

WHEN COOPERATION AND INTERVENTION MEET: SOVEREIGNTY IN THE MEXICO-UNITED STATES RELATIONSHIP

Alba Izadó León Hernández *

Abstract

The *Mérida Initiative* is a new stage in the development of security cooperation between Mexico and the United States. It is not a bilateral agreement or treaty; it is a collection of legislation on the part of the United States of America, in which the Congressional Appropriations Committee allocates resources used by Mexican agencies. Because there is no treaty or document with international legal validity that the Mexican Congress can accept, modify or ratify, it has no control over the manner in which resources are allocated. When it was unveiled, the *Initiative* was criticised along two main lines. The first referred to the supposed infringement of Mexican sovereignty by the United States government, and the second to fears of militarisation of the Mexican territory, which could foster human rights abuses. This article discusses issues of sovereignty related to the Merida Initiative. The first section deals with the concept of sovereignty and its application. The second zooms in on the relationship between Mexico and the United States after the Merida Initiative. The third expresses some reflections on the way forward.

Introduction

Sovereignty is a cornerstone of the international system and of modern nation-states. Yet the traditional understanding of this concept is being challenged by problems of such magnitude and extent that they cannot be dealt with by one state single-handedly. This situation is further compounded by the fact that anarchy permeates the international system and states seek to maintain control over their 'sovereign' territory. Because of this, cooperation can become difficult to achieve, as protecting the self-interest of a state from both internal and external challenges tends to prevail over efforts at collaboration.¹

Illicit trafficking networks are a good illustration of these challenges to state authority. At times, they usurp state functions through the replacement of the *de jure* constitutional authority by a *de facto* one.² They can also challenge the monopoly on the use of force of the established government by co-optation, through threat or corruption, of politicians and enforcement agencies into allowing their operations.³ Externally, constant technological improvement has

* Alba I. León has a B.A. in International Relations from El Colegio de Mexico in Mexico City and an LL.M in Law and Politics of International Security from the VU University, Amsterdam.

¹ K.N. Waltz, *Man, the State and War: A Theoretical Analysis*, New York: Columbia University Press 1959, p. 238.

² P.H. Smith, 'Drug Trafficking in Mexico', in B.P. Bosworth, S.M. Collins & N. Lustig (eds.) *Coming Together? Mexico-United States Relations*, Washington D.C.: The Brookings Institution 1997, p. 139.

³ *Ibid.*

allowed criminal organisations to cross borders, avoiding detection more effectively,⁴ so the risks and threats from these activities easily spill across borders.⁵

While the problems that arise from this situation are not confined to the borders of any single country, governments generally react by tackling the problem internally: an ineffective strategy, since the problems brought about by organised criminal networks are widespread in terms of the interlinked economic activities, as well as the actors and geographic zones involved.

Latin America faces most aspects of the supply chain of illicit substances, from cultivation to processing and transport to consumption,⁶ yet drugs produced in the region are mostly an export product to developed markets.⁷ Northern states and southern governments are thus linked together by this supply chain. They all have a stake in preventing damage to their own territory and population, but the problem is so widespread that no one country can act alone in doing so.

In the border region between Mexico and the United States the flaring up of violence in the past few years clearly shows the failure of nation-state based strategies to combat illicit activities such as drug trafficking and human smuggling. In the past five years, the relationship between Mexico and the United States has centred on combating drug trafficking organisations (DTOs)⁸ but little attention is paid to the legal and institutional framework regulating this change. The present work aims to analyse how the relationship between Mexico and the United States in fighting DTOs has changed in the past five years, centring specifically on the *Mérida Initiative to combat Illicit Narcotics and Reduce Organized Crime Authorization Act* — ratified by the United States Congress in 2008 and informally known as the ‘*Mérida Initiative*’ or ‘*Plan Mérida*.’

⁴ M. McConville, ‘A Global War on Drugs: Why the United States Should Support the Prosecution of Drug Traffickers in the International Criminal Court’ *American Criminal Law Review* 2000-37, p. 75.

⁵ For an extended explanation of the spill-over effect in International Relations neo-functional theory, see E.B. Haas, *The Uniting of Europe: Political, Social and Economic Forces 1950-1957* (Stanford: University Press 1958), and P.C. Schmitter, ‘Central American Integration: Spill-over, spill-around or encapsulation?’ *Journal of Common Market Studies* 1970-9 (1), pp. 1-48.

⁶ According to a report released in 2008, South America produces almost all of the world’s cocaine, more than half of the cannabis consumed around the world, as well as heroin, synthetic drugs and chemical precursors. North America (comprising the United States and Canada only) consumes half of the cocaine, and 10 percent of the cannabis produced in the continent. Therefore, supply and demand are considered by this organization as a hemispheric security issue. (UNODC, *The Threat of Narco-Trafficking in the Americas*, October, 2008).

⁷ See P. Andreas, ‘Transnational Crime and Economic Globalization’ in M. Berdal & M. Serrano (eds.) *Transnational Organised Crime & International Security: Business as Usual?* Colorado: Lynne Rienner 2002, pp. 37-52.

⁸ The term ‘cartel’ is used colloquially to refer to organised criminal networks, but it denotes an element of price fixing, which is not the case for all organised criminal networks. Therefore the term drug trafficking organisations (DTOs) will be used, instead.

The *Mérida Initiative* is a new stage in the development of security cooperation between the two countries.⁹ It is not a bilateral agreement or treaty; it is a collection of legislation on the part of the United States of America, in which the Congressional Appropriations Committee allocates resources used by Mexican agencies. Because there is no treaty or document with international legal validity that the Mexican Congress can accept, modify or ratify, it has no control over the manner in which resources are allocated. When it was unveiled, the Initiative was criticised along two main lines. The first referred to the supposed infringement of Mexican sovereignty by the United States government, and the second to fears of militarisation of the Mexican territory, which could foster human rights abuses.

This article discusses issues of sovereignty related to the Merida Initiative. The first section deals with the concept of sovereignty and its application. The second zooms in on the relationship between Mexico and the United States after the Merida Initiative. The third expresses some reflections on the way forward.

I. Sovereignty

Mexico and the United States have historically dealt with joint problems on a case by case basis and with a great measure of mistrust. Particularly in the 20th century Mexican leaders were weary of United States intervention, while U.S. agencies perceived Mexican leaders as corrupt. Yet since the 1980s, when the weaning of power of the Partido Revolucionario Institucional (Institutional Revolutionary Party, PRI), which had held power in Mexico since 1929, became more evident, Mexico and the United States have been more willing to collaborate, also in areas of security. In order to understand why, we turn to the concept of sovereignty, particularly how it has been interpreted in more recent times.

Sovereignty, a concept born along with the modern nation state, is considered the “basic constitutional doctrine of the law of nations.”¹⁰ Hugo Grotius defined it as the power of a state to act without being “subject to the legal control of another.”¹¹ Under this view, a state possesses internal sovereignty (because it is regarded as being above the national law¹² of any other state) and can be regarded as equal to any other state in the international system, which means it must respect the sovereignty of others in a reciprocal manner.¹³ Sovereign

⁹ Joint Statement on the *Mérida Initiative*, 22 October 2007, online <http://www.cfr.org/mexico/joint-statement-Mérida-initiative/p14603> (17 May 2011).

¹⁰ I. Brownlie, *Principles of Public International Law*, 5th ed., New York: Oxford University Press 1999, p. 289.

¹¹ Hugo Grotius, *De Jure Belli Ac Pacis*, in J.S. Brown (ed.) *The Classics of International Law*, [Francis W. Kelsey trans.] Oxford: University Press 1925.

¹² M. N. Shaw, *International Law*, 6th ed., Cambridge: Cambridge University Press 2008, p. 21

¹³ M.J. Kelly, ‘Pulling at the Threads of Westphalia: “Involuntary Sovereignty Waiver” — Revolutionary International Legal Theory or Return to Rule by the Great Powers?’ *UCLA Journal of International Law & Foreign Affairs* 2005-10, p. 364.

states have the capability to make authoritative decisions within their territory, related to the people and resources therein. Other states have a corresponding duty not to intervene in the internal affairs of a sovereign state.¹⁴ This means, in theory, that states cannot intervene in issues such as the type of government or leaders, because they fall within domestic jurisdiction.¹⁵

A state derives its authority to conduct foreign relations and engage with other states from its international sovereignty, or the political and legal authority that it has within the international system.¹⁶ In International Law, international sovereignty is recognised under Article 2(7) of the Charter of the United Nations: “the Organisation is based on the principle of the sovereign equality of all its Members.”¹⁷ Sovereign authority is exclusive and independent, leaving no room for transnational influence because it is established when “there is a final political authority in the political community” and “no final and absolute authority exists elsewhere.”¹⁸

Another view posits that sovereignty goes beyond “...a set of established rules to which states must bend their conduct in order to preserve their capacities” and is instead an “ever-changing description of the essential authorities of states.”¹⁹ The actual meaning of the term has been interpreted differently by states at different times, however certain indicators exist: a state must have control over its territory, its population, its foreign affairs and its power to make international law through agreements. If these conditions are fulfilled sovereignty is not breached by engaging into policy-making at the international level involving other states, international agencies and other entities.²⁰ Cooperation would then be considered a manifestation, rather than a curtailment of a state’s sovereign power.²¹

1.1 Combating Drugs

Drugs had, until the height of the Cold War, never been an issue in the Mexico-U.S. partnership. However, when Richard Nixon became President in 1969, drugs became a major security issue and Mexico the battleground. One of the first actions of the Nixon administration *Operation Intercept* began in late 1969 and nearly shut down the border²² with measures such as strip-searching cars

¹⁴ International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, Ottawa: International Development Research Centre 2001, p. 13.

¹⁵ E. Hernández-López, ‘International Migration and Sovereignty Reinterpretation in Mexico’, *California Western Law Review* 2006-43, p. 206.

¹⁶ T.C. Heller & A.D. Sofaer, ‘Sovereignty: The Practitioners’ Perspective’ in S. D. Krasner (ed.) *Problematic Sovereignty: Contested Rules and Political Possibilities*, New York: Columbia University Press 2001.

¹⁷ U.N. Charter Article 2 para. 1.

¹⁸ F. Hinsley, cited in Hernández-López 2006, *supra* note 15, p. 204 note 1.

¹⁹ Heller & Sofaer 2001, *supra* note 16, p. 45.

²⁰ Heller & Sofaer 2001, *supra* note 16, p. 32.

²¹ Krasner 2001, *supra* note 16, p. 5.

²² M.C. Toro, *La internalización de la policía: el caso de la DEA en México*, in F. Serrano, *Homenaje a Rafael Segovia*, Mexico: El Colegio de México 1998, pp. 38-40.

crossing into the United States that caused massive delays. Neither the Mexican government nor diplomatic agencies such as the U.S. State Department were informed of this operation.²³

After heated protests by the Mexican government *Operation Cooperation* replaced *Operation Intercept*. Under this new scheme, agents from the U.S. Drug Enforcement Agency (DEA) were able to enter Mexico and review the implementation of plans for the elimination of poppy and marihuana plantations,²⁴ which was much less disruptive to the population.

The main narcotics trade towards the United States however did not come from, or even through, Mexico. During the late 1980s and the first half of the 1990s drugs produced in South America, particularly Colombia, reached the United States through the Caribbean, arriving in South Florida for distribution, but changes in market dynamics and enforcement efforts, particularly around Florida, redirected the flow of illicit substances, and Mexican smuggling networks began their ascent. By the mid-1980s Mexico was on the rise as a smuggling route and the porous border that separates Mexicans and United States citizens, mostly along the desert, became the perfect place for the trade in drugs and people.²⁵ The resulting path for illegal drugs was the so-called Central America-Mexico Corridor.²⁶

Because it was a low-priority issue, Mexico allowed the entry of DEA agents to investigate drug trafficking in areas that were identified as problematic. One of these agents, Enrique Camarena Salazar, was kidnapped, tortured and killed in Mexican territory, allegedly by DTOs in response to this operation²⁷ and as a result the security relationship, particularly in terms of drug combating, was heavily damaged. While instances of cooperation remained, United States agencies were very reluctant to cooperate with what they saw as a highly corrupt and ineffective government, which seemed unable and unwilling to investigate the murder of agent Camarena.

This did not prevent Mexico and the United States from signing a legal framework for dealing with the illegal drug trade was being negotiated, the

²³ K. Doyle, 'La Operación Intercepción: los peligros del unilateralismo', *Proceso* 2003-1380, p. 46. For a relation of memos that deal with this operation, the website of George Washington University's Mexico Project provides primary documents: <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB86/> (15 June 2011).

²⁴ *Ibid.*, pp. 40-41; J.Z. Vázquez & L. Meyer, *Mexico frente a los Estados Unidos: Un ensayo histórico 1776-1993*, Mexico: Fondo de Cultura Económica 1994, p. 210.

²⁵ P. Larue, 'The Illicit Effects of NAFTA: Increased Drug Trafficking into the United States through the Southwest Border', 38 *Currents: International Trade Law Journal*, 2000-9, pp. 38-48.

²⁶ Mexico places prominently among the sources for cocaine, opiates, marihuana and methamphetamines, oftentimes being the first source. According to 2008 estimates 90% of the cocaine entering the United States flowed through Mexico. The Venezuela-Caribbean corridor is another important route, directed towards Europe. C. Ribando Seelke, *Latin America and the Caribbean: Illicit Drug Trafficking and U.S. Counterdrug Program*, CSR Report for Congress, Congressional Research Service 2010, p. 25.

²⁷ Toro 1998, *supra* note 22, p. 41.

Mutual Legal Assistance in Criminal Matters Treaty (MLA), involving practical cooperation on an 'operational level'.²⁸ When it came to intervention Article 1(2) of the MLA Treaty clearly establishing that:

...this Treaty does not empower one Party's authorities to undertake, in the territorial jurisdiction of the other, the exercise and performance of the functions or authority exclusively entrusted to the authorities of that other Party by its national laws or regulations.²⁹

By 1991 Mexico was reported to transport an estimated 350 tons of cocaine and about a third of all marijuana and heroin imported into the United States.³⁰ Up until that point drug trafficking had been a less pressing security issue than migration, since as subsequent economic crises hit the Mexican population in the early 1980s, Mexicans were incentivised to cross the border—either legally or illegally—and establish themselves in the United States.

1.2 Sovereignty Issues in the Mérida Initiative

In June of 2007 a national 'war on drugs' was declared by Mexican President Felipe Calderón. This elicited a positive response from US president George W. Bush and led to the establishing of the *Mérida Initiative*, signed jointly on 22 October, 2007. One of the main questions that remain unresolved is how the *Mérida Initiative* has affected the legislative framework both in Mexico and the United States. This provides a preliminary answer as to whether Mexico or the United States have relinquished their sovereignty in order to wage a war on drugs.

Enshrined in the Constitution of the United Mexican States are a number of guidelines for Mexican foreign policy, codified in 1988. The related principles of self-determination and non-intervention are clearly established, as well as the principle of legal equality of states; it is said that the head of the Executive shall:

...observe these normative principles: self-determination of the peoples; non-intervention; peaceful solution of controversies; the proscription of the threat of or use of force in international relations; the juridical equality of

²⁸ Treaty on Cooperation between the United States of America and the United Mexican States for Mutual Legal Assistance at 100-13. www.oas.org/juridico/MLA/en/usa/index.html (17 June 2011)

²⁹ Treaty on Cooperation Between the United States of America and the United Mexican States for Mutual Legal Assistance, p. 3.

³⁰ L.A. Astorga & D.A. Shirk, 'Drug Trafficking Organizations and Counter-Drug Strategies in the U.S.-Mexican Context', in E.L. Olson, D.A. Shirk & A. Selee, (eds.) *Shared Responsibility: U.S. - Mexico Policy Options for Confronting Organized Crime*, Washington, D.C.: Woodrow Wilson International Center 2010, p.33.

States; international cooperation for development; and the struggle for international peace and security.³¹

The traditional sovereignty position, expressed by the Mexican government during the 1980s and 1990s, meant that, while the drug trade was blooming, territorial jurisdiction trumped attempts at cooperation. Also, Mexican foreign policy directives hindered concerted efforts, because the principle of non-intervention was doctrinally observed with regards to border and security issues. Furthermore United States agencies were weary of cooperating with their Mexican counterparts, whom they perceived as corrupt and inefficient.

The trend towards democratic change in Mexico brought to power the right-leaning Partido Acción Nacional (PAN, National Action Party), and improved the relation because PAN leaders were favourable to cooperation with the United States. Yet in the first six years of PAN rule, President Vicente Fox saw migration as the pressing issue for his administration and lobbied the United States government to reach a migratory agreement; DTOs were not considered a priority.

September 11 2001 was a crucial turning point, because it halted the negotiations of the migration reform plan. Priorities for the United States had changed, from achieving a sweeping migration reform, allowing them to exercise better control of their southern border, towards combating terrorism. U.S. President George W. Bush launched a 'war on terror', and the Mexican plan of a reform which would grant amnesty to undocumented Mexican citizens in the U.S. was put on hold. The problem of DTOs and the violence associated grew steadily, but not so the government response in either country. It was not until December 2006, when Felipe Calderón Hinojosa assumed the presidency that drugs became a prominent issue on the agenda.

In March of 2007 the recently inaugurated president decided to launch a programme to combat organised drug trafficking networks, a 'war on drugs' as the plan was baptised in the media, echoing the efforts of the Nixon administration in the 1970s. The two pronged plan involved tackling on the one hand problems of corruption at the local level, while destroying the economic activity of drug traffickers by disrupting the cycle of cultivation and transportation.³² For this, close cooperation among different agencies, particularly the army, was paramount.³³ The army was given policing powers to confront criminal groups while institutional reform took place. Afterwards

³¹ Constitución Política de los Estados Unidos Mexicanos, DOF 05-02-1917, as reformed on 13 April 2011, Article 89- X.

³² S. O'Neil, 'The Real War in Mexico: How Democracy Can Defeat the Drug Cartels', *Foreign Affairs*, 4-2009.

³³ *Gaceta Parlamentaria*, año XI, número 2425, 16 January 2008, online: http://sil.gobernacion.gob.mx/Archivos/Documentos/2008/01/asun_2407748_20080116_1200515711.pdf (15 June 2011).

forces would return to their military roles, when the judicial system was clean enough to take care of drug trafficking organisations through legal means.³⁴

This strategy has had tragic consequences for a large part of the Mexican population. Changes in the distribution of power of DTOs led them to fight each other, competing for a shrinking market among rising security and handling costs.³⁵ Predictably, armed confrontations began to happen between the different drug organisations which were fighting for territory and routes to bring their products into the U.S. market.³⁶ However, true to the principle of non-intervention, Mexican sovereignty required Mexico to take care of this matter within its border, in spite of the realisation that the destination for most of the drugs in Mexican territory was the United States. Also, most of the weapons used by drug gangs in Mexico could be traced back to U.S. providers.

The United States was entangled in the Middle East, and the border with Mexico was not a priority security. This view rapidly changed because violence brought about by gangs associated with Mexican DTOs increased on both sides of the divide. After the launch of the 'Mexican war on drugs' presidents G. W. Bush and Calderón met in Mérida, Yucatán, Mexico. There, the basis for bilateral and regional cooperation to combat criminal organisations was established. The agreement was presented to the U.S. Congress as the *Mérida Plan* a year later. The programme provided additional equipment and training, sought to improve enforcement, inspection and data management of immigration and travel into the United States.³⁷ The transfer of funds and programmes was to be negotiated and signed in Letters of Agreement with Mexico.³⁸

1.2.1 The *Mérida Initiative* in the United States

Prior to 2007 Mexico did not receive large amounts of counter-narcotics assistance from the United States. However, the executive agreement that began to take shape in Mérida in early 2007, established that aid would be given to the Mexican government to combat drug trafficking more effectively. President George W. Bush signed the *Mérida Initiative* into law on June 30, 2008 and the first budgeted aid was passed by the United States Congress as part of the Iraq supplemental funding bill. This first money release was

³⁴ J. Bailey, 'Combating Organized Crime and Drug Trafficking in Mexico: What are Mexican and U.S. Strategies? Are They Working?' in Olson, Shirk & Selee 2010, *supra* note 30, p. 328.

³⁵ UNODC, *World Drug Report 2010* (United Nations Publication, Sales No. E.10.XI.13), p.4.

³⁶ Between 2008 and 2009, there were over 10,000 killings attributed to drug trafficking organisations, and they do not only reflect internal conflicts between drug cartels. At least 1100 police officers and soldiers have died as a result of the conflict. D.A. Shirk, *Drug Violence in Mexico: Data and Analysis from 2001-2009*, University of San Diego: Trans-Border Institute 2010.

³⁷ H. Cuellar, R. Charles, R. Jacobson, A. Peschard-Sverdrup, & T. Brennan, *Five Perspectives on the Mérida Initiative: What it is and why it must succeed*. 2008 American Enterprise Institute for Public Policy Research, online http://www.aei.org/publications/pubID.27601/pub_detail.asp, p. 4 (15 June 2011).

³⁸ C. Ribando Seelke, *Mérida Initiative for Mexico and Central America: Funding and Policy Issues*, Congressional Research Service, August 21, 2009, p. 10.

considered to be an extension of NAFTA: “to a certain extent, we’re armoring NAFTA,”³⁹ said Thomas Shannon, Assistant Secretary for Western Hemispheric Affairs. Therefore DTOs were recognised as a joint problem but also as part of a much larger set of border issues and trade development.

Subsequent Acts of Congress supported the proposal. However, this does not mean that the *Mérida Initiative* was supported by all United States’ policy makers. The negotiations were not made public and, among others, the then President of the Senate, Christopher Dodd expressed his frustration at not having been consulted.⁴⁰ The Congress of the United States was bypassed almost entirely during the negotiation period. However, this was never considered an issue, since in the United States the figure of executive agreements is constitutionally valid. Finally a majority of House Members seemed ‘supportive of the aid package’.⁴¹

Constitutionally in the United States there is a difference between ‘treaties’ and ‘compacts’ or ‘agreements’, however it is not made explicit what each term entails. The United States Supreme Court has upheld the validity of executive agreements through case law since at least 1912. In *B. Altman & Co v. U.S.*, the Court established that:

Generally, a treaty is defined as a ‘compact made between two or more independent nations with a view to the public welfare’. True, that under the Constitution of the United States the treaty-making power is vested in the President, by and with the advice and consent of the Senate, and a treaty must be ratified by a two-thirds vote of that body... but we are to ascertain, [...] the intention of Congress in giving direct appeal to this court in cases involving the construction of treaties...⁴²

It went on to say, about a commercial agreement under dispute that:

While it may be true that this [...] agreement [...] was not a treaty possessing the dignity of one requiring ratification by the Senate of the United States, it was an international compact, negotiated between the representatives of two sovereign nations, and made in the name and on behalf of the contracting countries, and dealing with important [...] relations between the two countries, and was proclaimed by the President. If not technically a treaty requiring ratification, nevertheless it was a compact authorized by the Congress of the United States, negotiated and proclaimed under the authority of its President. We think such a compact is a treaty under the circuit court of appeals act...⁴³

³⁹ Thomas Shannon, speech to the Council on the Americas, April 3, 2008.

⁴⁰ Ribando Seelke 2009, *supra* note 38, p. 3.

⁴¹ *Ibid.*

⁴² *B. Altman & Co. v. U.S.* 224 U.S. 583 (1912).

⁴³ *B. Altman & Co. v. U.S.* 224 U.S. 583 (1912)

The tendency to recognise executive agreements became stronger during the Second World War; today these agreements are a recognised form of foreign policy conduction in the United States.⁴⁴ Furthermore, considering that the legislative process is guided by precedent, the *Mérida Initiative* complies with the requirements established in the U.S. Constitution for becoming a Federal Act. According to this document, the President "...shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two thirds of the Senators present concur..."⁴⁵ Therefore, the constitutionality of executive agreements in this country is quite clear.

1.2.2 The *Mérida Initiative* in Mexico

The Mexican case is, however, more complex. Because the 'war on drugs' in Mexico was largely considered an internal issue, the case has been made that the legislative powers in the United States are engaging in extra-territorial legislation by adjudicating resources and training Mexican police and military forces, in violation of sovereignty rights. Yet an entity qualified to guide foreign policy, the Mexican president, has established an executive agreement through which this transfer of funds is accepted.

The *Mérida Initiative* is not a treaty. It is a set of Congressional Acts related to budget in the United States and has the status of Executive Agreement in Mexico. A problem arises when we analyse the figure of 'executive agreement', which would be a type of inter-institutional agreement, in Mexican law. According to the *Law on the Celebration of Treaties* of Mexico, this is:

an agreement governed by Public International Law, celebrated in writing between any dependence or decentralised organism of the Public Federal, State or Municipal Administration and one or several foreign government organs or international organisations, whatever their denomination, be it derived or not from a previously approved treaty..⁴⁶

While under this definition any dependent or decentralised organism can sign these agreements, it is clearly stated in this law that

The material environment of interinstitutional agreements should be circumscribed exclusively to the attributions related to the dependences and decentralised organisms of the aforementioned levels of government that subscribe it⁴⁷

In Mexico the Executive Power represents the nation as a whole at the international level. In the Constitution it is established as a prerogative of the

⁴⁴ United States Security Agreements and Commitments Abroad, Hearings Before a Subcommittee of the Senate Foreign Relations Committee, 91st Congress, 1st sess. (1969). See also U.S. Commitments to Foreign Powers, Hearings before the Senate Foreign Relations Committee on S. Res. 151, 90th Congress, 1st sess. (1967).

⁴⁵ Constitution of the United States of America, Article II.

⁴⁶ Ley sobre la Celebración de Tratados, DOF 2 January 1992.

⁴⁷ Ley sobre la Celebración de Tratados, DOF 2 January 1992.

Executive power to direct foreign policy and celebrate international treaties.⁴⁸ The Legislative and the Judiciary branches do not have the power to represent Mexico and cannot be signatories to a treaty. However, under the system of checks and balances, international treaties must be “[...] subject to approval by the Senate”⁴⁹ in order to attain the status of a law governing Mexico.

Paradoxically this is a foreign policy matter, but not circumscribed to a treaty, and as such it can be said to pertain to the President. It has been argued by the Mexican president that there is no violation of the principle of sovereignty, because of the status of the agreement. The Mexican president acquiesced to this new form of cooperation and the system of checks and balances whereby the Mexican Congress oversees foreign policy agreements is safeguarded in the yearly ‘State of the Union’ address of the President.

But constitutionally the Senate is responsible for “analysing the foreign policy developed by the Federal Executive based on the yearly reports that the President of the Republic [...] presents to Congress.”⁵⁰ In the case of the *Mérida Initiative* the Senate has not been allowed to exercise its function to accept, reject or modify in any manner the agreements undertaken by the Mexican president. Since *Plan Mérida* did not attain the category of an international treaty, ratification by the Mexican Senate was not necessary under Mexican laws.

However the Mexican legal tradition states that laws must be codified before they can be applied, and precedent alone does not make a legal rule valid. Even though the figure has been used before, the Constitution only makes explicit reference to the prerogative of the executive branch to celebrate international treaties under article 89-X. Because of that, some have argued that *Plan Mérida* goes against the division of powers, and is in violation of Article 133 of the Mexican Constitution⁵¹ which establishes that: “This Constitution [...] *and all of the Treaties that are in agreement with it*, celebrated and to be celebrated by the President of the Republic, with the approval of the Senate, will be the Supreme Law of all of the Union.”⁵² Under this wording, a presidential agreement can be declared unconstitutional because the executive power does not have the explicit faculty under the Constitution to celebrate such an agreement, as the legal figure does not exist. Likewise, any other type of agreement which is not a treaty cannot become the Supreme Law of all of the Union, nor be applied at the federal level.⁵³

⁴⁸ Constitución Política de los Estados Unidos Mexicanos, DOF 05-02-1917, as reformed on 13 April 2011, Article 89-X.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*, Article 76, para 1.

⁵¹ J. Carpizo, *El Presidencialismo Mexicano*, 19 ed., México: Siglo XXI 2006, p. 133.

⁵² Constitución Política de los Estados Unidos Mexicanos, DOF 05-02-1917, as reformed on 13 April 2011, Article 133.

⁵³ The *Mérida Initiative* is not the first executive agreement to be signed by a Mexican President referring to foreign policy, yet the Mexican head of the executive does not have the faculty to celebrate executive agreements. Particularly during the 1970s there were instruments which

1.3 Some Considerations about the *Mérida Initiative*

The lack of legal definition of what the *Mérida Initiative* is, particularly in Mexico, has led to plenty of criticism. Yet the agreement has only grown in importance and in the amount of resources allocated. References to sovereignty are scarce, and the analysis of whether the aid is received in Mexico through legal means is set aside due to pragmatic considerations on the part of both governments. Sovereignty has been replaced in the discourse by appealing to a sense of collaboration and joint solution of problems.⁵⁴

Especially in Mexico—where the Senate has been unable to act to prevent the resources of *Plan Mérida* from being channelled into Mexican territory—the Executive and the head of the Ministry of Foreign Affairs have been adamant in declaring that sovereignty is being respected on both sides of the border. For example, the Foreign Minister of Mexico said in a hearing before Congress that “Mexico has been emphatic in highlighting that it does not accept the presence of troops or the operational participation of foreign agents and that any cooperation should be made with full respect of sovereignty and the judicial framework of each country.”⁵⁵ Some examples given in this regard are the fact that Mexican government officials did not participate in any manner in hearings in the U.S. Congress when these determinations were made,⁵⁶ as well as the lack of operational participation of agents and U.S. companies in Mexican territory.⁵⁷

Tellingly, however, the text of the Act does not mention any notion of sovereignty, and it does establish that “the equipment and material will, to the extent possible, be used for the purposes *intended by the United States Government* and will be utilized by those agencies for which such assistance is intended.”⁵⁸ It also stipulates that the High-Level Coordinator of this programme in the United States is in charge of “ensuring program and policy coordination among agencies of the United States Government in carrying out the policies in Mexico and Central America set forth in this Act.”⁵⁹ The text of the *Mérida Initiative* Act leaves aside the discourse of sovereignty that guided Mexican foreign policy until the early 21st century, and replaces it with a tacit

gave rise to a Latin American Economic System (SELA) and programmes allowing for technological exchange in Latin America, which are, according to some constitutional lawyers, forms of executive agreements. Carpizo 2006, *supra* note 51, p. 132-133.

⁵⁴ For example, the training of Mexican agents has become important after the year 2000. C. A. Youngers & E. Rosin, *Drugs and Democracy in Latin America: The Impact of U.S. Policy*, Colorado: Lynne Rienner 2005, p. 275.

⁵⁵ Posicionamiento de la Embajadora Patricia Espinosa, Secretaria De Relaciones Exteriores, ante la Comisión de Relaciones Exteriores de la H. Cámara de Diputados, 31 October 2007.

⁵⁶ Palabras de la Secretaria de Relaciones Exteriores, Embajadora Patricia Espinosa Cantellano, a propósito de la iniciativa Mérida, Monday 22 October 2007, Mexico City.

⁵⁷ *Ibid.*

⁵⁸ H.R. 6028, June 10, 2008, “*Mérida Initiative* to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008”, p. 35.

⁵⁹ *Ibid.*, at 46.

acquiescence on the part of the Mexican government that they are unable to deal with the problem and as such need the resources of the United States.

Yet the failure of the *Mérida Initiative* to stop the violence cycle in Mexico should not be seen in the fact that cooperation was fostered without paying heed to the Mexican Constitution, but rather in the issues brought about by the lack of a coherent strategy of cooperation. Treaties are not only safeguards for the rights of states, or for sovereignty. They provide certainty and clarify the terms of engagement negotiated and agreed upon in order to allow for the best possible outcome. It should not be thought, however, that in this case having a treaty, instead of an executive agreement, would necessarily improve the situation. The Calderón administration took into consideration that their strategy for drug combating also involved a race against the clock, where the government was at a disadvantage in terms of weapons and even perhaps knowledge.

Certain elements in the text of the Act merit a separate analysis, because they recognise that there are joint problems that cannot be solved individually. For example, there is explicit articulation in the *Mérida Initiative* that

[n]arcotics-related activity and expanding cross-border trafficking is dangerously undermining the security environment for our neighbors to the South as well as in the United States [...] The spread of illicit narcotics through United States borders [...] cannot be halted without a comprehensive interdiction and security strategy planned and executed *jointly* with our southern neighbours.”⁶⁰

In these words there is the realisation that Mexico cannot take care of its problems internally, and that cooperation is necessary. The following chapter will make an attempt to explain why Mexico departed from the non-intervention regime that had for so long helped it protect its territorial and political integrity through claims of legal equality and autonomy in internal affairs.

This becomes important when it is considered that the challenges faced by both countries in dealing with DTOs are very different and that the legal assumptions behind their reactions had, until the *Mérida Initiative*, been influenced primarily by a rejection of transnational approaches, particularly on the Mexican side. Additionally, foreign policy directives were developed at the dawn of the last century when DTOs were not considered a problem, let alone one with transnational effects. The following section will show the transnational influence of both countries on the other's legislation and seek explanations as to why cooperation has blossomed for this particular topic.

⁶⁰ H.R. 6028, June 10, 2008, “*Mérida Initiative* to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008”, at 5. Emphasis mine.

II. Transnational Views

Transnational laws regulate actions that go beyond borders and deal with the governance of acts or events which transcend national frontiers, whether they involve state or non-state actors⁶¹ and legal analysis is compounded by economic and political interdependence between states.⁶² This approach has been used to explain changes in the legal understanding and application of migration laws between Mexico and the United States and rests upon the proposition that migration is a 'transnational activity,' or an effort led by persons who are not acting in representation or in the service of a state.⁶³ In the field of migration, it helps explain not only new cultural developments brought about by immigration, but also political influence in origin and host countries, which can turn into legal and legislative influence.⁶⁴

States are traditionally seen as having complete authority to regulate movements—of people and goods—across borders, and anything less than this full authority would challenge the international sovereignty of a country.⁶⁵ The Mexican government had long been weary of intervention by other countries, particularly the U.S. Therefore, historically Mexico established a policy through which its own independence would be guaranteed, and the Mexican government would establish reciprocal non-intervention in the affairs of others. However, during the administration of Vicente Fox (2000-2006) this principle was reinterpreted, to include a higher level of engagement in topics of human right and democracy.⁶⁶ When President Fox insisted on a migration reform, he was actively lobbying in internal affairs of the United States and how they regulate their approach to migration.⁶⁷ In spite of the failed migration reform, Mexico has been actively influencing foreign policy in the United States and therefore departed from its stance of non-intervention. The *Mérida Initiative* aims, within this new framework, at being a truly bilateral instrument of exchange of knowledge, information and equipment, to combat the common problems caused by DTOs, whereby both countries would influence the other's decisions in regulating movement along the border.

⁶¹ C. Scott, "Transnational Law as Proto-Concept: Three Conceptions" *German Law Journal* 2009-10, p. 859.

⁶² Kelly, *supra*, note 13, p. 357.

⁶³ A. Portes, 'Conclusion: Theoretical Convergences and Empirical Evidence in the Study of Immigration Transnationalism', 37 *International Migration Review* 2003.

⁶⁴ E. Hernández-López, 'Sovereignty Migrates in U.S. and Mexican Law: Transnational Influences in Plenary Power and Non-Intervention' 40 *Vanderbilt Journal of Transnational Law* 2007, p. 1349.

⁶⁵ T. A. Aleinikoff, 'International Legal Norms and Migration: a Report' in T. A. Aleinikoff & V. Chetail (eds.) *Migration and International Legal Norms* (The Hague: T.M.C. Asser Press 2003), p. 3.

⁶⁶ Hernández-López 2007, *supra* note 64, p. 1389.

⁶⁷ C. Heller, 'Los principios de la política exterior a la luz del contexto internacional' in R. Fernández de Castro (ed.) *Cambio y Continuidad en la Política Exterior de México: México en el Mundo* (México, D.F.: Ariel 2002), p. 87.

The trade in narcotics and other forbidden substances is a transnational activity because participants are non-state actors who cross national borders and it cannot be denied that their presence has prompted reactions from both the Mexican and United States governments, changing perceptions and laws in fundamental ways. This chapter deals with changes in policy across the board, and reasons why the application of the concept of sovereignty has been modified in the fight against DTOs, to understand how two states' legal systems reinterpret sovereignty and seek to establish joint responses.⁶⁸

II.1 Cooperation

Mexico successfully established DTOs as a security concern of the U.S., and began to negotiate an agreement in this sense. As it was presented in the Mexican Congress, *Plan Mérida* is a “multiannual cooperation programme [...] for 1.4 billion dollars, for the development of a joint strategy against organised crime,”⁶⁹ based on both multilateral and bilateral treaties such as the Agreement Mexico-United States for Combating Drug Trafficking of 1990, and the Palermo Convention against organised crime.⁷⁰ The *Mérida Initiative* allows Mexico to receive USD \$500 million to build up capacity in terms of police and military forces, buy new equipment and obtain training, but no direct cash transfers are made, probably because there is still the perception that Mexican security forces are corrupt. Mexico successfully presented the problem as important for U.S. domestic security concerns, as violence along the border began to affect citizens on the United States side, and began to negotiate an agreement in this sense.

On the one hand the criticism of *Mérida Initiative* as an infringement on Mexican law making has juridical basis, as seen in the previous chapter. However, Plan Mérida is not an initiative that considers U.S. terms and conditions only, it responds to a specific Mexican security need. President Calderón and the Mexican government felt secure enough in the relationship with the United States to request assistance from its government, in terms that fit the security strategy of the current Mexican administration. The Initiative provides a formal framework — even if not institutionalised — for a joint response to drug trafficking, and it fosters co-responsibility, rather than separate approaches. This is a novel development, which was in part brought about by trust; as President G.W. Bush noted:

The United States is committed to this joint strategy to deal with a joint problem. I would not be committed to dealing with this if I wasn't convinced that President

⁶⁸ Hernández-López 2007, *supra* note 64, p. 1353.

⁶⁹ Palabras de la Secretaria de Relaciones Exteriores, Embajadora Patricia Espinosa Cantellano, a propósito de la Iniciativa Mérida, 22 October 2007, online: http://www.sre.gob.mx/csocal/contenido/disc/2007/oct/disc_042.html (15 June 2011).

⁷⁰ *Ibid.*

Calderón had the will and the desire to protect his people from narco-traffickers.⁷¹

The fact that both governments were willing to establish this legislation shows that the problem of DTOs has become pressing enough to achieve a joint response, leaving behind the discourse of sovereignty that was previously so pervasive in the relationship. The following sections explore the issue of DTOs in light of other topics, to see whether they have influenced legal changes and, if so, why and how.

II.2 Economic Considerations Regarding DTOs

Beyond the drug trade, economic considerations are important to the relationship. Mexico is the third largest trade partner of the United States, only behind China and Canada, and the two countries are linked by a very sensitive chain of production. Therefore, the two economies have become interdependent. In spite of this, there is a high level of asymmetry: in 2008, 80.1 percent of Mexican export and 49.1 of its imports linked it to the U.S. market. Mexico is the sixth largest oil producer in the world and has a large amount of natural gas and minerals, most of which remains untouched.⁷²

It has been understood in the United States that migration and the economy are entwined with violence. Therefore the economy is a key variable, an essential topic when discussing security. As such, both countries realised programmes that could foster development, improve infrastructure and expand employment and education where needed for “those who are poor, destitute and otherwise vulnerable to the lure of crime-related activities.”⁷³ However, it should also be understood that the result of poverty alleviation is not immediately visible.⁷⁴

Unfortunately, the main strategy that was followed by the United States and Mexico was “the presumption that international trafficking of drugs, guns, and cash can be effectively addressed through interdiction, particularly along the nearly two-thousand-mile U.S.-Mexican border”.⁷⁵ The unintended consequences in terms of security damaged the economy greatly, without actually slowing down, let alone stop the flow of drugs into the United States.

⁷¹ President’s News Conference with Prime Minister Stephen Harper of Canada and President Felipe de Jesús Calderón Hinojosa of Mexico in Montebello, Canada, 43 *Weekly Compilation of Press Documents* 1095.

⁷² US Department of Energy, “Country Analysis Briefs: Mexico” (Washington, DC: Energy Information Administration, December 2007), p. 1.

⁷³ K. Mohr, ‘The Merida Initiative: An Early Assessment of U.S.-Mexico Security’, 9 *Patterson Review* 2008, p. 78.

⁷⁴ M. Meyer, Coletta Youngers, & Dave Bewley-Taylor, *At a Crossroads: Drug Trafficking, Violence and the Mexican State*, Washington, D.C.: The Washington Office on Latin America 2007, p. 11.

⁷⁵ *Ibid.*

The *Mérida Initiative* fails to address economic concerns, as it focuses on security issues. Therefore no changes in policy have been seen after the establishment of Mérida, let alone changes that would address this situation. However, there is increased awareness that narcotics trafficking has considerable economic impact. By recent calculations USD 17 billion are introduced from the United States into Mexico illegally by drug cartels, only slightly less than the USD 19 billion that enter as part of Foreign Direct Investment.⁷⁶

Drug trafficking is an enticing industry for many of those who live in poverty within Mexico. Official estimates have put the number of people that are (precariously) employed in the drug trade at 450, 000 people, particularly young men between the ages of 18-35. This group has been given a name, the 'ni-ni', *ni trabajan, ni estudian*, those who are unemployed and are not currently studying.⁷⁷ If these problems are seen not only as dealing with sovereignty and politics, but also in economic terms, regulation on one side of the border may be inefficient at dealing with the increase in demand in the market. But the most important problem that Mexican citizens are facing at this moment is the lack of accountability and security. Therefore, it is important to take a look at Human Rights issues in order to see how the situation has evolved after the signing of the *Mérida Initiative*.

II.3 Human Rights Issues and the Mérida Initiative as a Response

The rise of the concept of human rights has transformed individuals into international law stakeholders, who have their own entitlements *vis-à-vis* the state. There is also an understanding in the international system that, when it comes to human rights, when a state cannot or will not protect its own citizens, other states have the responsibility to intervene. This is considered 'the responsibility to protect' and was first put forth in U.N. documents such as the *Responsibility to Protect*, the report by the International Commission on Intervention and State Sovereignty.

The responsibility to protect makes reference only to mass crimes, such as ethnic cleansing or genocide. To appease claims that this idea of a responsibility to protect is, in fact, in direct contravention of the sovereignty of states, the U.N. Secretary Ban Ki-Moon has expressed that states must give their consent for other states to intervene in the situation, unless the state itself is the main perpetrator of international crimes against their own population. In this case, it is argued, the state is not fulfilling its sovereign obligation to protect its own population.

⁷⁶ F. Franco, 'El narcotráfico introduce 17 mil millones de dólares a México desde Estados Unidos', *Excelsior*, 20 June 2011, online http://excelsior.com.mx/index.php?m=nota&id_nota=746081 (10 July 2011).

⁷⁷ Shirk, D. A., *Transnational Crime, U.S. Border Security, and the War on Drugs in Mexico*, Speech *Delivered to the House of Representatives Sub-Committee on Oversight, Investigations, and Management*, Chairman: Hon. Michael McCaul, March 31, 2011.

In the case of Mexico and its 'war on drugs', there is first a lack of definition. Mexico has been prey to widespread and systematic violence since 2007, but not directed against any particular group; it is not an intestine or civil war, it is not a war against a foreign enemy. This violence would therefore not be covered by the Rome Statute as genocide, crimes against humanity, war crimes nor the recently incorporated crime of aggression.⁷⁸ The violence in Mexico is defined by the amount of people who have scattered the streets throughout the country. It is often said that Mexico has the highest body-count outside of a war zone, and this might be true, but there are also no records, particularly because freedom of the press has been highly disrupted by the violence and the fear of being killed. Freedom of the press has become an issue in which the lack of oversight from the government has allowed for drug cartels to decide what gets published and what qualifies as news.⁷⁹

Therefore, it can be said that Mexico is currently immersed in a difficult to end human rights crisis. Nuevo Laredo and Tijuana, both major cities along the border on the Mexican side have "elements of failed states."⁸⁰ Also, an increase in the militarization of drug combating has been seen as the first step towards the militarization of Mexico, the creation of a police state, which has increased the potential for human rights abuses as the military is trained to use force when the situation so requires.⁸¹ This could mean that in practice, this situation combined with the mistrust that Mexicans feel about their government could increase "the odds for corruption and collaboration with traffickers and organized crime syndicates which could undermine the Initiative altogether."⁸² Moreover, Human Rights as a state policy is not yet a dominant factor. International norms have not been institutionalised within internal structures of policy making in Mexico.

The *Mérida Initiative* actually has taken note of this and established a clause through which the aid that Mexico receives is conditioned to respecting human rights. Nevertheless, with the military on the streets and a 'war' where the parties being fought are civilians, this is very hard to achieve. There is almost no oversight of the Mexican military, which is why the human rights clause in the Initiative becomes pivotal to prevent human rights abuses. As such, the Initiative is an opportunity to establish a framework and a set of practices that can establish the basis for respecting human rights.⁸³ The expectation would then be not that the *Mérida Initiative* fosters human rights abuses but rather

⁷⁸ Rome Statute of the International Criminal Court, available at http://untreaty.un.org/cod/icc/statute/99_corr/cstatute.htm (15 June 2011).

⁷⁹ *Ibid.*

⁸⁰ S.E. Hendrix, 'The Merida Initiative for Mexico and Central America: The New Paradigm for Security Cooperation, Attacking Organized Crime, Corruption and Violence' *Loyola University Chicago International Review*, 2008-5 (2), p. 108.

⁸¹ Meyer 2007, *supra* note 74, p. 9.

⁸² Mohr 2008, *supra* note 73, p. 77.

⁸³ M.C. Ramírez Lemus, K. Stanton & J. Walsh. 'Colombia: A Vicious Circle of Drugs and War' in Youngers & E. Rosin 2005, *supra* note 54, p. 11.

that this document becomes a blueprint for improving the human rights situation in Mexico.

The Initiative, for example, establishes human rights training for law enforcement units,⁸⁴ and like with every carrot, it also provides a stick. On Section 114, 'Limitations on Assistance' it is established that

No assistance may be provided under this subtitle to any unit of the armed forces of Mexico or any unit of the law enforcement agencies of Mexico if the Secretary of State determines that, consistent with section 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2378d), there is credible evidence that such unit has committed gross violations of human rights.⁸⁵

While the United Nations has classified Mexico as 'the most dangerous country to be a journalist in' and the body count has risen, mostly when it relates to civilians, however, the aid package has not been suspended. Therefore, while the human rights clause of the *Mérida Initiative* might be a good thought, it has begun to seem wishful thinking, rather than an incentive for changing the status quo.

Conclusion

Throughout this thesis we have seen that the policy-creation procedures of Mexico have been modified tacitly as a result of the *Mérida Initiative*. Sovereignty has an important role to play in the discourse, but it is not necessarily applied in the practice. Cooperation has historically been defined by moments of convergence of interests. It can then be said that Mexico's policies in terms of combating drug trafficking are in line with what the United States proposes and, as such, both countries have agreed to shared responsibility.

The *Mérida Initiative* is considered unconstitutional and, as such, an infringement on the Mexican right to create and control its own internal policies. On the other hand, the lack of a treaty for cooperation has allowed more leeway for Mexico to receive and negotiate support from the United States. Notably, the pressing security situation makes it difficult to negotiate a treaty which will benefit both countries. Two possible ways forward exist: the project could be denounced by the Mexican Senate and they could find a manner to attract this agreement into its sphere of regulation as a matter of policy. The agreement would then have to be renegotiated, and this would take time, which the Calderón government does not seem to have, to give the DTOs time to regroup and obtain more resources. Keeping the arrangement as is

⁸⁴ H.R. 6028, June 10, 2008, "Mérida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008".

⁸⁵ H.R. 6028, June 10, 2008, "Mérida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008".

established up until today would call for revisions in order to determine how to legally incorporate this measure into the current understanding of laws governing the interaction between Mexico and other countries.

Cooperation is incentivised when there are problems which affect the security of the citizens of both sides of the border. It could even be argued that cooperation is present because of the lack of legislative oversight in Mexico related to drug combating. The neighbours have found common ground for agreements in several areas, such as security and economy. It has been argued that this has come at the expense of the rigorous principle of non-intervention in the domestic affairs of other countries that guided Mexican foreign policy. Moreover, this distancing from principles allows, it is said, for the United States to intervene in Mexican territory. However, this measure of ad-hoc cooperation also brings about uncertainty as to how further bilateral mechanisms for cooperation would be developed.⁸⁶

The Obama administration has so far kept this security policy as a guideline for the bilateral relation. Yet more and more the foreign policy directives of the Federal government in the United States have been in direct contradiction to the local policies around the border. How the President and his team will balance the homeland security needs and the needs of the Mexican government in terms of security remains to be seen.

On the other side of the border, Mexico has been willing to engage with the United States, but even the government of President Calderón has begun to realise that in order to combat organised crime it is not enough to have security forces on the street. What needs to follow, and where the United States could help the most, is the development of alternative strategies of economic and social development that reach out to the general population of Mexico.

-The Amsterdam Law Forum is an open access initiative supported by the VU University Library -

⁸⁶ Bailey 2010, *supra* note 34, p. 23.