

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

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

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Latin America and the Caribbean face enormous challenges to the rule of law, with weak state institutions, poor governance structures, limited transparency, authoritarian leaders, and high levels of insecurity and crime.

The inability of democratic leaders to deliver on people's needs creates a breeding ground for leaders across the political spectrum to justify authoritarian policies under the guise of effectiveness, eroding democratic guarantees. Changing the narrative of the savior leader bypassing the rule of law to solve people's problems is hard. It is essential to find policies that are both effective and democratic. To address insecurity, a balanced approach is needed between punitive measures with due process, and social preventive measures addressing the root causes of violence.

Weak judicial security and unpredictable commercial laws and regulations hinder the business environment in many countries, negatively impacting private investment from both local and foreign sources, hampering economic development. Corruption undermines public trust in government, fuels income inequality, poverty, and violence, and facilitates insidious links between government, business, and organized crime.

The underground economy from illegal activities such as drug trafficking, human trafficking, smuggling, and money laundering can undermine legitimate businesses and erode trust in public institutions and law enforcement. This diminished confidence in authorities' ability to maintain order and prosecute criminal activities creates a challenging environment for businesses.

Organized crime groups may infiltrate legal systems, leading to compromised judicial processes and impunity, hindering the ability of businesses to seek legal recourse. This erosion of trust is worse when governments undermine judicial independence, like in Mexico and El Salvador.

Businesses face extortion, violence, or intimidation by criminal actors, affecting their ability to operate ethically and sustainably. They also need to invest significantly in security measures to protect their assets and personnel. This includes hiring security personnel, implementing surveillance systems, and fortifying facilities, which increases operational costs.

Moreover, the reach of criminal organizations extends beyond national borders, taking advantage of jurisdictional gaps and differences in legal systems. No single nation can effectively combat them alone. Transnational criminal organizations often rely on sophisticated money laundering networks and exploit the global financial system to legitimize and conceal the illicit origins of their funds.

The elections in El Salvador and Mexico occur in a context in which the current administrations have attempted to consolidate executive power at the expense of checks and balances.

Organized crime's involvement in electoral financing continues to compromise the integrity of democratic processes, introducing corruption and illicit influence into the political sphere. Criminal organizations can influence political outcomes by bribing political actors and government officials, and they may exploit loopholes in campaign financing regulations to inject illicit funds into political campaigns. Limited transparency and independent enforcement mechanisms fuel such concerns.

To address these challenges, a coordinated regional response against transnational crime is needed. Traditional law enforcement methods are insufficient, emphasizing the necessity for cooperation among countries to gather intelligence, share information, and conduct joint operations to apprehend criminals and dismantle their networks. Some key actions include:

- Secure channels to share intelligence.
- Efforts to harmonize laws and extradition treaties, facilitating prosecution.
- Capacity-building, training law enforcement personnel, and providing technological assistance.
- Cooperation to track and disrupt the financial networks under which organized crime operates.

It is also key to strengthen regulations for monitoring private electoral financing by:

- Implementing clear rules and oversight mechanisms to track and disclose private political contributions.
- Enforcing and strengthening transparency and accountability measures.
- Establishing effective whistleblower protection laws.
- Creating regional intelligence-sharing platforms to facilitate the exchange of information.
- Cooperating to facilitate extradition and prosecution for those responsible for corrupting the electoral process.

It is critical to strengthen the rule of law, judicial independence, and effective prosecutions by:

- Reviewing and updating legislation to ensure it is comprehensive and effective against various forms of organized crime.
- Enhancing transparency in legal processes and administrative actions.
- Establishing accountability and oversight mechanisms to address corruption within the legal system.
- Implementing secure and transparent processes for judicial appointments and removals to ensure probity and independence.

Finally, to curb democratic decline in the region, it is essential to involve a range of actors concerned with weak rule of law, including the business sector. To engage the private sector, it is critical to speak their language: it's not necessarily about promoting democracy and rights, which some but not all business leaders are concerned about, but rather a conversation about how to ensure legal certainty and clear, predictable rules that promote investment and operations.

Strengthening democratic rules of the game for licit activities undermines the ability of illicit ones to expand.