

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Hearing
on
Organized Crime, Gangs and Human Rights in Latin America

STEPHANIE BREWER, DIRECTOR FOR MEXICO,
WASHINGTON OFFICE ON LATIN AMERICA (WOLA)

TO REP. JAMES P. MCGOVERN (MA-02)
FOR THE RECORD

QUESTION 1: Is there a role for restorative justice or transitional justice approaches for victims of gangs and criminal organizations, including in potential collective plea-bargaining negotiations? When or under what conditions might these approaches be appropriate? Should international actors encourage these approaches as one component of strategies to dismantle criminal organizations?

RESPONSE: The most important requirement for encouraging any transitional justice plan is that the plan reflect the input and priorities of victims and affected communities in Mexico, as well as adequate mechanisms for their [participation](#). Beyond this, in practical terms, a challenge that transitional justice proposals face in Mexico is a lack of conditions to implement them against the backdrop of ongoing violence, in which there have not yet been clear signs of demobilization plans that have buy-in from criminal groups.

International Crisis Group has presented [analysis and recommendations](#) for a transitional justice path in Mexico including truth commissions to be pioneered at the local level in conflict-affected regions, plea-bargain-type mechanisms based on full collaboration with the judicial system and reparations for victims, demobilization paths for members of organized crime, and victim participation in justice mechanisms.

For its part, in a 2020 [analysis](#) of transitional justice proposals in Mexico, the International Center for Transitional Justice (ICTJ) concluded:

It may not be possible to tackle all the challenges Mexico faces at once, but there is a need to start somewhere. A starting point could be a policy that combines the search for the disappeared, effective criminal prosecutions, and reparations for victims. Such a policy could benefit from the experiences of transitional justice processes elsewhere in the world that have dealt with organized violence involving state institutions at a similar scale. [...] The prosecutorial policy could be more effective if it adapts practices on strategic dismantling of criminal networks implemented in countries such as Colombia or Guatemala.

The Mexican civil society organization Transitional Justice in Mexico (JTMX) offers [analyses](#) of potential transitional justice mechanisms in the Mexican context, including a [2023 report](#) analyzing whether and to what extent some current Mexican institutions and systems fulfill the role of extraordinary mechanisms for access to truth, justice, and reparations.

QUESTION 2: The three countries discussed in the hearing are long-standing allies of the United States, even though there is evidence that deeply rooted corruption is undermining some U.S. strategic interests. In your view, what are the most important or highest priority steps the U.S. should take to counter patterns of complicity by government officials with organized crime?

RESPONSE: As discussed in my [written remarks](#) for the hearing, countering collusion between officials and organized criminal groups requires that Mexico's government effectively investigate and prosecute this phenomenon. The need to improve federal investigations is urgent, given that organized crime falls under federal jurisdiction (under the purview of the National Prosecutor's Office). Investigators should prioritize patterns of violence that most affect the population, making use of intelligence, technology, and mapping of networks to construct evidence-based cases that can go to court, with a focus on dismantling criminal phenomena, not just arresting people *in flagrante* or [prosecuting](#) crimes like weapons possession one by one. Mapping and prosecuting corruption by authorities and holding officials responsible for human rights violations should be integral parts of prosecution plans. WOLA and partners have [analyzed](#) some of the [key steps needed](#) to improve the work of the National Prosecutor's Office in several [reports](#).

Improving the work of [anti-corruption prosecutors](#) at all levels is another relevant step. Beyond the work of these special prosecutors, preventing corruption and collusion in prosecutors' offices, as well as in security forces, requires robust internal and external control mechanisms for these institutions. WOLA has [analyzed](#) aspects of this topic in past investigations of Mexico's police forces.

The United States must also reduce the extent to which its domestic, foreign, or border policies favor the business model, and hence the corrupting power, of organized criminal groups. In particular, the U.S.-led "war on drugs" model in the region has long driven the illegal drug economy that enriches criminal groups, fomenting relationships of corruption between criminal actors and authorities. Widespread availability of firearms in the United States provides criminal groups with access to high-powered weapons. U.S. border externalization policies, whose expansion in recent years has led to thousands of people being stranded in northern Mexico while they seek to request asylum in the United States, increase the profits of criminal groups who attack and extort migrants. Thus, the most important actions the United States could directly take to weaken organized crime in Mexico would be advances in these three areas, which are the subject of reports produced by [WOLA](#), as well as [investigations](#) by other [actors](#).