

The Role of Global Governance in Curtailing Mexican Cartel Violence

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Mexican drug trafficking organizations (DTOs) or cartels are organized criminal enterprises specializing in the distribution and sale of narcotics, often transnationally, to neighboring countries such as the United States. Since Mexican President, Felipe Calderon, declared a national war on drugs in 2006, the level of violence created by cartels has consistently escalated. 2018 marked a record-breaking level of violence for the country which was overshadowed by concerning increases in the first three months of 2019 (IISS 2019). The dynamics of Mexican cartels have drastically evolved since 2006 creating a peace and security threat which extends past Mexican borders and endangers the entire American continent. This evolution has changed the nature of Mexican cartel violence making it a threat to international peace and security which is being inadequately addressed by the global community. This essay will begin by addressing specific characteristics of modern cartels which exacerbate their negative impacts and merit the attention of global governance. Subsequently, it will present existing frameworks of global governance which could be applied to Mexican cartel violence. It will conclude with an analysis of how the global community has reacted up to this point.

There has been extensive research into the nature of Mexican DTOs. Their transnationalism, fragmentation, and internal governance structures are only some cartel characteristics which have been studied at length (U.S. Department of Justice and Drug Enforcement Administration 2018, Justice in Mexico 2019, Teixeira 2016, Reveles, Lara Klahr and Spiller, 2013, Knierim 2018). Global governance frameworks and their application to non-state actors have also been addressed by researchers and global governance bodies, such as the United Nations and the International Committee of the Red Cross (International Humanitarian Law: Handbook for Parliamentarians N° 25 2016, International Committee of the Red Cross 2010, Casebook.icrc.org, n.d.). Global governance has also been studied vis a vis DTO's; however, there are no sources addressing global governance relating specifically to the threat of Mexican cartels.

Currently active Mexican drug trafficking organizations exhibit characteristics that make them especially dangerous and merit international attention. The transnationalism, fragmentation, and internal governance structures of these organizations exacerbate the violence they perpetuate. These elements of modern cartel violence make the issue a grave threat to international peace and security which should be addressed through global governance.

The reach of Mexican cartels' dealings has expanded as the world has become more globalized. Globalization and digitalization have facilitated international communication which is imperative to the international trafficking of drugs. Mexican cartels notoriously transport drugs to the United States through their shared border. According to the 2018 National Drug Threat Assessment, Mexico is the primary source of heroin, methamphetamine, fentanyl, and other synthetic opioids in the United States (U.S. Department of Justice and Drug Enforcement Administration 2018, pp.vi). To facilitate the movement of product, cartels maintain a domestic presence within countries of destination. DTOs, such as the Sinaloa Cartel, have a pervasive reach in the USA which can bring cartel related violence into foreign countries. Competition for drug routes into the United States has expanded cartel violence into foreign land. Border cities between Mexico and the United States, such as Tijuana and Ciudad Juarez, constituted the most violent municipalities in Mexico in 2018 due to competition for dominance over smuggling routes (Justice in Mexico 2019: 4, Teixeira 2016:7, 33-35). Violence instigated by cartels expands southward to Central and South America as well.

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Mexican DTOs use Central American corridors to move South American drugs, further destabilizing the region as their dominance over the continent's narcotics trade grows (United Nations Office on Drugs and Crime 2007: 44-48, Global Governance and the challenge of transnational organized crime: the role of the constructive Powers, 2012: 5-8, Reveles, Lara Klahr and Spiller, 2013: 149-153). The reach of Mexican cartels and the violence they instigate raises international peace and security concerns.

Many large Mexican DTOs have fragmented, making them more violent and difficult to track. In 2006, President Felipe Calderon declared a war against drug trafficking. In response, the United States and Mexico instated the Merida Initiative to collaboratively curb drug trafficking and the violence associated with it in 2007. The Mexican government, funded by the United States, consistently employed a kingpin strategy to combat DTOs (Ribando Seelke 2019: 1-2). This strategy sought to arrest, extradite, or kill high level members (kingpins) of major cartels. The kingpin strategy is built upon the assumption that the removal of a leader will weaken their organization and reduce their level of criminal activity (Lindo and Padilla-Romo 2018: 254). However, the use of the kingpin strategy in Mexico has led to the fragmentation of large DTOs and left a power vacuum in their place, which makes them more violent and difficult to track. The removal of a kingpin undermines the construction of major cartels, leading to wars of succession within a DTO or violent competition between cartels for influence and territory (Shirk and Wallman 2015: 1364, IISS 2019). Jason Lindo and Maria Padilla-Romo found that "the capture of a drug-trafficking organization leader in a municipality increases its homicide rate by 61% in the six months following the capture and that this effect appears to persist into subsequent period" (Lindo and Padilla-Romo 2018: 254). Additionally, fragmentation of major cartels has led to their multiplication and diversification. In the beginning of 2007, there were five major Mexican DTOs, all of whom suffered the death or capture of at least one leader. As a result of this decapitation, it is estimated that there could be up to twenty major cartels operating within Mexico today (Knierim 2018: 6, Justice in Mexico 2019: 5, Beittel 2018: 24, Shirk and Wallman 2015: 1365). Fragmentation threatens international peace and security as it complicates the tracking of DTOs while augmenting the violence they create through the exacerbation of inter and intra-cartel violence.

The evolution of these organizations' internal structure has increased their reach and made them more difficult to counter. Earlier permutations of Mexican DTOs were hierarchically organized and often predicated upon familial ties. These organizations were led by identifiable kingpins and business dealings were delegated through a closely linked network of family and friends (Beittel 2018: 5-8). Following the decapitation of their hierarchy, many major family-based cartels, such as *La Familia Michoacana*, (LFM) broke into subgroups or rearranged their organizational structure (Knierim 2018: 6-8). The quantity of subgroups and lack of tight hierarchies has led Mexican DTOs to arrange themselves more loosely and horizontally. DTOs, such as the remaining groups of what was formerly LFM, use tactics of indoctrination and intimidation of members to promote unity despite this looser structure (InSight Crime 2018, Beittel 2018: 20, Kostelnik and Skarbek 2012: 97-101). This loose organizational structure expands the impact of cartels and involves wider networks of members and accomplices. As a result, such cartels pose a new threat to international security due to their expanse and the difficulty of identifying any concrete governance structures, as was possible with strict hierarchies.

Having established that Mexican cartel violence is a grave threat to international peace and security, one must analyze the instruments available to the international community to combat this threat through global governance. There is limited research of the application of these mechanisms in cases of DTOs; however, there are a variety of potential global governance approaches to the issue of cartels. The international community could act against Mexican cartel violence through use of international humanitarian law, the United Nations Convention against Illicit Traffic in Narcotic Drugs, and the United Nations Security Council.

International humanitarian law (IHL), also known as the law of war, is a set of rules designed to limit the adverse humanitarian effects of armed conflict (International Committee of the Red Cross, 2015). Under IHL, states, non-state armed groups, national liberation movements, collective security operations, and individuals are bound to the protection of specified persons, such as medical personnel and children, and adherence to international laws (International Humanitarian Law: Handbook for Parliamentarians N° 25 2016: 29, International Committee of the Red Cross 2010). In theory, this would bind cartel members to international law; however, IHL is triggered by conflict. Common Article 3 of the Geneva Conventions states that IHL applies in both international and non-international

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armed conflict (IAC and NIAC) (Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field: Art.3). In order to apply this framework of governance to Mexican cartel violence, it must fit the criteria of a NIAC. The International Committee of the Red Cross (ICRC) has determined that a NIAC is defined by a minimum level of the hostilities' intensity and by the level of organization of the non-state group. The ICRC does not define specific metrics of violence necessary to meet this qualification. The organization implies that the use of military instead of police against a non-state group would suffice (Casebook.icrc.org n.d.). Mexico has been deploying the military in the war against drugs since 2006.[1] Violence levels have risen in Mexico to a staggering 27 homicides per 10,000 citizens in 2018 largely due to DTO activity (Visionofhumanity.org 2019: 6). The protracted use of military forces and escalation of homicide rates imply that Mexican cartel violence fulfills the qualification of sufficient violence necessary to defining a NIAC. The increased sophistication of their internal structures into expansive horizontal networks of association and the increase of their weapons capacities makes them capable of acting as "parties to the conflict". Cartels are capable of mobilizing organized armed forces and sustaining such organized conflict. Organized-crime style violence, such as coordinated group executions, beheadings, and kidnappings made up a majority of homicides in 2018, implying the continued existence of the necessary command structure within DTOs to carry them out (Justice in Mexico 2019: 20). The level of violence and organization of these organizations could qualify this issue as a NIAC. Such a qualification would bind cartel members to IHL and provide a framework through which the international community could hold them accountable for their breaches of international law through domestic legal proceedings or international tribunals, such as the International Criminal Court.

In 1988, The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was adopted as part of the International Drug Control Conventions. 190 states are party to this treaty (Treaties.un.org 2019). The treaty recognized the magnitude of the threat that illicit drug trafficking presents and its link to violence (International Drug Control Conventions 1988: 123). It implores the criminalization of various narcotic trafficking related activities in the domestic legal systems of states parties, specifically if they involve an organized criminal group (International Drug Control Conventions 1988: 130). The treaty specifies that offenses of this nature shall be included as an extraditable offense within the extradition treaty between the relevant parties. This statute along with one promoting mutual legal assistance has posed a significant threat to Mexican cartels, as the legal systems of the United States are often far more stringent. In accordance with the convention, the extradition of kingpins, such as Joaquin "El Chapo" Guzmán, has been used to deter cartels and promote the kingpin strategy (Nevett 2019). Additionally, it commits the International Narcotics Control Board (INCB) to release an annual report with recommendations. The international community could use this framework to insist upon cooperation against cartels within and between countries. It could encourage projects such as the Merida Initiative to engage more countries and resources into strategically combatting cartels as they further extend their territorial boundaries. Additionally, it could be used to propel domestic efforts against DTOs by providing the support of the international community.

The United Nations Security Council (UNSC) is the UN body involved in maintaining international peace and security and the only UN branch that can pass binding resolutions (Lowe 2015: 35; Sengupta 2019). The UNSC creates binding resolutions regarding what it finds to be significant threats to international peace and security. The UNSC can impose economic, diplomatic, or military sanctions against a wrongdoing United Nations member state or individual (Lowe 2015: 44-46, United Nations 1945: Art. 25). Because cartels are non-state actors, the Security Council cannot direct resolutions toward them to cease violence; however, resolutions can be made to bind states to anti-DTO measures and strategic interventions to quell cartel violence. There is legal precedent for such action. In 2016, the UNSC passed resolution 2325 calling states to strengthen their domestic anti-proliferation regimes in order to prevent terrorist organizations from acquiring weapons of mass destruction (Un.org 2016). Addressing the threat of cartel violence in the Security Council could propel coordinated state action. The Security Council could additionally sanction individual members of violent DTOs, as they have done with individuals involved in drug trafficking and organized crime in Mali (Un.org 2019a). Such individual sanctions can include financial or commodity restrictions and travel bans (Un.org n.d.). It is unlikely that such sanctions would decisively stop high level cartel members' activities, but it would limit their movement and their illicit financial flows, which could make them more easily traceable.

These global governance mechanisms could feasibly guide the international community in responding to the threat of

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Mexican cartel violence. Despite the gravity of this threat and the existence of these frameworks, none of these have been employed. The international community has been largely silent on the issue.

There has been no attempt by the International Committee of the Red Cross (ICRC), the guardian of IHL, to apply international humanitarian law to Mexican cartel violence. However, the ICRC's case study website, *How Does Law Protect in War*, has a case study on the Mexican War on Drugs which implies that the ICRC recognizes the potential necessity of IHL in this situation (Maroonian n.d.). The fact that IHL has not been implemented may be attributable to the possible lack of cooperation by the Mexican government. A speaker at the ICRC disclosed that there may be hesitation for Mexico to accept the use of IHL in response to cartel violence. According to this source, were cartel violence to be classified as a NIAC, the Mexican government would be admitting to a deficiency in its capacity to govern this problem. The desire to avoid a perception of weakness may hinder Mexico's acceptance of IHL.

The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances is severely outdated. The INCB has continued to report on the state of the drug crisis; however, the convention has not been enforced or mentioned by states parties despite the exacerbation of illicit drug trafficking since its adoption. The most recent INCB document reviewing the convention's effectiveness was released in 1994 prior to the major evolution of Mexican cartels beginning in 2006. It addressed the weaknesses of the treaty, such as its lack of specificity in measures which should be taken by states. Specifically, it addressed that the treaty is being inadequately used to respond to changes in drug trafficking. It clearly acknowledges that, as of 1994, drug trafficking has become a larger global problem which the treaty has not been used to address (International Narcotics Control Board 1994: 3). Due to the weaknesses of this treaty and its inability to adapt to the changes in drug trafficking, it has not been utilized by the international community to prevent or address cartel violence.

The United Nations Security Council has failed to address this issue. Because DTOs are non-state actors, resolutions could not be made to directly target Mexican cartels; however, the Security Council can promote discussion and action by states to combat this problem or impose individual sanctions. The UNSC has neglected to do so. The UNSC has dealt with sanctions of individuals involved in illicit movement of drugs in Africa, but these sanctions are largely imposed due to the individuals' connections to human trafficking and terrorist organizations, not because of the drug trafficking itself (Un.org 2019b). In the case of Mexican cartels, DTOs are the perpetrators of numerous human rights violations, so drug trafficking would need to be addressed as a grave offense, not a secondary concern. The UNSC has also been briefed on criminal activity, including drug trafficking, in Guinea Bissau by the United Nation Office of Drugs and Crime; however, no resolution was made to address the issue (Un.org 2019c). The existence of such a briefing implies that the UNSC recognizes the gravity of illicit drug trafficking, even if no resolution came of it. The UNSC has taken no such measures in regard to Mexican cartels. There have been no briefings, resolutions, or individual sanctions discussed by the Security Council on the issue. The UNSC has not begun any discussions to tackle Mexican cartel violence through international cooperation or sanctions. Given the UNSC's mandate to maintain international peace and security, this neglect is cause for concern given the significant danger which these organizations pose.

Mexican cartel violence poses a grave threat to international security. These DTOs have become more dangerous as they have become transnational, fragmented, and changed their internal governance structures. Despite the problem which they pose to the American continents, global governance has neglected to address Mexican cartels. The international community could act through IHL, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, or the United Nations Security Council, but none of these methods have been employed. It is imperative that global governance responds to the threat of Mexican cartels in order to mitigate their abhorrent violence and the devastation which they wreak. The first step to global governance solutions is a recognition of the gravity of the human rights violations perpetrated by Mexican DTOs. By advocating to both states and civil society regarding this cause more traction can be gained to incentivize the international community to act. Communicating the issue on the highest level through measures such as briefings to the Security Council could mobilize relevant international bodies, such as the ICRC, to take action through the aforementioned available frameworks.

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The Role of Global Governance in Curtailing Mexican Cartel Violence

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The Role of Global Governance in Curtailing Mexican Cartel Violence

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The Role of Global Governance in Curtailing Mexican Cartel Violence

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