



## **EXTRADITING THE TRUTH - MEXICO: Steps to understanding the logic of US criminal drug policy**

For more than six decades, drug prohibition policy has had different impacts on people's rights, especially in producer and trafficking countries in Latin America. **At the same time, the illicit drug market, barely affected by prohibitionists efforts, continues to diversify in order to maintain the macro-criminal and corruption networks that are sustained by different sources of violence that have led to serious human rights violations.** Massacres, torture, sexual violence, enforced displacement, recruitment and disappearances, arbitrary detentions, among other horrific crimes are consequences of the extreme violence inflicted by both state and non-state actors. **These have become exponential in recent years due to the kingpin strategy that has fragmented the criminal groups, leading to more frequent and more serious disputes and expressions of violence.**

Faced with this panorama, **criminal drug policy in the US has prioritized curbing the production and substance trafficking by prosecuting drug crimes committed by cartel members and government officials in Mexico, over human rights violations and other crimes committed by those same actors to maintain the illicit drug market.** As the crisis deepens and impunity prevails, victims' rights to truth and justice have seemed to be fading away. It is under these premises that Elementa presents *Extraditing the Truth*, a project seeking to examine the impacts that US criminal drug policy has had on the right to the truth for thousands of victims in Mexico.

Elementa's research starts from the assumption that the information presented during criminal proceedings stored -and in many cases reserved- by the US courts, as well as the dynamics of extradition, detention and negotiation with people accused of drug trafficking crimes in the US: (1) weave memories about the violence caused by prohibition; (2) condition access to the truth about the *modus operandi* of drug trafficking structures and their relation to the State; (3) contribute to the spiral of impunity and weakening of justice institutions in Mexico; and (4) show that the priority in the US-Mexico bilateral relationship continues to be the "war on drugs".

The complete investigation, which is only available in [Spanish](#), **includes a thorough analysis of the US-Mexico Extradition Treaty and how it has been used, a description of the criminal procedure and how it is applied for drug-related cases, and an analysis of 2 cases where opportunities to achieve truth and justice in Mexico were met and failed.** Our main findings derived from the **review of 150 open and closed cases of Mexican persons indicted for drug-related crimes**, that either were extradited, detained in US soil, or voluntarily turned themselves in. We were able to build a database that provides information on the dynamics of extradition over the last 24 years, the US courts that are prosecuting these crimes, the number of times that guilty plea agreements are reached, among other statistical data and qualitative conclusions. Some of which are:



### Extradition:

- Before the Extradition Treaty came into force, only one extradition from Mexico to the US was granted per year. Between 1995-2000, an average of **20 extradition requests were approved annually; almost 100% were regarding drug-related crimes.** From that moment on, extraditions multiplied with an upward trend and began to be used as a measure of binational cooperation. During the Fox administration (2000-2006) 241 extraditions were granted; 615 during Calderón (2006-2012); 421 during Peña (2012-2018); and 241 from 2018-2022 during the López administration.
- The new cooperation agreement between the US and Mexico, “Bicentennial Agreement”, **sets a quota of 60 annual extraditions granted by Mexico, as well as the commitment to grant and expedite the processing of specific extradition requests deemed important by the U.S. government.**
- 75% of the extradition requests made by the US have been regarding drugs, homicides, criminal association and money laundering.

### Criminal Procedures in the US<sup>1</sup>:

- From the 150 cases we tracked: **103 persons (69%) were extradited; 36 (24%) were arrested in US soil; 10 (7%) were detained in foreign countries; and only 1 person turned himself in to US authorities.**
- US indictments are commonly focused only on drug-related crimes such as trafficking, and money laundering, leaving aside horrific crimes such as the previously mentioned, committed on the way to grow their territorial control and operations. Although, we’ve seen accusations mention how the accused participated in violent crimes and human rights abuses, but only to frame the seriousness of drug-related crimes committed. Such are the indictments against Ismael “El Mayo” Zambada and “Los Chapitos”.
- Of the 150 cases reviewed, **we found only three in which victim-associated crimes were sentenced. As stated, criminal drug policy is not victim oriented**, thus they are only considered when they comply with very specific characteristics: they either are perfectly identified U.S. citizens, members of U.S. police forces, or members of the U.S. diplomatic service.
- **Cases are arraigned in:** District Court for the Southern District of California (30.1%), District Court for the Northern District of Texas (18.9%), District Court for the Western District of Texas (13.3%).
- The most common counts are those of production, distribution or import of illicit substances, representing 59% of the cases. Followed by money laundering (17%), continuing criminal enterprise (9.7%). Only 6% include violent crimes such as murder.
- **80% made a plea agreement;** 8.6% declared non guilty and face or faced trial; 8% still is in pre-trial; 3.4% has no available information because records are sealed.
- 93% of the plea agreements included sentencing benefits such as: sentence reductions (86.4%); reduction in counts that did not result in reduced prison time (2.4%); probation (1.2%).

<sup>1</sup> Results regarding the 150 cases in our database.

- **Eight of the 150 cases in our database are of Mexican government officials, 50% of them have reached plea agreements.**

**Barriers and opportunities for truth and justice in Mexico:**

Elementa’s monitoring of US trials and pre-trials **has led us to find that on many occasions the information revealed during criminal procedures hinder the local processes of truth and justice to the victims;** but has also shown that it can bring opportunities. On one hand, sealed information conditions access to the truth about macro-criminality networks regarding drug trafficking. Although it is important to have some secrecy in criminal procedures to safeguard the ongoing investigations, information revealed in US trials is, in many cases, crucial for local investigations. On the other hand, plea agreements and benefits negotiated for testifying and providing information related to other cases may contribute to the impunity of grave human rights violations.

- **Barrier:** can be explained with the case of Dámaso López Serrano “El Mini Lic” member of the Sinaloa Cartel, son of Dámaso López Núñez -one of El Chapo’s closest allies- indicted for drug-trafficking and other related crimes. At the time, he was also accused in Mexico for the assassination of Javier Valdes, a high-profile journalist who reported on the links between government officials and organized crime. In Spite Mexico’s extradition request to come back and be held responsible for his crimes, El Mini Lic was released over a year ago after the judge considered he had “paid his debt to society” by offering information that even “put him in danger”. As he remains a key witness against los Chapitos, Dámaso stayed in the US with government protection. No extradition to Mexico granted. Javier’s family was displaced and awaits justice. One that will probably never come.
- **Opportunity:** our investigation has shown that there are also opportunities within that derive also from cooperation between governments, specifically through international legal assistance. We have seen how the information presented during the trials in Chicago of members of *Guerreros Unidos*, the cartel related to the disappearance of 43 students in Iguala, Guerrero, Mexico, was fundamental not only to bring some truth but actually helped to build cases in Mexico against the perpetrators.

**Some General Conclusions**

- The bilateral relationship between US and Mexico over the last 20 years has fostered a more practical and operational model in Mexican territory, which has consolidated the legitimacy of extraterritorial justice and the ways (extradition, detention and voluntary surrender) for criminal proceedings to be exported against mid- and high-level leaders of criminal groups and public servants related to drug offenses. However, **this model has generated an asymmetrical relationship in the fulfillment of commitments in favor of the United States.**
- Judicial extraterritoriality actions promoted by the DEA benefit both US criminal policy objectives and Mexican justice institutions. By placing complex criminal proceedings in

the US criminal justice system, the Mexican justice system is relieved of its responsibility to strengthen its processes, reduce impunity and investigate the commission of violent acts that sustain the illicit drug market. This leads to a weakening of Mexico's law enforcement institutions to confront criminal groups. The abandonment of investigations in order to "extradite" them to the US impedes truth processes and even justice for the victims of serious human rights violations.

- **The kingpin strategy has been ineffective in reducing the supply of illegalized substances.** This dynamic that has marked the US criminal justice agenda in Mexico disregards the importance of building case theories to dismantle macro-criminal networks between criminal organizations and public servants. It also fails to consider that not all criminal organizations operate vertically, nor does it diminish the violent resources used to maintain territorial control. On the contrary, the response of criminal groups shows that there are other criminal actors, even from the same family, willing to fill the leadership vacancies generated by the arrest of these figures.
- The database and several of the cases studied in this document show that plea bargains in cases of drug crimes committed by individuals operating in Mexican territory **is a trend to feed the kingpin strategy with direct consequences on the opportunities for truth-building about the relationship between this operation and the human rights crisis in Mexico.** The opacity derived from such agreements becomes a constant obstacle to follow up on the cases, the people who negotiate and the money that is distributed along the way.
- **The cases of Javier Valdez and Ayotzinapa demonstrate that putting together information and building the puzzle of criminal justice processes in the US** can be an input to press in both countries on the consequences of the prohibition system and position the memories of what has happened because of the warlike approach of this system. The processes can be oriented in favor of the victims and society in general.