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# MEXICO SECURITY INITIATIVE

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## CRIMINAL JUSTICE REFORM

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In 2008, under the Felipe Calderón administration, Mexico passed a constitutional amendment requiring municipal, state, and federal judicial systems to transition from a “mixed inquisitorial” criminal justice system to an adversarial system by June 2016. The goal of this undertaking is to increase transparency, accountability, and effectiveness across all levels of the criminal justice system and to reduce corruption. These changes are meant to increase citizen confidence in the judicial system and curtail abuses by organized crime. While most states have completed the transition, major hurdles remain to bring municipalities on board, ensure the public is educated on the changes, and that judges, lawyers, police officers, and other criminal justice employees have access to training and remain safe.

### **Inquisitorial vs. Adversarial Systems**

Mexico’s transition from an inquisitorial judicial system to an adversarial one is highly complex due to the manifest differences of each system. An inquisitorial system, a product of civil law, is practiced by most of mainland European countries and their former colonies. In an inquisitorial system, the court is actively involved in investigating and questioning the facts of a case brought before the court by the prosecution and defense.<sup>1</sup> Mexico’s federal codes and procedures, passed in 1934, altered the traditional inquisitorial system, by requiring defendants to argue their cases before an opposing party instead of a neutral magistrate. Such modifications led to Mexico’s judicial system being designated as a “mixed inquisitorial” system.<sup>2</sup>

Before the 2008 judicial reform, the prosecution and defense would submit documents to the judge (or judges in some cases) who ruled on the evidence shown in those documents. The primary motivating factor of a case was ensuring the arguments put forth in the documents “conform to the letter of the law.”<sup>3</sup> Mexico’s federal criminal law was established in two sets of codes, the Federal Criminal Code (*Código Penal Federal*) and Federal Code of Criminal Procedures (*Código Federal de Procedimientos Penales*). Additionally, each Mexican state has its own set of codes and procedures.

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<sup>1</sup> Joseph Dainow, “The Civil Law and the Common Law: Some Points of Comparison,” *American Society of Comparative Law: The American Journal of Comparative Law*, Vol. 15, No. 3. 1966 – 1967, 420-421; 422-423.

<sup>2</sup> William Hine-Ramsberger, “Drug Violence and Constitutional Revisions: Mexico’s 2008 Criminal Justice Reform and the Formation of Rule of Law,” 37 *Brook. J. Int’l L.*, 2011, 294-295

<sup>3</sup> Jane Kingman-Brundage, “Mexico’s Traditional Criminal Justice System: A Layperson’s Guide,” *Justice in Mexico: Working Paper Series* Vol. 14, No. 4. March 2016. 2

By contrast, an adversarial system relies on oral arguments made before a judge and jury and the common law, or judicial precedent created by previous court rulings.<sup>4</sup> The judge serves as a referee between the two adversaries, defense and the prosecution, and the jury declares a verdict after deliberating the merits of the arguments presented by each side, guided by evidentiary standards of review. The adversarial system originated in England and spread to British colonies, including the United States and most of Canada.

In Mexico's pre-2008 inquisitorial judicial system, one problem was the enormous power given to the public prosecutor, who acted as primary investigative authority. The prosecutor's investigation was legally presumed to be conducted in good faith, and there was little oversight or accountability if evidence was planted, confessions were coerced, or the decision to not pursue an investigation was motivated by corruption.<sup>5</sup> A second flaw was a reliance on a written compilation of evidence. The judge rarely heard oral presentations during the evidentiary stage, and the defense was not able to cross examine witnesses presented by the prosecution. The accused frequently languished in prison during the long evidentiary period, waiting for a conviction and sentencing by the judge.

This system was perceived to be beneficial to organized crime. Prosecutors and judges were easy to bribe as so few people were involved in the process and there was little oversight. The main objectives of transitioning to an adversarial-based criminal procedure where evidence is presented by oral argument before an open court, neutral judges are part of a system of checks and balances, and there is an active defense of the accused, is to make the judicial process more transparent and less weakened by corruption, inefficiency, and ineptitude.<sup>6</sup>

### **Elements of the 2008 Judicial Reform**

The judicial reforms passed in 2008 involve numerous procedural changes and constitutional amendments passed by the Mexican Congress. These reforms aim to increase transparency, accountability, and emphasize due process at all levels. The changes are wide-ranging and impact every part of the criminal justice system including administrators, judges, defense attorneys, prosecutors, police, and penitentiary employees and will result in a new conception of justice for the Mexican public.<sup>7</sup>

It is widely noted that judicial reforms gained political support and momentum after increased violence by organized crime in 2007. However, the Mexican public has shown a lack of trust in the criminal justice system for decades. An important statistic that demonstrates this distrust is the dark figure (*cifra negra*), or calculated percentage of crimes that go unreported to officials or lack any official action. According to the 2016 National Survey on Victimization and Perceptions of Public Safety (ENVIPE) that covers 2015 data, only 10.5 percent of crimes were reported to the public attorney, and from that number 59.6 percent led to a preliminary inquiry, the first step of prosecution.<sup>8</sup> This means that from the total crimes reported, only 6.3 percent were prosecuted. A staggering 93.7 percent of crimes committed in 2015 were either not reported to the public attorney or were reported but an investigation was not pursued for various reasons. This so-called

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<sup>4</sup> Dainow, 424-425.

<sup>5</sup> Hine-Ramsberger, 296.

<sup>6</sup> Hine-Ramsberger, 302.

<sup>7</sup> David Shirk, "Justice Reform in Mexico: Change and Challenges in the Judicial Sector," *Mexican Law Review*, Vol.III, No.2., January–June 2011, 205.

<sup>8</sup> "Encuesta Nacional De Victimización Y Percepción Sobre Seguridad Pública (ENVIPE) 2016," Instituto Nacional de Estadística y Geografía (INEGI), September 27, 2016: 11-12, Accessed 15 February 2017. [http://www.inegi.org.mx/saladeprensa/boletines/2016/especiales/especiales2016\\_09\\_04.pdf](http://www.inegi.org.mx/saladeprensa/boletines/2016/especiales/especiales2016_09_04.pdf)

“dark figure” for crime has been consistent since the ENVIPE survey began in 2010, hovering between 91 percent and 94 percent. Citizens surveyed by ENVIPE in 2016 stated that in 63 percent of cases they did not report crime due to causes attributable to the authorities, such as “fear of being extorted, waste of time, long and difficult paperwork, distrust of authority, or a hostile authority.”<sup>9</sup>

The judicial reforms are meant to address all “causes attributable to the authorities” that citizens cited in the ENVIPE survey. The reforms include four major aspects. The first is a significant change in Mexican criminal procedures through the introduction of oral arguments and adversarial style trials held in open courtrooms. Prosecutors and judges can also now recommend alternative sentencing, such as plea-bargaining and outside dispute resolution. By handling a greater number of lower-level cases outside of court, this reform is intended to encourage “restorative justice” and efficiency.<sup>10</sup> In states where the new system has already been implemented, the entire criminal justice process has been reduced from an average of 170 to 185 days per crime to under 30 days per crime due to cases being settled out of court.<sup>11</sup>

The second major aspect of criminal justice reform is establishing rights for the accused such as due process, the assumption of innocence until proven guilty, outlawing coerced or tortured confessions, and supplying an adequate legal defense. A judge specifically devoted to ensuring due process during the preliminary investigation period, separate from the judge that will hear the case at trial, is charged with protecting the rights and interests of the accused, the victim(s), and any witnesses.<sup>12</sup> This change is intended to reduce the power of the public prosecutor, ensure the impartiality of judges, and establish the protections of a public defender. A similar subsection requires trial judges to be present during the trial arguments, and that a separate judge oversees sentencing implementation, serving a similar role to a parole board in the United States. This section of the reform seeks to limit pre-trial detention of suspects without cause and provide the opportunity for a suspect to provide bail.

An expansion of the police’s duties and responsibilities is the third aspect of the judicial reform. Police will now play a larger role in the investigation of criminal activity through evidence gathering, interviewing witnesses, and working with prosecutors to build a case.<sup>13</sup> Through additional responsibilities, the reform aims to make police more specialized and professional, reducing corruption and the influence of organized crime.

The last section of the reform concentrates on combating organized crime. In the case that the accused is suspected of being associated with organized crime, s/he loses much of the protections guaranteed by the law and may be detained for longer periods without criminal charges, as determined by the judge.<sup>14</sup> Assets may be forfeited and additional fines imposed if the perpetrator kidnaps women, children, or those considered “vulnerable individuals.”<sup>15</sup> Civil society groups in Mexico, such as the National Network of Oral Trials (*Red Nacional de Juicios Orales*) have raised concerns that carving out loopholes to due process for those merely accused of crimes creates an exceptional judicial regime and also encourages human rights violations by police.<sup>16</sup>

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<sup>9</sup> ENVIPE 2016, 12.

<sup>10</sup> Shirk, 216-217.

<sup>11</sup> Arturo Angel. “Se Acabó el Tiempo: Solo Cuatro Estados Están Listos para Implementar el Nuevo Sistema Penal,” *Animal Político*. June 3, 2016, Accessed November 5, 2016, <http://www.animalpolitico.com/2016/06/se-acabo-el-tiempo-solo-cuatro-estados-estan-listos-para-implementar-el-nuevo-sistema-penal/>.

<sup>12</sup> Shirk, 227.

<sup>13</sup> Shirk, 231.

<sup>14</sup> Shirk, 225.

<sup>15</sup> Shirk, 233.

<sup>16</sup> Shirk, 233.

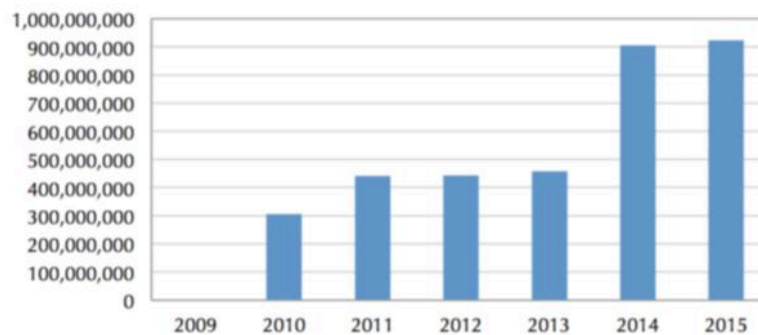
## Implementation of Judicial Reform: Federal, State, and Local

Although the first attempts at judicial reform began as early as 2004 during President Vicente Fox's administration, it was the 2008 constitutional amendments that provided momentum for state governments to start the reform process and attached a June 2016 deadline for implementation. Yet only in 2013, under Enrique Peña Nieto's administration, did the federal government allocate sufficient funding to the federal coordinating secretary.<sup>17</sup>

In 2014, a new federal judicial procedure, the National Code of Criminal Procedure (*Código Nacional de Procedimiento Penal*, CNPP) was agreed upon, which has served as a template from which the states could build their own criminal procedures.<sup>18</sup> All 32 federal district courts met the June 2016 deadline for transition, and, as of August 2015, 485 cases were tried in the eight districts already operating with the new system. However, as of June 2016, some federal districts had only one federal circuit operating, with plans to build more court facilities in areas of high need.<sup>19</sup> The creation of the CNPP galvanized most states to transition to the new system, which were waiting until publication of the national procedure before creating their own state criminal procedures.

The federal government's funding to states is distributed through block grants and is earmarked for specific purposes, such as capital projects like building court facilities and modernizing technology or short-term training of officials.<sup>20</sup> SETEC, under Peña Nieto, also began requiring states to report itemized spending to keep track of progress in implementation and proper use of resources.<sup>21</sup> The number of grants distributed nearly doubled from 2013 to 2014, as shown in the chart below, which allowed states to begin the reform process in earnest.

Figure 1: SETEC Categorical Grants to Mexican States, by Year, 2010-2015\*



Source: SETEC. Data compiled by Laura Calderón and Octavio Rodríguez.  
\*Through June 2015. There is no available data before 2010.

The main federal governing body charged with overseeing most of the transition period was the Coordinating Council for the Implementation of the Criminal Justice System (*Consejo de Coordinación para la Implementación del Sistema de Justicia Penal*, CCISJP) which sits in the

<sup>17</sup> Octavio Rodríguez Ferreira and David A. Shirk, "Criminal Procedure Reform in Mexico 2008-2016: The Final Countdown for Implementation." *Justice in Mexico*, University of San Diego, October 2015, 3-5.

<sup>18</sup> Ana Laura Kerpel, "El tamaño del reto," *Reforma*. February 8, 2014, Accessed November 4, 2016, <http://www.reforma.com/aplicacioneslibre/preacceso/articulo/default.aspx?id=19083&po=&urlredirect=http://www.refor.com/aplicaciones/editoriales/editorial.aspx?id=19083&po=>.

<sup>19</sup> Rodríguez Ferreira and Shirk, 20.

<sup>20</sup> Rodríguez Ferreira and Shirk, 12-14.

<sup>21</sup> Rodríguez Ferreira and Shirk, 16.

Secretary of the Interior (*Secretaría de Gobernación*, SEGOB). Additionally, a special Technical Secretariat (*Secretaría Técnica del Consejo de Coordinación para la Implementación del Sistema de Justicia Penal*, SETEC) was created to assist implementation across all states in alignment with the federal government.<sup>22</sup> SETEC was responsible for distributing money to states, evaluating the use of block grants, and serving in an advisory capacity to states designing criminal procedures.

On October 13, 2016—following the June 2016 implementation deadline—SETEC was disbanded and responsibility for the judicial reform consolidation was assigned to a Federal Judiciary Council (*Consejo de la Judicatura Federal*) subcommittee called the Unit for the Consolidation of the New Criminal Justice System (*Unidad para la Consolidación del Nuevo Sistema de Justicia Penal*). The Chamber of Deputies created this subcommittee to “supervise the tasks of the governments of the states to comply with the infrastructure requirements and implementation of the laws of the accusatory criminal system.”<sup>23</sup> SETEC’s “legal disappearance” may harm the goal of full implementation across states and municipalities due to the loss of institutional expertise.<sup>24</sup> In total, the entire judicial reform process has cost Mexico MX\$21 billion as of June 2016 and Unit for the Consolidation of the New Criminal Justice System requests for federal funding in 2017 have surpassed even the 2016 budget.<sup>25</sup>

It is estimated that 93 percent of crimes committed in Mexico are prosecuted at the state level.<sup>26</sup> States that chose to adopt the new system prior to the amendment passed in 2008 are known as early adopters: Nuevo León (2004), Chihuahua (2007), and Oaxaca (2007). As of June 2016, all 31 states plus Mexico City have implemented some parts of judicial reform to meet the congressional deadline. However, SETEC has admitted that only four states are operating at 100 percent compliance with the reforms, the three original adopters plus Yucatán, and only fourteen states have a “high average” level of compliance, according to SETEC’s metrics for evaluating completion.<sup>27</sup> Given the transition’s scope, the number of institutions affected by the changes, and some states extremely late start, it is estimated that full implementation could take a decade or more.<sup>28</sup> On the municipal level, the reform process has been even slower. A lack of dedicated funding for capital improvements and training have prevented many municipalities from meeting their obligations. Unequal training of employees in the judicial system also means that judges and lawyers are better prepared than the police and penitentiary system employees.<sup>29</sup>

The massive effort and scope of Mexico’s judicial changes cannot be understated, as the country is trying to transform a system in under ten years that has been used for hundreds of years. However, given the slow implementation process, caused by a lack of political motivation and resources, there is ample room for improvement. Additionally, the United States, with its established adversarial justice system and interest in combating organized crime in Mexico, is well positioned to provide assistance in the form of training and funding.

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<sup>22</sup> Maureen Meyer and Ximena Suárez Enríquez, “Mission Unaccomplished: Mexico’s New Criminal Justice System is Still a Work in Progress,” Washington Office on Latin America. July 2016, 3.

<sup>23</sup> Jorge Monroy, “Crean grupo de seguimiento a la reforma de justicia,” *El Economista Online*, 29 September 2016.

Accessed March 20, 2017, <http://eleconomista.com.mx/sociedad/2016/09/29/crean-grupo-seguimiento-reforma-justicia>.

<sup>24</sup> Jorge Monroy, “Implementan Sistema de Justicia Penal, aún con Deficiencias,” *El Economista Online*, October 16 2016, Accessed March 20, 2017, <http://eleconomista.com.mx/politica/2016/10/16/implementan-sistema-justicia-penal-aun-deficiencias>

<sup>25</sup> Angel, “Se acabó el tiempo: solo cuatro estados están listos para implementar el nuevo sistema penal.”

<sup>26</sup> Congressional Research Service Rept. R43001, 6.

<sup>27</sup> Angel, “Se acabó el tiempo: solo cuatro estados están listos para implementar el nuevo sistema penal.”

<sup>28</sup> “Hallazgos 2015: Evaluación de la Implementación y Operación a Ocho Años de la Reforma Constitucional en Materia de Justicia Penal,” Centro de Investigación para el Desarrollo, A.C. (CIDAC), 2016.

<sup>29</sup> Meyer and Suárez Enríquez, 4.

## **Policy Recommendation: Ensure Path to Complete Implementation**

Tremendous progress has been made toward transitioning to a new judicial system, but there is also room for improvement. Peña Nieto's government has defied expectations by following through on reforming the system and proving that the PRI is intent on making institutional changes. However, work must be done to ensure that the judicial reform is completely implemented on the state and local level. While all states met the constitutionally mandated deadline of June 2016, many have only partially implemented reforms by requiring the new system to be used to prosecute high-level crimes and phasing in mid and low-level misdemeanors over time. Similarly, cities with larger populations were transitioned to the new system first, while rural municipalities are still awaiting implementation. As previously discussed, SETEC, the Technical Secretariat originally tasked with administering judicial reform, admitted that there is a huge disparity in implementation on a state and local level, which could be addressed best through continued coordination and funding by the federal government through the new Judicial Council subcommittee.

**[1] Retain Federal-level Coordination and Maintain Federal Funding of State and Local Judicial Reform.** Although SETEC was disbanded in October 2016, the creation of a Judiciary Council subcommittee acknowledges that more progress is necessary to consolidate the new criminal justice system. There is a need for federal-level body to coordinate implementation across states and to direct money where it is most greatly needed.<sup>30</sup> For these reasons, the federal government must ensure that the Unit for the Consolidation of the New Criminal Justice System is tasked with overseeing consolidation of state-level judicial reform and is provided adequate funding.

Transitioning to a new judicial system is expensive, but maintaining and improving that system will also cost money. Due to most states' late transition, more time and money are needed to ensure each state is on equal footing. It is therefore crucial that block grants to states continue to be distributed from a central organizing body. For budget year 2017, Mexico's Judicial Department requested \$MX66.9 billion pesos, which is \$MX9.14 billion more than it requested in budget year 2016.<sup>31</sup> It is not clear how much, of this money will be allocated to states and municipalities, but the approval of a funding increase at least acknowledges that more funding is required to improve the judicial system.

**[2] Establish Permanent Department to Monitor Judicial Reform.** Mexico could benefit greatly from long-term monitoring to ensure that there are no reform roll-backs. In the United States, governmental agencies, professional groups, and civil society groups work in tandem to improve the existing judicial system through mandatory continuing education for lawyers or regional bar exams.<sup>32</sup> Professional groups in Mexico, such as National Network of Oral Trials (*Red Nacional de Juicios Orales*) and Mexican Institute for Competiveness (*Instituto Mexicano para la Competitividad*) are well placed to lobby and hold government institutions accountable.

However, as with many institutions in Mexico, SETEC, was disbanded after the legal deadline for the judicial transition. Yet, acknowledging that full implementation did not take place by the established deadline does not mean that SETEC or the transition was a failure. A federal

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<sup>30</sup> Rodríguez Ferreira and Shirk, 30.

<sup>31</sup> Tania Rosas, "Poder Judicial pide más recursos derivado del nuevo sistema penal," *El Economista Online*. 13 September 2016, Accessed March 20, 2017, <http://eleconomista.com.mx/sociedad/2016/09/13/poder-judicial-pide-mas-recursos-derivado-nuevo-sistema-penal>.

<sup>32</sup> Rodríguez Ferreira and Shirk, 32.

coordinating body should continue to exist but with a different mandate, ensuring equal and full implementation of the judicial reform across all states. Instead, the creation of the Unit for the Consolidation of the New Criminal Justice System to supervise states' reform implementation meant that all of SETEC's institutional knowledge and experience was lost. Establishing a permanent department to observe and monitor the judicial reform process to full implementation is necessary.

### **Policy Recommendation: Utilize Mérida Initiative Funding**

Through the bilateral Mérida Security Initiative, the United States has committed to assisting Mexico in fully implementing criminal justice reform.<sup>33</sup> While the Mérida Initiative initially sought to provide Mexico with the equipment and resources to combat organized crime, it has evolved in recent years to “address some of the deeper causes of criminality in the country: institutional weakness, corruption, and a weak social fabric.”<sup>34</sup> The second and fourth pillars of the Mérida Initiative—institutionalizing the rule of law and building strong and resilient communities—specifically address issues related to judicial reform. The Mérida Initiative also provides mentorship and training opportunities for U.S. institutions to share their experience with their Mexican counterparts. Mérida Initiative funding may not be increased but unallocated funds from the U.S.'s original commitment should be distributed to consolidate criminal justice reform.

**[3] Leverage Legal and Police Training Opportunities from U.S. Institutions.** Assistance provided by international governments with adversarial judicial systems, such as the United States, can ensure that Mexico's new system grows and improves over time with careful observation. Professional groups in the United States have ample opportunity to support exchanges to train their counterparts in Mexico. Training of prosecutors and attorney generals has already been a focus of the U.S. Department of Justice (DOJ), USAID, and organizations such as the Rule of Law Initiative of the American Bar Association (ABA) and the National Center for State Courts.<sup>35</sup> USAID's focus had been limited in scope to “priority states” in the Mérida Initiative, however it has recently expanded to 20 states.

An assessment completed by CIDAC, a non-profit policy research institute in Mexico, and USAID found that public defenders, police, and prison staff had not received training to the same degree as prosecutors and judges (see the chart below).<sup>36</sup> The State Department, DOJ, and USAID can utilize Mérida Initiative funding to train these three groups in states identified as high priority, with to goal to reduce human rights violations such as torture, illegal detention, and forced confessions. The U.S. Congress has conditioned Mérida Initiative money on human rights improvements in Mexico, and therefore this use of resources would be welcomed by both governments.<sup>37</sup>

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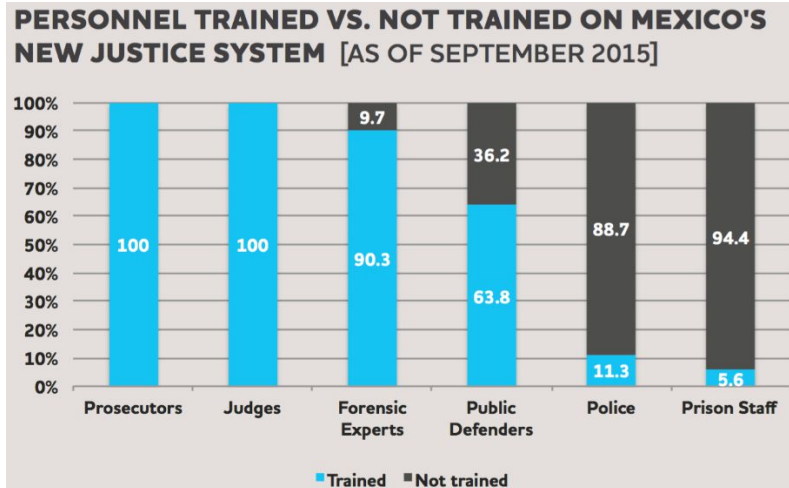
<sup>33</sup> Congressional Research Service Rept. R43001, 4.

<sup>34</sup> Congressional Research Service Rept. R43001, 12.

<sup>35</sup> Shirk, 240.

<sup>36</sup> Centro de Investigación para el Desarrollo (CIDAC) and United States Agency for International Development (USAID). “Hallazgos 2015: Evaluación de la Implementación y Operación 2008 Reforma Constitucional en Materia de Justicia Penal,” Accessed November 29, 2016, [http://cidac.org/wpcontent/uploads/2016/05/HALLAZGOS\\_2015.pdf](http://cidac.org/wpcontent/uploads/2016/05/HALLAZGOS_2015.pdf).

<sup>37</sup> Congressional Research Service Rept. R43001, 16.



Source: Meyer, Maureen and Ximena Suárez Enríquez. "Mission Unaccomplished: Mexico's New Criminal Justice System is Still a Work in Progress." Washington Office on Latin America. July 2016.

### Policy Recommendation: Ensure Safety of Judicial System Participants

In the 1990s, Colombia underwent a similar judicial system transformation. However, violence against judicial system participants was more commonplace in Colombia than in Mexico. Although the reform's open court trials make Mexican judges more visible, the addition of juries introduces an additional element of potential corruption by organized crime. Guerilla groups and drug cartels in Colombia have been the primary source of violence against the judiciary while organized crime affiliated with the drug trade in Mexico have also intimidated and used violence against judges who are ruling in their specific cases. Looking toward Colombia, Italy, and other countries that have dealt with criminal influence in the judiciary will allow Mexico to pick out the best policy solutions to protect judges, juries, and other judicial system participants.

**[4] Protect Judges and Juries from Violence and Corrupt Influence.** In Mexico, following the October 2016 murder of Vincente Antonio Bermudez, the judge who was presiding over the "El Chapo" trial, there were calls to institute protections for judges, particularly those covering organized crime. In Italy, the double murders of two prominent mafia judges, Giovanni Falcone and Pablo Borcellino, within two months of each other in 1992 led to the formulation of intense security surrounding judges hearing organized crime related cases. Italy incorporates around-the-clock bodyguards and bullet-proof cars for judges tracking mafia-related cases.<sup>38</sup>

Jurists or witnesses for the defense or prosecution could also benefit from additional protections. In Colombia, "jurists also are given bodyguards, armored cars and hazardous-duty pay."<sup>39</sup> These measures are meant to increase confidence in the judicial system and allow participants more freedom to follow the rule of law. By providing guards for judges, the system seeks to stop bribery and cooptation of judges by criminal organizations who threaten their physical safety. Protections for witnesses and jurists intend to curtail retribution by gang or cartel members against participants or their families. Therefore, a permanent Judicial Protection Unit of the Federal Police (Policia Federal) should be established to protect the safety of judicial system

<sup>38</sup> "A Very Sicilian Justice: Taking on the Mafia," Al Jazeera Online, July 18, 2016, Accessed March 20, 2017, <http://www.aljazeera.com/programmes/specialseries/2016/06/sicilian-justice-mafia-160619071747632.html>.

<sup>39</sup> David L. Marcus, "Colombian Judges Are 'Anonymous' -- Program Is Answer to Decades Of Violence Against Justice System From The Drug Trade," The Seattle Times, June 23, 1991, Accessed March 20, 2017, <http://community.seattletimes.nwsources.com/archive/?date=19910623&slug=1290705>.



participants, including judges, witnesses, and juries. Ensuring the confidence of citizens participating in the judicial system, and emphasizing the importance of jury service, is paramount to proving the new system's long-term viability and to counter organized criminal influence.

### **Policy Recommendation: Strengthen the Adversarial Judicial System**

Lastly, concerning recent legislation introduced in Congress to roll back changes made to the judicial system, Mexico must be determined to stay this difficult course until judicial reform is fully implemented. Defeating organized crime will not happen overnight or even over a decade and will not happen solely through criminal justice reform. The adversarial system does not reduce crime on its own, its purpose is to build a functional, transparent, and accountable foundation on which the Mexican people can rely upon and institute the rule of law.

**[5] Work to Protect, Not Diminish, Due Process and Rights of the Accused.** Recent proposed legislation to make “adjustments” to the new criminal justice system will weaken the protections afforded to those accused of crimes by potentially allowing confessions under torture or witness testimony through hearsay. Civil society groups and legal professional organizations are concerned that these changes will lead to human rights violations and reverse the reforms made in the transition to an accusatorial system. Mexico must stay the course and work on strengthening the adversarial judicial system, instead of rolling back its most important tenets of due process and rights of the accused. As noted by Judge Pablo Gonzalez, “A reform of this size and relevance requires a complex transition process, a cultural change of mind, a generational turnover even. But that doesn’t mean we should stop walking the path toward that goal, no matter how complex and how much time it takes us to get there.”<sup>40</sup> In time, the fully implemented new criminal justice system will play a vital part in reducing the influence of organized crime and lead to renewed citizen confidence in a system that functions and delivers justice

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<sup>40</sup> Azam Ahmed, “While Scolding Trump, Mexico Seeks to Curtail Citizens’ Rights,” The New York Times, March 16, 2017, Accessed March 16, 2017, [https://www.nytimes.com/2017/03/16/world/americas/mexico-trump-pena-nieto-wall-drug-war.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=second-column-region&region=top-news&WT.nav=top-news&\\_r=0](https://www.nytimes.com/2017/03/16/world/americas/mexico-trump-pena-nieto-wall-drug-war.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=second-column-region&region=top-news&WT.nav=top-news&_r=0)