,” in which the government functions and is seen by society as “more honest and respectful of individual freedoms” as well as “austere, transparent, and sensitive to the rights of the weakest.”¹³⁶ The Moral Constitution is not to be a legal document or “an attempt to regulate private life, it's not a pretext to build an authoritarian model of government.”¹³⁷ While “the Moral Constitution does not intend to impose behaviors or values on anyone,” it seeks to “offer guidelines for coexistence between individuals and duties to the community.”¹³⁸ Rather it is to be a “catalog of principles and moral values that guide” public officials, the private sector, trade unions, and society in general.¹³⁹ In turn, society is to become less alienated from the government and state—a change in the definition and implementation of a basic social contract that Mexico badly needs.

AMLO defines this “moral regeneration” as “a means and a purpose of the Fourth Transformation,” which he also calls “revolution,” in Mexico.¹⁴⁰ Arguing that “violence cannot be faced with violence, fire cannot be put out with fire, and evil cannot be confronted with evil,” López Obrador has also called for “refocusing family values” and for responding to “evil with good,” such as by addressing the root causes of violence and promoting social inclusion. Violations of these principles in Mexico, including widespread “poverty, marginalization, and the regular denial of basic rights and the lack of self-realization horizons” stemming from the suppression of social mobility, have “generated a social resentment.”¹⁴¹ This extensive social alienation is a key driver of “the crisis of values and coexistence” and a component of the outbreak of crime and violence in Mexico.¹⁴²

AMLO, however, blames the social alienation not only on the inadequate implementation of an inadequate social contract, but also on neoliberalism that has oriented society “toward a culture of individualism, competition, consumerism, and the idea of material success as supreme values.”¹⁴³ Thus the government also intends to promote the study of civics and ethnics in schools and official government communications.¹⁴⁴

CONCLUSIONS AND RECOMMENDATIONS

With good reasons Mexican citizens are exasperated with the country's unrelenting violence and extortion and demand that their government deliver public safety. The new AMLO administration has put forth some innovative and important ideas, even as many details are yet to be clarified and many aspects of the new strategy remain questionable and outright problematic.

The new administration is also feeding high expectations about how security will improve. Even before the launch of the national security strategy in November 2018, AMLO's top security advisors promised, for example, that the administration would reduce the nationwide homicide rate from the current 25 per 100,000 to four per 100,000 by 2021, essentially pledging to fully restore peace and security in three years.¹⁴⁵ Such a massive drop in homicides has rarely, if ever, been achieved anywhere in such a short amount of time.¹⁴⁶ Moreover, the policies put forth say very little about how to reduce homicides, nor do they apply to homicides specifically. For example, the expected amnesty law is unlikely to be available to murderers, unless applied to entire criminal groups, which raise questions of precedent and impunity. Socio-economic policies will take much longer than the three-year timeframe to produce results. No concrete targeting or policing strategy has been articulated, and the proposal of going after violent crimes while not focusing on drug trafficking groups that perpetrate those crimes to a significant extent contains obvious contradictions. It is also worth remembering that the EPN administration similarly committed itself to a 50-percent reduction in homicides in its first year, but ultimately presided over a record-breaking growth in homicide rates.

The López Obrador administration is fundamentally correct in its central assumption that the primary objective of a national safety strategy in Mexico, as everywhere else in the world, needs to be that reducing violence should take precedence over and shape policies toward drug trafficking. But it is naïve in its expectation that reducing violence can be accomplished without focusing on drug trafficking and, more importantly, by not focusing on drug trafficking groups. Mexican DTOs are key perpetrators of violence—whether homicides, extortion, intimidation, or robberies. Instead of defining policies in such unhelpful and facile dichotomies, the AMLO administration can sharpen and improve both of its stated policies and others through a number of steps.

Making interdiction more strategic, instead of giving up on it

Police actions against Mexican criminal groups must move beyond non-strategic, non-prioritized, and opportunistic high-value targeting. The most dangerous groups should be targeted first, with an eye toward local stability. Targeting plans should be based on robust assessments of what kind of violence law enforcement actions will trigger. Plans to mitigate and prevent such outbreaks of violence following law enforcement actions, such as through force repositioning, must finally become part of strategic analysis and law enforcement practice.

Prioritizing targeting of the Cartel de Jalisco Nueva Generación provides a good opportunity for U.S.-Mexican cooperation, as the group is a threat to both countries. The group is currently the most aggressive cartel in Mexico, and the government should want to deter other groups from behaving violently. The United States also wants to prevent the cartel from bringing its violence across the border and remain as peaceful in fentanyl smuggling in the United States as the Sinaloa Cartel.¹⁴⁷

The U.S. government can help Mexican authorities target Jalisco Nueva Generación in Mexico and it should also go after its operatives in the United States. But the United States can and should prioritize targeting of fentanyl distributors more broadly, particularly the most unscrupulous ones who lace fentanyl into drugs without disclosing it to their users.

So far, the AMLO administration has not discussed what it intends to do about fentanyl smuggling through Mexico or the production of methamphetamines. In fact, if anything, it has indicated that it does not want to focus on combatting drug trafficking at all. Such a black-and-white policy is unwise, however. Mexico should be worried about the trafficking of fentanyl through its territory, especially because over time this could lead to the establishment of extensive fentanyl production in Mexico (not the case now), as well as a fentanyl and synthetic drug epidemic in Mexico that would bring incidences of deadly overdoses.

Moreover, cooperation in suppressing fentanyl smuggling provides Mexico with the easiest venue to maintain counternarcotics cooperation with the United States, instead of fully rupturing cooperation on drug control. Unlike suppressing heroin production, it does not involve confrontations with poor drug farmers. And it merges suppressing drug trafficking with suppressing the most violent and aggressive group—the CJNG.

Switching to Middle-layer targeting of criminal groups

Interdiction should shift away from predominantly high-value targeting, as security officials of the new administration have stated. But they need to articulate what the new policy will be—at least once they become disabused of the notion that they can avoid targeting drug-trafficking groups. An effective policy would be to switch to middle-layer targeting. This may seem a marginal technical change; in fact, it has profound positive implications, particularly if much of the middle layer can be arrested in one sweep, by mitigating the chances that new violence will break out.

That does not mean that leaders of criminal groups should be given a free pass. Both for public safety and normative reasons, they need to be brought to justice. However, simply removing them from the chain of command without arresting the middle layer underneath them will allow groups to regenerate quickly and will exacerbate the debilitating violence.

Keeping law enforcement focus on areas with resurgent violence

The AMLO administration should commit to working diligently with localities where violence had previously declined and has risen again, such as Tijuana and even Ciudad Juárez. The federal Mexican government and the United States should work with local authorities to deepen police reform and institutionalize the rule of law in those areas. Working with federal officials, local officials and eventually local National Guard contingent committees should analyze why violence has risen again and how to respond proactively and strategically to end the escalation as fast as possible. The Mexican federal government must also analyze why violence has been expanding to many parts of the country that have been peaceful until now and how to reinforce the stabilization dynamics by strengthening law enforcement and the rule of law.

Developing a gradual concentric circles strategy to transition from policing by the military

Ending the military's role in policing should take place gradually, after a period of overlap with local law enforcement units—whether they are from the National Guard or reformed federal, state, and local police forces. A unified plan of gradual transition needs to be created for each area. The transition should take place in concentric circles of ever greater areas of security, analogous to a classic counterinsurgency ink-spot strategy. The creation of the National Guard does not obviate the need to detail a transition plan. The fact that many of its initial members will be from the military does not mean that such transitions will be smooth and easy: They need to be planned and detailed, just as one military unit needs to plan for the rotation of another unit into the area it has been securing. Moreover, the National Guard will presumably operate at least in some ways fundamentally different than the military. What this will look like on the ground during after the transition is something that needs to be planned for in advance.

And the National Guard will equally need to learn how to de-conflict and cooperate with existing local, state, and federal police forces.

Resurrecting momentum on police reform

In order to strengthen the deterrence and response capacity of its law enforcement, the AMLO administration also needs to double down on police reform. The creation of the National Guard should not be a substitute for serious police reform, which must go beyond increasing salaries. It must include enhancing police capacity and protocols, strengthening vetting and reducing corruption, adopting proactive and knowledge-based policing methods, achieving a sufficient density of permanent beat deployments, and developing local knowledge. Finally, undertaking a deep and robust reform of Mexico's local police forces is a must. That includes strengthening both their capacities and accountability.

Strengthening law enforcement deterrence and doubling down on justice sector reforms

As important as police reform is prioritizing the reform of the justice system. A core goal must be to increase effective prosecution rates by enhancing the capabilities and cooperation of prosecutors, judges, and local law enforcement officials. This must include training for the new National Guard, but not at the expense of neglecting to strengthen the evidence-gathering capabilities of police forces at all levels. More training needs to be provided to judges as well as prosecutors and attorneys, but their independence from political pressures needs to be better protected. Building up a strong and independent prosecutorial force is particularly vital.

Fostering and implementing the justice sector reforms initiated by the Calderón administration is vital. The AMLO administration should not allow those reforms to be reversed and prevent politicians from blaming the lack of adequate law enforcement capacity in Mexico on the new reforms.

Integrating and sustaining anti-crime socio-economic interventions

Socio-economic measures often are a crucial element of effective anti-crime strategies. AMLO is right to embrace them. But they need to be better designed, specifically toward the objective of reducing crime, instead of merely assuming that any and all socio-economic policies meant to increase inclusion and reduce poverty will produce adequate anti-crime effects. But the logic and mechanisms of specific socio-economic anti-crime projects should be articulated and clarified, as well as subject to careful evaluation and monitoring. The projects need to be better connected and integrated with one another across domains, and not isolated programs. Assessments of cross-boundary dynamics and interactive processes across areas of intervention should be built into the projects' designs. Starting with an evaluation of past successes and failures is a must. And the anti-crime socio-economic policies need to be sustained and fully integrated into local law enforcement efforts.

Beyond robust funding, monitoring, and adaptation in response to evaluation, this requires moving away from limited one-time handouts without transformative effects, even if that requires the concentration of resources and only gradual and long-term coverage of the entire country. Although it is politically difficult, concentrating and sustaining resources and gradually expanding the area of socio-economic and law enforcement intervention is crucial. If well designed, these policies and processes can deal with the root causes of crime; and they can build bonds between local marginalized populations and the state and help dissolve the bonds between local populations and criminal groups. They can strengthen state capacity and increase the legitimacy of the state.

Emphasize human rights and accountability, including by taking on the militias

Reducing impunity and corruption and strengthening the rule of law should animate the overall approach, as AMLO rightly emphasizes. Such a broad conceptualization includes avoiding short-term expediency deals with vigilante militias, even when they are temporarily popular in particular locales.

The federal government can subject some members of the militias to the proposed amnesty laws, but it must diligently and effectively prosecute all those found guilty of extortion, theft, kidnapping, and murder. The state must develop the wherewithal to dismantle militias that do not qualify for the indigenous police status permitted by the Mexican constitution. It can give them a grace period to disarm and demobilize, after which the government needs to be ready to confront and arrest all remaining militias while also immediately and resolutely moving against any new ones that arise. An effective response requires resolutely punishing violators, securing lasting prison terms for them (elusive up to now), and disarming and dismantling the group.

Refining the proposed amnesty law

Leniency and amnesty may well play useful roles in Mexico's effort to reduce criminal violence. Over-criminalization and overpopulating prisons are never good policies. But many aspects of the expected law need to be worked out or revised. The López Obrador administration would do well to study carefully what has and has not worked with similar amnesty, leniency, defectors', and disarmament, demobilization, and reintegration programs around the world.¹⁴⁸

The fact that the Mexican government has undertaken consultations about the amnesty plan with local communities is most praiseworthy and often neglected in such programs around the world. But the consultations need to move beyond discussing the concept in principle and toward discussing concrete elements.

Eligibility to entire criminal groups should be reconsidered as it can seriously undermine an already profoundly deficient rule of law in Mexico. The government of Mexico should also reconsider the announced commitment to individual-level forgiveness in specific cases as a requisite for eligibility for amnesty and leniency. Instead, it should mandate that eligible perpetrators disclose their crimes to individual victims and communities and that the victims can confront the perpetrators to express their grievances. Psychosocial support and reconciliation are crucial elements of such processes. But making victims' forgiveness a requirement will inject highly problematic arbitrariness and inconsistencies into the process.

The government of Mexico also needs to accept that the state will need to provide systematic compensation to victims. Realistically, most criminals in Mexico will not be able to pay reparations in the form of anything other than community service.

Crucially, to the extent that offenders can receive the benefits necessary for effective rehabilitation and reintegration—such as education, job training, legal employment assistance, and psychosocial therapy—there will have to be equivalent benefits to victims and communities that readmit amnestied offenders.

Reinforcing the state's territorial control and legitimacy

Regardless of whether the cultivation of poppy and marijuana become legal in Mexico, the federal government must have a plan to recover territories ruled or extorted by criminal groups. Otherwise, the legalization measures will fall flat in all aspects. The state must enter the *tierra caliente* and other areas where drug crops are cultivated with enough permanent and effective security forces to protect newly legalized farmers and other businesses from extortion and to make sure that diversion to the illegal drug trade is not taking place.

If Mexico wants to legalize drugs, the sequence needs to be the opposite of what has been proposed. The government should first deliver effective rule of law to areas of production and beyond and build effective law enforcement and deterrence. Only then will the legalization of drug production reduce violence and criminal control.

Moreover, in many areas, licensing drug crops will not be enough. The state will need to move robustly and durably to implement legal rural development and alternative livelihoods.

The same principal policy of establishing effective state control and reinforcing the rule of law also applies to dealing with other crimes, such as theft of oil—a legal commodity increasingly subject to criminal extortion and experiencing the establishment of a large black market in Mexico.¹⁴⁹

Whether a commodity is legal does not solely or even principally define whether there is violence associated with it. Whether the state has an effective rule of law and law enforcement deterrence capacity does.

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ACKNOWLEDGEMENTS

I would like to thank Ted Piccone for his most helpful suggestions on this paper. Many thanks also to Bradley Porter, Sarah Spalding, Gabriel Delsol, and Miriam Frost for their research assistance.

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