



CaliBaja Moving Forward Together *CaliBaja Avanzando Juntos*

Takeaways from meeting “The impact of illicit arms trafficking on the border”

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Mexico experiences high gun violence levels despite its restrictive gun control laws. Access to guns is a central enabler for violence and criminal diversification in Mexico because it represents a credible and efficient threat against the victims.

According to a survey collected by the Center for U.S.-Mexican Studies at UC San Diego (USMEX), 70% of Mexicans think that criminal groups have more and better weapons than the army and the navy. Although it is untrue, this perception facilitates the credibility of threats by criminal groups and their control over the population. Nearly 80% of the guns recovered in crime scenes entered Mexico illegally from the U.S.

Access to guns facilitates the control of drug dealers over drug users in Tijuana, who cannot move freely due to their fear of reaching a neighborhood controlled by rival groups of their usual drug dealers. This negatively affects public health because it hinders drug users from going to harm reduction centers, where services like syringe distribution are offered, and it puts the centers’ staff at risk when they move between different neighborhoods to provide some of these services.

Access to guns has also facilitated the control of human traffickers over migrants, as well as the extortion of businesses in Tijuana. The latter could affect the ongoing conversations on nearshoring and economic development. It is likely that the effects of gun access are greater in locations that border states with less restrictive gun policies such as Arizona and Texas.

In addition to binational diplomatic cooperation, Mexico’s government carries out strategic litigation in U.S. federal courts to promote responsible gun sales and reduce arms trafficking to Mexico. In August 2021, Mexico filed a civil suit against eleven U.S. companies that manufacture and sell weapons, claiming in the District Court in Boston that these companies’ activities facilitate trafficking due to their negligent tracking practices. The lawsuit was dismissed based on the Protection of Lawful Commerce in Arms Act (PLCAA), which prevents victims of gun violence to file a suit against arms manufacturers.

Despite the lawsuit’s dismissal, it contributed to position this issue on the U.S. agenda. Fourteen state prosecutors and 27 district attorneys expressed their interest in continuing the litigation. Four Caribbean countries joined the appeal to the First Circuit. The appeal’s decision is expected in 2023.

Mexico filed a second civil suit in the District Court in Tucson against five gun dealers because of their negligent sales practices as they, for instance, sell guns to straw buyers and in big quantities without additional preventive



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measures. The oral arguments session is expected to be held in summer of 2023. Mexico expects to file an appeal after the case is dismissed based on the PLCAA.

Both were civil lawsuits because there is not a clear human rights pathway to represent victims in Mexico against acts committed in the U.S. since the U.S. has not ratified the relevant international treaties. This practice follows the European trend to file civil lawsuits for cases related to climate change.

Mexico also requested an advisory opinion before the Inter-American Court of Human Rights in November 2022. The request seeks to clear 1) to what degree does negligent arm trade, and the PLCAA providing immunity to arm dealers, violate the human rights of the victims of the violence caused by this trade, and 2) which are the ideal legal resources to guarantee justice in these cases.

Negligent arms trade and its impact on violence is a worldwide issue. Many of the weapons trafficked into Mexico were imported to the U.S. from Europe. Although most guns in Guatemala enter the country legally, they are illegally diverted to criminal organizations; it is estimated that nearly 50% of deviated guns in Guatemala come from Europe. European and U.S. weapons are also used to repress civilians in Myanmar, Saudi Arabia, Ukraine, and Yemen.

The Amsterdam Law Clinics are working to identify the main European exporters and their negligent practices. They found that end-user export certificates are not properly filled out and that exporting companies are not required to verify that the weapon reaches and stays in the reported destination.

The Sustainable Due Diligence Law is a European initiative that can help incorporate monitoring and verification requirements even during storage and use in the arms industry. Some European countries, like Germany, are already implementing due diligence laws that can be used to reprimand weapon manufacturers.

It is important to promote cooperation within the region and with academia. In this regard, USMEX has promoted the understanding of violence in Mexico as a public health crisis in spaces such as the U.S.-Mexico Forum. It has collaborated with the Mexican Secretariat of Foreign Affairs on the Commission on Narcotic Drugs' resolution for more international cooperation to address the links between arms and drug trafficking. It generated the data used in the brief of Amici Curiae presented within the lawsuit against U.S. gun manufacturers. And it works with the Organization of American States to generate the methodology for the first hemispheric study on arms trafficking with a gender perspective.

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