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# The Rule of Law in Mexico and the Mérida Initiative

## Background

Mexico, a top U.S. trade partner and political ally, has struggled to address violence and human rights abuses perpetrated by criminal groups and corrupt officials. Mexico's problems have been exacerbated by the weakness of many of its criminal justice institutions. Homicides have decreased from record levels recorded in 2011, but kidnappings, disappearances, and extrajudicial killings persist. On average, more than 90% of reported crimes in Mexico go unpunished. Recent cases have drawn attention to the particular problem of impunity for human rights abuses. Reducing impunity in Mexico is a key goal of efforts under the Mérida Initiative, a bilateral initiative for which Congress has appropriated close to \$2.4 billion.

**In October 2014, Mexico's National Human Rights Commission (CNDH) issued a report concluding that at least 12 people had been killed execution-style by the Mexican military in Tlatlaya, Mexico on July 1, 2014.** The military originally claimed that the victims were criminals killed in a confrontation with soldiers. This case has resulted in criticism of not only the military and state prosecutors but federal prosecutors who originally failed to investigate these allegations of extrajudicial killings. The CNDH also documented claims of torture of two witnesses to the killings by the military and prosecutors from the state of Mexico. A December 2014 report by the U.N. Special Rapporteur on Torture revealed that the use of torture is "generalized" in Mexico and has been used to coerce confessions. Seven soldiers and one lieutenant have since been arrested for their involvement.

**The still unresolved case of 43 missing students who disappeared in Iguala, Guerrero, in September 2014** has also drawn attention to the issues of extrajudicial killings, enforced disappearances, and impunity. The disappearance and likely killing of the students—which involved the local police, the Iguala mayor, and his wife—galvanized large protests in Mexico and around the world against corruption and impunity. The U.N. Committee on Enforced Disappearances released a report in February 2015 stating that enforced disappearances such as these are common in Mexico and have at times involved authorities. It also identified the "near inexistence" of convictions for such disappearances.

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According to figures released by Mexico's attorney general's office in January 2015, more than 23,270 people have disappeared in Mexico since 2007.

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## Mexico's Rule of Law Reforms

In response to criticisms of his handling of these incidents, in November 2014, Mexican President

Enrique Peña Nieto proposed 10 actions to improve the rule of law. One of those actions was the *mando único* (unified command), a constitutional reform that would remove the command of police forces from municipalities and place it at the state level. This plan aims to reduce police corruption and improve coordination with federal forces. However, some experts question the notion that state forces are any less corrupt and maintain that this change will not prevent abuses or strengthen accountability. No constitutional reform has been passed; however, several states have begun implementation of that police model. Little progress has been made on the other proposals, such as establishing a national emergency hotline.

**President Peña Nieto also replaced Attorney General Jesus Murillo Karam with former Senator Arely Gomez in February 2015.** Attorney General Gomez has stated that there are still pending issues in the Iguala case and is working with experts from the Inter-American Commission on Human Rights (IAHCR) on the investigation. IAHCR also intends to help the Mexican government develop search plans for missing persons and improve services for victims' families.

**In February 2015, the Chamber of Deputies passed several constitutional changes to create an anti-corruption system, but Senate approval of the system is pending.** The reform creates special courts to hear cases of corruption and an independent federal audit office for administrative offenses. That office and a special prosecutor can investigate members of government and independent contractors.

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According to the World Economic Forum, corruption costs up to 9% of Mexico's GDP every year.

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**Judicial Reform.** As per constitutional reforms enacted in 2008, Mexico has until June 2016 to move from a closed-door judicial system based on written arguments presented to a judge to an adversarial public trial system with oral arguments and the presumption of innocence. These changes aim to make Mexico's system more transparent and impartial. Through alternative dispute resolution, the system can also become more flexible and efficient, ensuring that trials are reserved for serious crimes. **With only four states fully operating under the new system and 24 partially operating under the new system, significant work remains to be done.**

## The Mérida Initiative

The Obama Administration considers its relationship with Mexico to be among its most important. The development and implementation of the Mérida Initiative

has resulted in a significant increase in U.S.-Mexican security and rule of law (ROL) cooperation.



Most ROL programs have been implemented by the State Department, along with the U.S. Agency for International Development (USAID). The Department of Justice's (DOJ) Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) and International Criminal Investigative Assistance Training Program are also supporting Mexico's transition to a new justice system.

**Police Training.** The State Department has supported police training at both the federal and state levels. Capacity building for law enforcement has been provided in a wide range of basic and specialized topics such as officer safety, crime scene preservation, investigation techniques, and intelligence-gathering. The State Department is also supporting Mexican efforts to professionalize law enforcement by improving police recruitment, training, and professional career path development. DOJ has provided training to agents of the PGR's Criminal Investigations Agency to better prepare them for their role in carrying out investigations in an accusatorial system.

**Judicial Sector Training (Federal and State).** OPDAT efforts have focused on preparing prosecutors, judges, and other justice sector actors for the new accusatorial system. Specialized training programs in anti-money laundering, trafficking in persons, and anti-kidnapping within the new system are also being developed. The State Department is also providing equipment and technical assistance to prepare courtrooms in a number of states to host oral trials.

USAID has invested an estimated \$76 million in assistance of judicial reform implementation at both the federal and state levels. This assistance includes promotion of increased prosecutorial efficiency, strengthened analytical and quality control capacity of justice sector institutions, and increased access to justice and improved victim's assistance. USAID also supports training for private lawyers, professors, and

bar associations to modify curricula and technical standards to be consistent with the new system.

**Human Rights.** USAID has provided some \$5 million for prevention, protection, prosecution, and advocacy efforts, particularly for journalists and human rights defenders. The agency is working with the Mexican government to strengthen its Protection Mechanism for Journalists and Human Rights Defenders, which has been criticized as weak and insufficient. USAID also works with civil society on issues such as the prevention of torture.

## Congressional Concerns

Congress has expressed ongoing concerns about human rights conditions and the rule of law in Mexico. Congress has continued monitoring adherence to vetting requirements, conditioned U.S. assistance to the Mexican military and police on compliance with certain human rights standards, and provided funding to support human rights training for security forces and to protect groups vulnerable to human rights abuses. Congress has also periodically withheld aid pending concerns about human rights. The Obama Administration has requested \$119 million for the Mérida Initiative for FY2016. As Congress considers that request and oversees the Mérida Initiative, questions for oversight might include:

- How is Mexico complying with the human rights conditions on Mérida Initiative funds that prohibit torture and require action to find missing persons?
- Should additional conditions be added?
- Federal police have been vetted and trained by the State Department yet continue to have problems with corruption. How can Mérida aid be used to strengthen ongoing internal and external accountability mechanisms for federal, state, and municipal police?
- How are OPDAT and USAID coordinating and measuring the effectiveness of their training programs?
- Is U.S. training reaching all of the actors that need to be trained in order for the new oral system to function (such as forensic experts, defense attorneys, and judges)?
- Are USAID's human rights programs effective? If so, should they receive additional funding?

For more information, see CRS Report R41349, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*.

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