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Mexico's military is a lethal killing force - should it really be deployed as police?

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Mexico's military is a lethal killing force - should it really be deployed as police?

Abstract

A controversial law to officially engage Mexico's armed forces in fighting crime has human rights groups dismayed.

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Mexico's military is a lethal killing force – should it really be deployed as police?

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Mexican protesters confront the marines sent in to disband them. Reuters

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There is nothing noble about war. In the words of the Spanish-American philosopher and poet George Santayana, it “wastes a nation’s wealth, chokes its industries, kills its flower,” and “condemns it to be governed by adventurers”.

Mexico has endured all these pains and more, including 150,000 murders and some 26,000 disappearances, during its brutal ten-year war against drug cartels.

Some of the main drivers of this abysmal violence are Mexico’s armed forces, which have de facto aided police in fighting the drug war since 2006. The military has proven to be exceptionally efficient killers. From 2007 to 2014, the army killed around eight opponents – or suspected criminals – for each one it wounded, according to researchers at the Centro de Investigación y Docencia Económica (CIDE).

The marines were even more deadly: they killed some 30 combatants for each one they injured, CIDE’s lethality index shows.

Several senior UN officials have urged Mexico to “completely withdraw military forces from law enforcement activities” and ensure that “public security is upheld by civilian rather than military security forces.”

The Mexican Congress seems to disagree. The governing Revolutionary Institutional Party (PRI), which holds a majority of seats, is pushing for “fast track” approval of legislation that would formalise the role of the armed forces in law enforcement.





President Enrique Peña Nieto's Revolutionary Institutional Party (PRI) holds a majority of seats in Congress. Reuters

Between two (rogue) armies

President Felipe Calderón first conscripted Mexico's military into police work in December 2006, when he decided that his mandate was to "take back" Mexico from organised crime. To do this, Calderón reasoned, he would need the army: local police departments were too weak and corrupt.

His security strategy, which was lauded by the United States, delegated law enforcement to the military until the police could be "reinforced and cleansed".

After a decade of murder and grief, his mistake is clear. In the words of a former high-level Mexican intelligence official, Jorge Carrillo Olea, Calderón's strategy is one of the "major stupidities" in recent history, implemented without a base study on either its "legality" or "political relevance."

Calderón had no time for such due diligence, he told the newspaper *Milenio* in a 2009 interview. Organised crime was a cancer "invading" the country, and as Mexico's doctor he would use the army "to extirpate, radiate and attack the disease" – even if the medicine was "costly and painful."

Calderón's conservative National Action Party (PAN) was voted out of office in 2012, perhaps because patients don't usually embrace needless suffering.

Nonetheless, his successor, Enrique Peña Nieto of the long-ruling Revolutionary Institutional Party (PRI), has continued his predecessor's aggressive "treatment" of organised crime.

A few weeks before the 2012 election, the then-candidate appointed Colombian general Oscar Naranjo, who is credited with helping take down Colombian drug trafficker Pablo Escobar in 1993, as one of his key "external advisers".

As director of the Colombian National Police from 2007 to 2012, he grew the National Police from 136,000 to 170,000 members and oversaw "Plan Colombia", a US\$500 million-annual US aid package providing military equipment and training to Colombian police.

In Mexico, Naranjo was supposed to work "outside of hierarchies" to effect Peña Nieto's aggressive anti-narcotics policy. He did his job with vigour. During his 2012-2014 tenure, Mexico's National Human Rights Commission reported that the army accumulated 2,212 complaints – 541 more than those lodged against the military in president Calderón's first two years.

Mexico has now been trapped between two duelling rogue forces – the cartels and the military – for ten years. Impunity is rampant. Of the 4,000 complaints of torture reviewed by the attorney general from 2006 to 2016, only 15 resulted in convictions.

A decade's worth of forced disappearances and killings have also gone unpunished.





Kingpins aside, thousands of cartel members and suspects haven't survived their confrontations with Mexico's army.
Edgard Garrido/Reuters

Clarifying the constitution

Mexico's current legal framework facilitates armed forces arbitrary involvement in law enforcement.

Though the Constitution expressly prohibits military authorities to intervene *motu proprio* in civil affairs during peacetime, in 2000 the Supreme Court interpreted this provision to mean that armed forces could assist civil authorities whenever their support was explicitly requested.

In truth, the broad terms in which the Constitution was originally drafted enables the president to determine the extent of military involvement in civil affairs. Calderón made use of this room for manoeuvre, issuing secret guidelines that provided ample powers to military officials for planning and conducting operations against organised crime in 2007. This directive, along with everything related to the war on drugs, was classified information until October 2012.

The “internal security” bills now being debated in Mexico's Congress seek to address this contradiction, as well as to clarify an obscure distinction between the two types of security – public and internal – mentioned in Mexico's Constitution.

The former refers to law enforcement aimed at safeguarding the integrity and rights of individuals, while the latter encompasses the state's response to domestic threats against the public order, such as rebellion, treason or natural disasters.

Certainty for whom?

Increasing criticism against the armed forces has moved senior military officers to demand more “certainty” in their fight against organised crime.

In December 2016 Salvador Cienfuegos Zepeda, Mexico's minister of defence, declared that fighting the war against drugs has “denaturalised” the Mexican military. Soldiers, he said, are not trained “to chase criminals”.

If 52,000 soldiers are going to be deployed on a daily basis, he argued in a December 2016 article in the newspaper *El Universal*, they need clear rules to operate within a human rights frame.

Cienfuegos demanded a law that would establish a finer legal distinction between public security (the purview of the police) and internal security (specific threats requiring military intervention).

That (seemingly reasonable) request spurred today's Congressional debate on internal security. Each of Mexico's three main parties has presented its own bill. There's the PRI's, put forward by César Camacho Quiroz and Sofia Tamayo Morales; the PAN's, stewarded by Senator Roberto Gil Zuarth; and the Revolutionary Democratic Party's (PRD), tabled by Senator Luis Miguel Barbosa Huerta.

It's unclear exactly what kind of "certainty" these proposals might bring. There are differences between them, but all evoke *déjà vu* because they refer to organised crime as a potential threat to internal security and justify involving the army by pointing to the incapacity or corruption of local police.

The military supports the PRI's bill, which served as the basis for the "internal security" law that will soon come up for vote. Congress is currently weaving elements of the other proposals into the law's structure to build consensus.

Academics and NGOs have criticised this bill for its dangerously vague and broad language.

Per article 7, threats to internal security include "any act or fact that endangers the stability, security and public peace." No time limit is set for such military interventions. And article 3, advocates say, would authorise the executive to use the army to repress peaceful protest.

The law's all-encompassing definition of internal security would seem to defeat Cienfuegos' ostensible purpose in demanding a law: to clarify the army's role in law enforcement.



But it quite likely meets his actual need: to protect his troops from criminal prosecution. Soldiers, Cienfuegos said in December 2016, are currently "dubious" about persecuting criminal organisations because they risk being accused of a "human rights-related crime".

That's because, in 2011, the Supreme Court established that human rights violations committed by military personnel should always be subject to civilian, rather than military, jurisdiction.

As currently drafted, Mexico's internal security law would dramatically expand the rights of the armed forces in combating cartels – and anyone suspected of engaging in the drug trade – eliminating any concern about prosecution for violating those pesky human rights.

And what of the police?

Cienfuegos is right about one thing: that the armed forces are currently doing the job of the police because “there is no one else to do it”.

Some 90% of Mexicans feel that the police are corrupt. They are also basically useless: an estimated 99% of crimes go unsolved.

The armed forces, as the CIDE researchers have shown, are quite the contrary. The marines are six times more lethal than the federal police, who kill about five opponents for each one they injure in combat (the university's index does not include data on local or state police).



Allegedly hunting a Leyva Cartel kingpin, a Mexican military helicopter fired directly into the populated city of Tepic, Nayarit (Feb 9 2017).

There were methodological challenges in determining what CIDE calls the “deadliness ratio” of Mexico's federal police, army and marines from 2007 to 2014. And today, it would be impossible: Peña Nieto's administration stopped publishing military statistics on civilian casualties in 2014.

Comparing these figures, however, at a minimum shows the basic ethical and political shortcoming of Mexico's internal-security debate. Not one bill in Congress addresses the most fundamental question: should the armed forces even have a law enforcement role?

Based on Mexico's dire experience, the answer is a desperately firm no. It is not the army that needs its duties and powers clarified, but the police, who have abandoned their obligations. Simply supplanting them with the armed forces is not a viable solution for a democratic society.

At this stage, it is impossible to simply send the army back to the barracks. But lawmakers could set a schedule for gradually demilitarising the country as they work concurrently to strengthen police.

Both the Institute for Safety and Democracy (INSYDE), a Mexican think tank, and the Inter-American Human Rights Commission have developed sound models to improve the efficacy and accountability of Mexico's police. But in Congress, these well-considered suggestions generally fall on deaf ears.

The poet Santayana ominously noted that “only the dead have seen the end of war”. Mexico has too many dead. For survivors to live in peace, they will require more from their government than *déjà vu*.

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