

JAMES A. BAKER III INSTITUTE FOR PUBLIC POLICY
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A "FAILED STATE" IN MEXICO:
TAMAULIPAS DECLARES ITSELF UNGOVERNABLE

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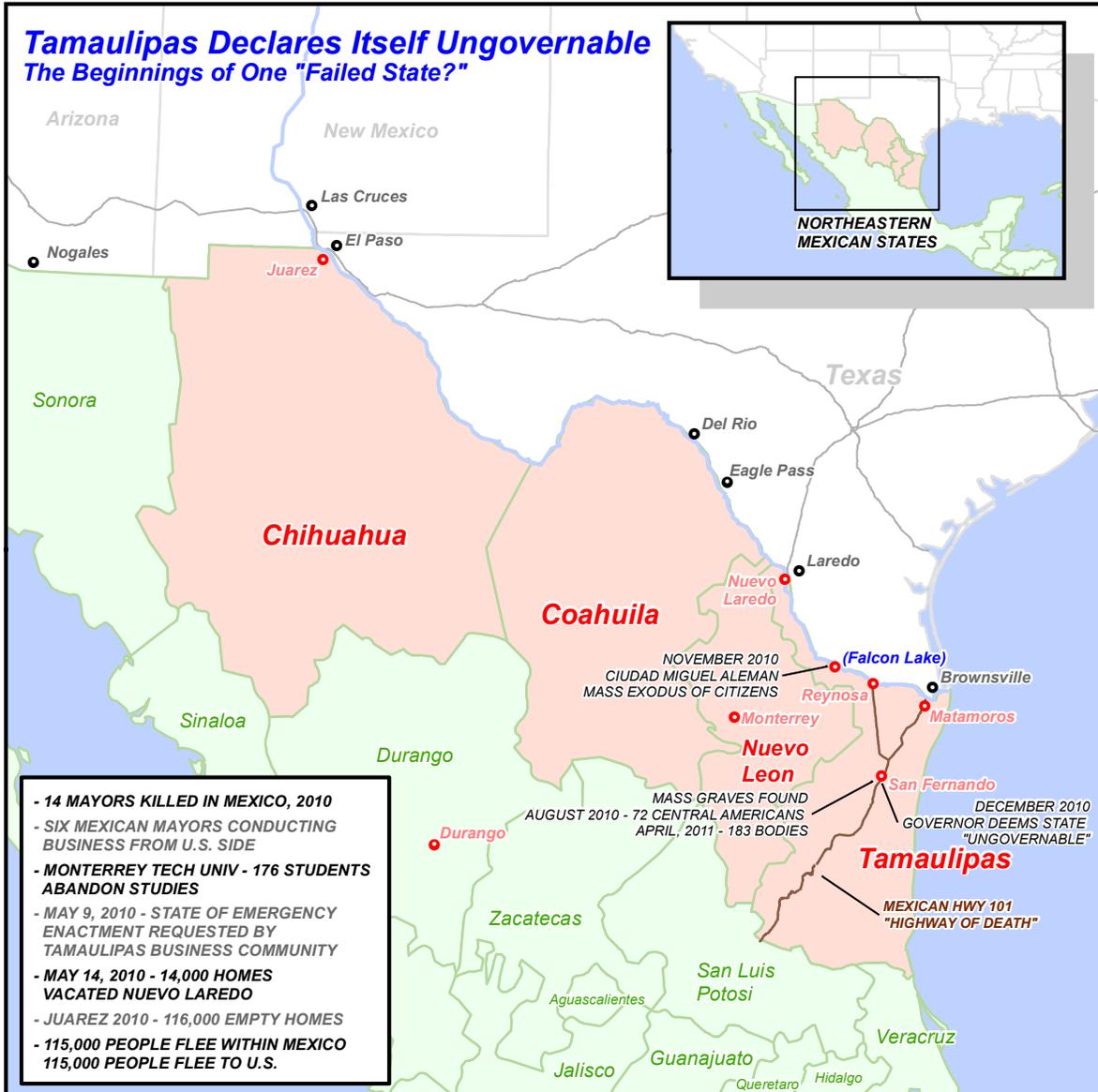
A “Failed State” in Mexico

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A "Failed State" in Mexico



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Mexico finds itself in a precarious position, given the level of victimization that the drug cartel wars are imposing on its citizens and the resultant loss of civil authority that is increasingly being eroded by pressures placed on local and state governments by drug trafficking organizations. The larger part of the violence is occurring in two regions of Mexico—namely, the Pacific states, where drugs and chemicals are introduced into the country; and the northern border, where those same illegal commodities are ultimately exported into the United States.

In November 2010, Mexican President Felipe Calderon gave a speech in which he acknowledged that those regions of the country were of the greatest concern to his administration with regard to drug-cartel-induced violence. Paraphrased here, he said: “I know the pain of this nation, and that pain does not permit our consciences a single moment of doubt, or fear, or of vacillation. There, where crime is happening, where it affects our citizens most; there, in Tamaulipas, where they are suffering; in Nuevo Leon; in Chihuahua; in Michoacán; there, we will be redoubling our presence to help our citizens.”¹

Criminality is visibly gaining ground over local governments, gradually subverting the abilities of mayors and governors to function effectively. Drug cartels are controlling police assets from behind the barrel of a gun or with more money than public coffers can afford, thereby negating the ability of elected officials to direct security resources from the chambers of city halls and state government houses. The cartels make and enforce their own rules, often with little to no interference from legitimate municipal authorities. Mexican officials continue being threatened, kidnapped, tortured, and killed, most often with impunity, and common folk are in fear, unable to freely carry on the tasks of daily living because of the war that endlessly rages around them.

Of those two zones of conflict, the northern reaches of Mexico are of serious concern to the United States because of the constant bidirectional ebb and flow of people and business across the border, as well as an illegal drug, human, weapons, and bulk-cash smuggling trade between the two countries that shows no sign of diminishing. Both nations are increasingly wary of the

¹ Felipe Calderón Hinojosa (palabras del Presidente de los Estados Unidos Mexicanos, Encuentro Ciudadano con Motivo del Cuarto Año de Gobierno, que tuvo lugar en esta ciudad, November 28, 2010), http://galeria.calderon.presidencia.gob.mx/main.php?g2_itemId=50439

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intentions of the other. The United States is worried that the Mexican government will not be able to contain cartel violence inside its borders. Mexico, in turn, is on the defensive, concerned that the United States may take rash action to defend its citizens and interests on either side of the 2,300-mile stretch of territory that lies between the two countries.

The situation in northern Mexico is volatile and the outcomes are uncertain. Mexico could eventually gain the upper hand and establish full control of its side of the border region, lessening U.S. security concerns, or it could lose the effort to retain control of the field and thereby lose its ability to ensure public safety at the state and local levels.

Discounting Mexican public concerns and tacit admissions to that end, many indicators point to the beginning of what could be considered failing state and local governments in the northern Mexico region, particularly in the state of Tamaulipas.

The criteria that define the “tipping point”² (commonly known as “the moment of critical mass, the threshold, the boiling point”), or in this case, the point at which credible authority is lost and a fall toward anarchy in northern Mexico occurs, are an abstract jumble of social factors, security considerations, political outcomes, and political will at all levels of government.

In an effort to establish and demonstrate a forward-leaning posture, on June 13, 2011, the National Conference of Governors (CONAGO, or *Conferencia Nacional de Gobernadores*) initiated the first-ever simultaneous and combined state and federal law enforcement operation designed to improve public safety at the local levels.³

If this experiment in unified police operations does not become practice, consistently address the many security issues that are being challenged by the cartels, and have positive public safety effects, the northern border states could be consumed by an already strongly intimidating

² Malcolm Gladwell, *The Tipping Point: How Little Things Can Make a Big Difference* (n.p.:Little, Brown and Company, 2000). Gladwell defines a [tipping point](#) as “the moment of critical mass, the threshold, the boiling point.”

³ Alberto Morales, “Poiré reconoce operativo Conago,” *El Universal*, June 17, 2011, <http://www.eluniversal.com.mx/nacion/186328.html>

criminal element operating throughout the country, and it will become more difficult to restore the equilibrium that represents Mexico at rest.

Regional Governance at Risk

The implications of an admitted loss of government control in the Mexico border area stretching from Nueva Ciudad Guerrero in the northwest to Matamoros in the southeast, and beyond to Monterrey and Ciudad Juárez is troubling not only because the cartels are victimizing anyone who crosses their path, or that drug smuggling is occurring despite warring among the cartels and between the cartels and the government, but because the adjacent states of Nuevo Leon, Coahuila, and Chihuahua could readily suffer the same loss of control if the strength and influence of the cartels are not reversed and subsequently eliminated.

If such a loss of control were to be experienced, the entire northeast region of Mexico could become a lawless society, breaking away from the central government authority. From a certain point of view, it could be argued that loss of government authority in northern Mexico has already “tipped,” giving way to criminality and continuing to move away from a semblance of authority.

Should these other states go the way of Tamaulipas, which has called on the federal government to assume political and security control of the area, the binational business interests of Mexico and the United States also could be at grave risk. At stake are continued dangers to Americans living and operating in Mexico and the potential negative effects to the supply-chain of the *maquiladora* industry and other manufacturers, as well as to the continued business interests of U.S. and other multinational firms that are faced with frequently having to evaluate whether to remain, further invest, or to abandon operations in Mexico given the extant risk to life and property.

Fight or Flight?

Alfonso Moreno, CEO of the Border Alliance and Security Intelligence Center (BASIC) based in Laredo, Texas, reported that the cross-border trade community is very concerned over the security of their supply chains, so much so that the situation has “caused manufacturers and exporters to re-evaluate how they do business.” He added that

most are avoiding or minimizing the movement of shipments during [the hours of] darkness while traversing Mexican highways.

Others have incurred extra costs by hiring the services of armed escorts for their shipments. Businessmen and women are taking similar precautions by traveling during the day and not carrying personal identifying information, such as official IDs or business cards that single them out as executives. Still others are resorting to air travel to avoid the Mexican highways. The air route from Monterrey, Nuevo Leon, to Laredo, Texas, via Houston is becoming more popular for business travelers . . . because of the threats posed by Mexican Cartel violence.⁴

In a recent survey titled “*El impacto de seguridad en México en el sector privado*” (“The Impact of Security on the Private Sector in Mexico”), the American Chamber of Commerce in Mexico City reveals that American companies see the states of Chihuahua, Nuevo Leon, Tamaulipas, and the Federal District as the most volatile locations in which to conduct business in the country. One-third of those surveyed reported that they had limited their visits to Mexico as a result of violence. Sixty percent of the respondents stated that they considered the power and strength of organized crime as the principal reason and the lack of a “rule of law” as the second highest cause of insecurity in Mexico.⁵

⁴ Alfonso Moreno, “Trade Industry Concerns Over the Security of Their Supply Chains,” email dated May 20, 2011. Moreno is the director of the Border Alliance and Security Intelligence Center (BASIC).

⁵ *The Impact of Security in Mexico on the Private Sector*, 3rd ed., American Chamber of Commerce, Mexico/Kroll, March 23, 2011. <http://amcham.org.mx/cwt/external/wcpages/index.aspx>.

In that regard, Mexican government sources indicate that as many as 14 mayors were killed in Mexico during 2010. Three mayors had been killed through the end of January of the present year. This trend, coupled with a series of events in Tamaulipas during the last 18 months, has led some local officials to govern in absentia, in order to protect their personal safety and that of their families.

The “Flight”—A Diaspora Unfolding in Northern Mexico

By late 2010, it was reported that as many as six mayors from the state of Tamaulipas had moved to the U.S. side of the border, and that others from Nuevo Leon and Chihuahua had done the same, giving directions and instructions by telephone or by crossing back into Mexico every morning to conduct their appointed business. The mayor of San Fernando, Tamaulipas, is reportedly currently living outside of the town that he is elected to represent.⁶

The Internal Displacement Monitoring Centre (IDMC) reports that

drug-cartel violence in Mexico escalated dramatically in 2010, with the violence reaching the highest levels since it broke out in 2006; as many as 15,000 people were killed during the year. In 2010, northern states bordering the United States, where trafficking routes were concentrated, were most affected. That year most Internationally Displaced Persons in Mexico originated from Tamaulipas and Chihuahua, the states most affected by violence in northeastern Mexico.⁷

This displacement amounts to a diaspora that is occurring below the surface of more visible acts of violence in the region. Defined as the movement, migration, or scattering of people away from an established or ancestral homeland, the word “diaspora” has also been recently used to refer to other historical mass-dispersions of people with common roots, often particularly movements of

⁶ “Alcaldes Mexicanos Gobiernan Desde EU Por Miedo al Narco y el Asesinato de Colegas,” *Univision*, September 27, 2010, <http://noticias.univision.com/narcotrafico/reportajes/article/2010-09-27/alcaldes-mexicanos-gobiernan-desde-eu>.

⁷ “Mexico: Limited response to displacement following local and regional conflicts,” Internal Displacement Monitoring Center, December 31, 2010, <http://www.internal-displacement.org/countries/mexico>.

an involuntary nature.⁸ All things considered, cartel violence in northeastern Mexico is precipitating the displacement of many Mexicans to locations away from their places of birth or areas of the country where they were historically anchored.

For example, a large number of students have fled northern Mexico because of an increasing number of deaths attributed to cartel violence, starting in late 2006. The apparent beginning of a “brain drain” was recently noted by the Instituto Tecnológico y de Estudios Superiores de Monterrey, where more than 176 students recently abandoned their studies on campus—the largest student displacement that had been witnessed by private universities in Mexico in recent times. Throughout the state of Nuevo León, and apart from the deaths at the Tecnológico de Monterrey that led to the “brain drain,” four other student victims have been noted. In June 2010, three more students died as a result of crossfire when the military engaged traffickers on the Reynosa-Nuevo Laredo highway in the neighboring state of Tamaulipas.

To the west, in Ciudad Juárez, Chihuahua, ministerial police recorded the death of at least 60 students attributed to inter-cartel firefights or confrontations between the cartels and military or police forces. In January 2010, eight students were killed as a result of crossfire between rival cartels fighting for street-level turf in Torreon, Coahuila, a state that neighbors Chihuahua, both across from West Texas. On the Pacific side of Mexico, the Universidad Autónoma de Sinaloa has listed at least 40 student deaths as a result of varying violent acts.⁹

In Miguel Aleman, Tamaulipas, across from South Texas, an entire town was threatened by the Zetas organization in November 2010 to leave town or be killed. A mass exodus of townspeople fled the municipality and took refuge in other towns downriver and on the U.S. side of the border in Texas, leaving the area from Falcon Dam at Nueva Ciudad Guerrero south to Ciudad Mier in the hands of cartel war-fighters. Numerous firefights between the Zetas and government forces ensued; soldiers and marines have been ambushed, killed, and sometimes kidnapped.¹⁰

⁸ “Diaspora,” *Wikipedia*, last modified July 22, 2011, <http://en.wikipedia.org/wiki/Diaspora>.

⁹ Linaloe R. Flores, “En universidades privadas, éxodo por violencia,” *El Universal*, May 16, 2011, <http://www.eluniversal.com.mx/notas/765687.html>.

¹⁰ “Cartel Threats Force People To Flee Cities in Mexico,” *MexicoNews.Net*, November 23, 2010, <http://www.mexiconews.net/story/710767>.

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In Chihuahua, where the Sinaloa Cartel began to challenge the dominance of the Juárez Cartel and its control of trafficking routes, Ciudad Juárez also experienced increased violence and forced displacement. The Municipal Planning Institute reported in 2010 that there were up to 116,000 empty homes in Juárez, and surveys conducted by a research centre in that city also estimated that approximately 230,000 people had fled their homes.

According to the IDMC survey, roughly half of them had crossed the border into the United States, leaving the other half of evacuees, or an estimated 115,000 people, internally displaced predominantly in the states of Chihuahua, Durango, Coahuila, and Veracruz. There have been few attempts to define the scale of displacement in small rural towns in Tamaulipas and Chihuahua, even though the violence is believed to be even more intense in those rural areas.¹¹

On May 14, Mexican media reports also indicated that more than 14,000 homes and residences had been left abandoned in Nuevo Laredo, Tamaulipas, by Mexican citizens who had fled that embattled city.¹²

This phenomenon has led local and state officials to recommend that the Mexican federal government enact extreme constitutional measures to re-establish administrative and political control over the northeastern region. The continued inability of the Mexican government to control this border region is also causing great concern in U.S. governmental circles.

Texas has repeatedly led the call among the border states for an increased virtual militarization of the western United States by asking Washington, D.C., to not only extend the presence of hundreds of National Guard troops already deployed along the southern margins of Texas, but to substantially increase their numbers along the entire border.¹³ On June 17, the Obama administration ceded to those state requests and extended the state militia troop deployments on

¹¹ “Cartel Threats,” *MexicoNews.Net*.

¹² “Hay 25 mil casas y terrenos abandonados en Nuevo Laredo,” *Excélsior*, May 14, 2011, http://www.excelsior.com.mx/index.php?m=nota&id_notas=736727.

¹³ Laura B. Martinez, “Guard troops to leave border,” *The Brownsville Herald*, March 16, 2010, <http://www.brownsvilleherald.com/articles/troops-124023-border-keep.html>.

the border through September 30, 2011, effectively funding their presence until the last day of the federal government’s current fiscal year.¹⁴

Aside from the states, the U.S. federal government is also apprehensive of the border violence situation, and many agencies have joined the chorus of concern that has labeled cartel activities in Mexico and within the United States as a threat to national security, possibly giving subjective fear more weight than objective truth.

The “Fight”—Echoes of War

Wars have unfortunately begun this way. Since the U.S.-Mexico War of 1846-1848, security issues have spurred the United States to conduct several military incursions into Mexico. This has caused some current Mexican political and military officials to be suspect of U.S. officials’ declarations before Congress, and to the media, that cartel violence and its alleged spillover effects represent threats to American national security.¹⁵

On March 31, 2011, the Congressional Homeland Security Subcommittee on Oversight, Investigations, and Management held hearings on whether Mexican cartels should be labeled as foreign terrorist organizations.¹⁶ The effort to raise the stature of Mexican cartels and their leadership to the point that they would no longer be treated as judicial targets or criminal defendants, and instead be labeled as military enemy combatants, could be construed as an attempt by the United States to exercise its post 9/11 stated right of self-defense against designated, high-value (terrorist) targets, and thereby legally enable the United States to attack and kill Mexican cartel leaders anywhere in the world.

¹⁴ “Cede el gobierno de Obama y mantiene a la Guardia Nacional en la frontera con México,” *Excelsior*, June 17, 2011, http://www.excelsior.com.mx/index.php?m=nota&id_notas=745596.

¹⁵ Matthew D. LaPlante, “Army official suggests U.S. troops might be needed in Mexico,” *The Salt Lake Tribune*, February 8, 2011, <http://www.sltrib.com/sltrib/home/51207681-76/mexico-westphal-drug-insurgency.html.csp>.

¹⁶ *On the Border and in the Line of Fire: U.S. Law Enforcement, Homeland Security and Drug Cartel Violence*, U.S. Congress Committee on Homeland Security, Subcommittee on Oversight, Investigations, and Management, May 11, 2011, <http://homeland.house.gov/hearing/subcommittee-hearing-%E2%80%9C-border-and-line-fire-us-law-enforcement-homeland-security-and-drug>.

Recently, Mexican politicians pointed to the highly publicized extraterritorial U.S. incursion into Pakistan that led to the death of Osama Bin Laden as reason to be fearful of U.S. rhetoric with regard to border violence issues. The purported unilateralism by which the United States operated in Pakistan generates a concern that the American government could be compelled to conduct similar military actions against cartel bosses within Mexico, but without being invited to do so.

The Guardian (U.K.) reported on May 4 that Mexican Sinaloa Cartel chieftain Chapo Guzman could likely become the “world’s next most-hunted man.”¹⁷ This assertion, coupled with the decreasing ability of the northeastern Mexico states to control violence and to maintain effective state and local governance activities on territory that is adjacent to Texas, could also be seen as something the United States could use to build a case for forcefully defending its national security interests. Thus considered, the Mexican government is increasingly fearful of potential U.S. actions inside Mexico.¹⁸

The Cartels and Terrorism¹⁹

While a legal argument could be crafted for designating the Mexican drug cartels as terrorist organizations, the failure of the international community to provide a universal definition of the term, coupled with the negative connotations associated with America’s war on the terrorist network Al Qaeda, would argue against such a move.

An analysis of this subject provided by Jeffrey F. Addicott, S.J.D., J.D., of the Center for Terrorism Law (CTL) at St. Mary’s University in San Antonio states that “terrorist acts usually intend to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion or affect the conduct of a government by assassination or kidnapping.

¹⁷ John Henley, “Who is now on the World’s Most Wanted List?” *The Guardian*, May 4, 2011, <http://www.guardian.co.uk/world/2011/may/04/the-worlds-most-wanted-list>.

¹⁸ Ledo Muñoz, “Mexican Congressman Fears Planned U.S. Invasion,” *MEXIDATA.com*, February 14, 2011, <http://www.mexidata.info/id2942.html>.

¹⁹ Jeffrey F. Addicott, *Should Mexican Cartels be Labeled as Terrorists? Center for Terrorism Law Report 63*, St. Mary’s University School of Law, June 1, 2011.

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International terrorist acts occur outside the United States or transcend national boundaries in terms of how terrorists accomplish them, the persons they appear intended to coerce or intimidate, or the place in which the perpetrators operate.” Addicott added that if a universal definition is not practicable or easy to achieve, the following four key characteristics of terrorism reflect the activity or may indicate that terrorist activities are present:

1. The illegal use of violence directed at civilians to produce fear in a target group
2. The continuing threat of additional future acts of violence
3. A predominately political or ideological character of the act
4. The desire to mobilize or immobilize a given target group

In this context, the Mexican drug cartels certainly employ the tactic of terror in their activities, but it remains to be seen if they will engage in political activities to a greater extent than in the past. Were Mexican drug cartels to be labeled by the United States as “terrorists,” the international community would immediately assume that America might employ the laws of war, and not domestic or international criminal laws, to their crimes. While this assumption is certainly not correct, the confusion often consumes rational argument. This factor would certainly put unnecessary strain on the bilateral U.S.-Mexico relationship.

Addicott summarizes by saying that the United States should instead continue with descriptive labels that concentrate on the criminal activity of the Mexican drug cartels, and that the term terrorism should not be used when referring to those groups. He recommends that if the label of “terrorism” is applied to Mexican drug cartels, it should originate from the government of Mexico and be set out in clear definitional terms from that nation’s perspective.

“The Highway of Death”

In August 2010 northeastern Mexico witnessed what could be considered acts of terrorism in the northeastern border territory when the bodies of 72 Central American immigrants were

discovered in the area of San Fernando, Tamaulipas, a small town about 50 miles south of the border from Brownsville, Texas.²⁰

Media and official reports indicated that the immigrants were killed for refusing to join the ranks of the Zeta organization, which has increasingly suffered a high rate of personnel and matériel attrition in its war for territorial dominance against the Gulf Cartel in northeastern Mexico. Other reports revealed that they killings were conducted by the Zetas for fear that the Gulf Cartel was using public transportation as a means by which to covertly infiltrate its fighters into the conflict.²¹

Reports of U.S. citizens being victimized on Mexico’s highways in the state of Tamaulipas began reaching authorities, and on November 12, 2010, the U.S. Consulate in Matamoros issued an alert, warning Americans to avoid traveling the roadways in the state due to the high risk of being attacked.²²

Within days, 11 people were assassinated in San Fernando, including a member of the mayor’s staff. The incessant waves of violence occurring in the area prompted the governor of Tamaulipas, Eugenio Hernandez Flores, to tell the Mexican press on December 12, 2010, that authorities in various municipalities were unable to cope with the criminality they were experiencing. He classified the area as “ungovernable.” He added that the local and state police did not have the weaponry to confront the cartels, and that federal police and military forces were also needed in Guerrero, Ciudad Mier, Miguel Aleman, Camargo, and Diaz Ordaz, an area of the Texas-Mexico border known as *la frontera chica*.²³

²⁰ Jonathan J. Levin and Carlos M. Rodriguez, “Bodies of 72 Suspected Migrants Found Killed in Mexico Near Texas Border,” *Bloomberg News*, August 25, 2010, <http://www.bloomberg.com/news/2010-08-25/bodies-of-72-people-found-in-mass-grave-in-northern-mexico-after-shootout.html>.

²¹ Alberto Morales, “Cae presunto autor de crimen en San Fernando,” *El Universal*, June 17, 2011, <http://www.eluniversal.com.mx/notas/773303.html>.

²² “Warden Message November 12, 2010,” Consulate General of the United States, Matamoros, <http://matamoros.usconsulate.gov/wm11122010.html>.

²³ “Matan a 11 en Tamaulipas; uno era funcionario,” *El Universal*, November 12, 2010, <http://www.eluniversal.com.mx/notas/723164.html>.

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On January 7, 2011, the U.S. Consulate in Matamoros issued another travel warning and thereafter, on January 26, an American citizen was shot and killed in the San Fernando area after her husband refused to yield to an apparent attempt by narcos to stop them and take their vehicle.²⁴ The inability of the state police authorities to control the area has led Mexico Highway 101, which splits north of San Fernando and continues towards either Matamoros or Reynosa, to be appropriately named the “Highway of Death” by local residents.²⁵

The U.S. Consulate in Matamoros noted in yet another warning on April 9, 2011, that three American citizens reported that they had been attacked while traveling in commercial buses through the San Fernando area during the months of March and April. The same day, several Mexican bus lines suspended their itineraries on routes to and from Matamoros and Victoria, as well as between Reynosa and Victoria, thereby avoiding any route that crossed through the San Fernando area.²⁶

The April 4 discovery of another series of clandestine graves in the area of San Fernando, Tamaulipas, again shocked government authorities and generated additional outcries from Central American governments, which protested the inability of the Mexican government to protect Central American citizens as they migrated through Mexico toward the United States. By the end of April, 183 bodies had been unearthed from those graves.²⁷

As a case in point, in mid-May Mexico’s Attorney General’s Office reported the arrest of six federal government immigration agents for allegedly being involved in the kidnapping of migrants in the state of Tamaulipas. A group of migrant victims, including several Central

²⁴ “Warden Message January 7, 2011,” Consulate General of the United States, Matamoros, <http://matamoros.usconsulate.gov/wm172011.html>.

²⁵ “Nuevo Padilla - San Fernando: Carretera de la Muerte,” *El Siglo de Torreón*, April 13, 2011, <http://foros.elsiglodetorreon.com.mx/foro.php?foro=4&post=409430>.

²⁶ “Warden Message to Inform U.S. Citizens about the Potential Dangers of Inter-City Bus Travel in Tamaulipas,” Consulate General of the United States, Matamoros, April 8, 2011, <http://matamoros.usconsulate.gov/wm04082011en.html>.

²⁷ “Bodies in mass graves now total 183, Mexican AG says,” *Fox News Latino*, April 27, 2011, <http://latino.foxnews.com/latino/news/2011/04/27/bodies-mass-graves-total-183-mexican-ag-says/>.

Americans, denounced specific government immigration agents for taking them off public buses and turning them over to criminals in the area of San Fernando.²⁸

To further exacerbate the claim of government collusion, 10 days later local police in San Fernando were also implicated in the deaths. During a Las Vegas interview on May 20 Mexico’s President Felipe Calderon also denounced San Fernando municipal police officers for having “taken those victims to the slaughterhouse,” and he acknowledged that the officers had been suborned by the cartels. Calderon blamed state governors for not having “certified their police agencies,” and that such omissions allowed “security forces to be overtaken by criminals.”²⁹

The Consequences: A Failed State . . . of Tamaulipas

Tony Payan, Ph.D., of The University of Texas at El Paso conducts research and writing on the applicability of international relations theory to the U.S.-Mexico border. His work includes the study of governability on border regions, foreign policy attitudes on the border, and U.S. foreign policy manifestations at its borders, among other subjects.

Subsequent to reviewing this paper, Payan commented on this analysis by saying that “in Tamaulipas, in contrast to other states and regions in Mexico, what has actually broken down is the state’s ability to combat crime, of any kind. In fact, crime has become a parallel government . . . [a situation] that has serious consequences for Mexico’s future governability and the consolidation of its democracy.”³⁰

Payan added that “Mexicans appear sometimes not to have the willingness to keep fighting organized crime and may be losing the will for reform. Mexico’s Congress has certainly reflected that general hesitancy to engage the reform process that is found within the public at large.”

²⁸ Maria de la Luz González and José Gerardo Mejía, “Caen agentes del INM por secuestro de migrantes,” *El Universal*, May 10, 2011, <http://www.eluniversal.com.mx/primer/36809.html>.

²⁹ Ivonne Melgar, “Ligan a policías con matanza de migrantes en San Fernando, Tamaulipas,” *Excelsior*, May 20, 2011, http://www.excelsior.com.mx/index.php?m=nota&id_nota=738291.

³⁰ Email dated June 14, 2011, from Dr. Tony Payan

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As a result of these apparent failures in government, other professional observers have begun to independently assert that the combined state and federal governments have lost the state of Tamaulipas to the narcos. Alberto Islas, a security analyst in Mexico City, told BBC News recently that “criminal groups are more effective at collecting ‘taxes’ than Tamaulipas’ own government,” explaining that cartels “have become organized crime groups, which as well as trafficking narcotics, also extort and kidnap” innocent civilians who are not involved in the drug wars.

In the same article, BBC also quoted the former head of the Mexican government’s organized crime unit, Samuel Gonzalez Ruiz, who stated that “this is a war between drug dealers that has gotten out of hand,” and that “the weakness of the region’s government allowed them to fight and these are the results we are seeing.”³¹

The most current example of challenges to regional authority occurred on June 9 when Mexican Gulf Cartel traffickers engaged U.S. Border Patrol agents and Texas game wardens in a gunfight during a smuggling operation on the Rio Grande River near Mission, Texas. The U.S. law enforcement officers received minor injuries, while three smugglers were injured and one was killed.³² The continued presence of rival cartels along the entire border region,³³ their intimidation and engagement of binational government forces and civilians alike, and their undeterred ability to smuggle large amounts of drugs from Mexico into the United States illustrates their dominance of the area.³⁴

³¹ Julian Miglierini, “Tamaulipas: ‘Failed state’ in Mexico’s war on drugs,” *BBC News Mexico*, April 13, 2011, <http://www.bbc.co.uk/news/world-latin-america-13061452>.

³² Erika Flores, “News released about Chimney Park cartel shootout,” *KGBT News Channel 4*, June 10, 2011, <http://www.valleycentral.com/news/story.aspx?id=628598>.

³³ Steven Dudley, “Zetas-La Linea Alliance May Alter Balance of Power in Mexico,” *Insight—Organized Crime in the Americas*, June 3, 2011, <http://www.insightcrime.org/insight-latest-news/item/1032-zetas-la-linea-alliance-may-alter-balance-of-power-in-mexico>.

³⁴ “Enfrentamiento deja 13 muertos en Tamaulipas,” *El Universal*, May 9, 2011, <http://www.elsiglodurango.com.mx/noticia/311648.enfrentamiento-deja-13-muertos-en-tamaulipas.html>.

A State of Emergency

On May 9, Julio Cesar Almanza Armas, vice president of the Federation of Business Interests in the state of Tamaulipas, requested that the Mexican federal government enact a state of emergency (*Estado de Excepción*), allowing the Army to take complete control of the political and administrative responsibilities of the municipality of San Fernando, thereby rescuing the town from criminality until civil order and public safety are restored.³⁵

He stated that the loss of governance and its effects on commerce have reached levels of intolerance, such that the area is experiencing capital and human flight, similar to what has been described by numerous other Mexican entities. Separate reports indicated that many Mexican business interests were relocating to the U.S. Rio Grande Valley of Texas, bringing to light a micro “economic spillover” effect that cartel violence is also causing on both sides of the border.³⁶

Almanza noted that social and legal conditions in the area lend themselves to the declaration of a state of emergency, and he invoked Article 29 of the Mexican Constitution in defense of his petition. Article 29 states that such a decree may be enacted in times when “there is grave disturbance to the public peace or any other situation that may place society in grave risk or conflict,” a situation that appears to be in play specifically in San Fernando, if not in the entire northeast Mexico region.

Typically, the enactment of a state of emergency does not last more than 30 days but does have the potential effect of suspending and limiting some freedoms and movements of affected citizens. The government would be allowed to enter homes without warrants, intercept telephone and other communications, conduct arrests for preventive purposes, and suspend habeas corpus, among many control measures that could be emplaced during the period for which authority could be granted.

³⁵ “State of Emergency in Mexico (Estado de Excepción),” El Centro de Tesis, Documentos, Publicaciones y Recursos Educativos más amplio de la Red, <http://www.monografias.com/trabajos10/suga/suga.shtml>.

³⁶ “IP pide estado de excepción en San Fernando,” *El Universal*, May 9, 2011, <http://www.eluniversal.com.mx/notas/764264.html>.

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Information provided by the *Barra Nacional de Abogados de Mexico* (Mexican National Bar Association of Attorneys) regarding the most recent reform of Article 29 of the Mexican Constitution indicated that “once approved, a State of Emergency decree must be reviewed by a court, followed by publication of a list of those rights that are proposed to be suspended. Notwithstanding those authorities, the current reform measure does not allow for suspension of human rights or the suspension of judicial due-process during a State of Emergency period.”

The Mexican Constitution defines human rights as any activity that protects the family as an entity, and in that regard, members of an immediate family unit may not be separated as a result of governmental control activities. The current reform is lacking an important limitation in that it does not specify the minimum or maximum length of time that a state of emergency could be enacted, thereby creating a loophole in the legislation that could lend itself to government license or abuse.³⁷

The most recent, but separate, official request for a state of emergency decree in Mexico was revealed in a WikiLeaks report of October 2009 that cited an appeal from Mexico’s defense minister, General Guillermo Galvan, who asked that the deteriorating situation in Ciudad Juárez, Chihuahua, across from El Paso, Texas, be subjected to a state of emergency. General Galvan’s request was reportedly denied by the secretary of the interior, who cited a need for a resolution from the Supreme Court to enable such a measure. Since that time, Ciudad Juárez has led the nation in number of deaths and violence, both of which continue unabated.³⁸

The enactment of such a decree is a double-edged sword. Doing so would not only go a long way towards re-establishing government control of the area, but could also have as many negative as positive effects. The movement of employees and the provision of raw materials, goods, and services to both the Mexico and U.S. marketplace could be stymied. Additional military involvement could also increase alleged human rights violations and, in turn, bring more scrutiny

³⁷ Roberto Orozco Martinez Soto, “Constitutional Reform” (lecture, National Bar Association of Attorneys, Mexico City, D.F., June 17, 2011).

³⁸ “US Cables: Mexico drug war lacks clear strategy,” *FOX News*, December 2, 2010, <http://www.foxnews.com/world/2010/12/02/cable-mexico-feared-losing-control-narcos/>.

from international agencies monitoring alleged abuses. These and other issues may lean heavily against such a move by Mexican military authorities.

On June 25, 2001, Mexico’s Department of Defense (SEDENA) announced plans to deploy another two battalions, or approximately 2,790 troops, throughout the 22 municipalities within the state of Tamaulipas in what was called a “temporary and extraordinary” fielding of soldiers to the embattled area. The military support is being provided at the request of the government of Tamaulipas in order to consolidate federal and state security efforts and will include the purging of public safety (police) departments while new officers are recruited and trained.³⁹

Whether or not a state of emergency is declared in Tamaulipas or elsewhere is beside the point since the Mexican military has taken strikingly similar action without a formal declaration being made to that effect, and could do so again. U.S. federal law enforcement sources based in El Paso, Texas, who could not identify themselves due to internal rules governing public comment, stated that their counterparts in Ciudad Juárez had observed soldiers performing roadblocks and checkpoints and that the military had enacted curfews and conducted searches and arrests without warrants, etc., during the period of time that Army units were deployed to that border city in 2009 and 2010.⁴⁰ This activity amounts to a limited and surgical, though undeclared, use of authorities normally only applied during a declared state of emergency.

Nonetheless, the state of emergency status is not without precedent in Mexico. In 1968, the nation attained an emergency posture to repel student protests and riots; in 1985 a similar decree was declared to quell a Zapatista uprising in the south of Mexico; and in 2006 the government used those special powers to control an internal conflict in the state of Oaxaca.

Mexico, as a nation, is far from being a failed state (*Estado Fallido*); however it does not fare well in the Failed States Index 2011, recently published by the Fund for Peace. The Failed States

³⁹ “Mexico to deploy additional troops to Tamaulipas,” *The Brownsville Herald*, June 25, 2011, <http://www.themonitor.com/news/troops-52154-mexico-tamaulipas.html>.

⁴⁰ Telephone conversation with (name withheld), U.S. federal law enforcement management official, on June 7, 2011.

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Index is an annual ranking of 177 nations based on their levels of stability and the pressures faced by those countries.

This year’s report lists Mexico as having weak police and judiciary systems, among five of the core institutions in the country. Overall, it scored a 75.1 across twelve key performance indicators, indicating that the nation is trending toward a warning status on the world stage. The Fund for Peace ranks Mexico the third-worst nation when compared to regional scores in the area of North America, behind only Cuba and Haiti.

The Fund for Peace report stated that “the 2000 and 2006 elections have set a precedent that has put the country on the path to true multi-party democracy; however, the Mexican government is under increasing pressure to dismantle the drug cartels and restore order. If the government is unable to protect its citizens from the violence, it stands to lose much in the way of legitimacy. Corruption and transparency remain rampant within the government, especially in local governments, the judiciary, and the police force. Serious reforms are needed to repair Mexico’s fragile institutions.”⁴¹

Notwithstanding the application of the Fund for Peace Failed State criteria at the national level, certain state governments along the northern border with the United States are, from an anecdotal point of view, beginning to “fail,” or are indeed “failing” because they are becoming “ungovernable,” as purported by the governor of Tamaulipas, Eugenio Hernandez Flores.⁴²

“Failing,” at the state level, can be defined as the inability of a state government to effectively maintain a culture of lawfulness, to ensure public safety and security, and/or to prevent their constituent areas of responsibility from falling under the political dominance of organized crime.

“Failing” can also be defined as the inability of a state government to ensure that business opportunities continue to exist, and to encourage continued investment, as seen through the eyes

⁴¹ “The 2011 Failed States Index,” Fund for Peace, <http://www.fundforpeace.org/global/library/cr-11-14-fs-failedstatesindex2011-1106p.pdf>.

⁴² “Failed State,” *Wikipedia*, last modified July 8, 2011, http://en.wikipedia.org/wiki/Failed_state.

of the foreign business community and as noted in the recent American Chamber of Commerce (of Mexico) survey.

At best, Tamaulipas, Nuevo Leon, and Chihuahua could be considered “rogue states” (*“Estado Canalla”*) that are being influenced heavily and driven by violence, threats, killings, intimidation, and corruption directed toward governing officials.⁴³

Additional states could be threatened by challenges to governance, thereby generating another form of spillover: that of government control being usurped by cartels operating in one Mexican state and then spilling over with their highly corruptive activities to another adjacent state. The threat posed by the corruptive influences of the cartels is tied to the intimidating and deadly behaviors of most of the cartels.

Ominously, since 2006 members of the Zetas organization have occasionally been detected in Ciudad Juárez, well to the west of their historical home turf and stronghold in Tamaulipas. If the Zetas were to establish a permanent presence in Chihuahua, their tactics in Nuevo Leon and Tamaulipas could be duplicated in that state, further accelerating the already existent threats to public safety authority in those northwestern Mexican states.⁴⁴

Even if there are one, two, or three rogue states within Mexico that are operating on the fringe of lawlessness, there may come a point at which the federal government may need to take even stronger measures against organized crime, such as the enactment of a state of emergency, if not at the national level, then perhaps at the regional level.

The continued challenges to northeastern Mexico governments weighs heavily on internal and external issues. Internally, the federal election cycle is underway and, notwithstanding any particular party or platform, the mere fact that the electoral process could be negatively impacted by the disruptions caused by organized crime is a serious concern to all those nations that have

⁴³ “Rogue State,” *Wikipedia*, last modified July 20, 2011, http://en.wikipedia.org/wiki/Rogue_State.

⁴⁴ Dudley, “Zetas-La Linea Alliance.”

political, social, and economic relationships with Mexico, including Guatemala and other nations to the south.

The inability of the electorate to participate in free and fair elections—free of threats, intimidation, or violence, and fair to the point that they are not influenced by corruption—is critical to the survival of a democratic Mexican society.

The electoral process in Mexico has proved to be democratic in nature, but those processes may be seriously challenged if the federal and state governments do not wrest popular and territorial control away from the cartels before ballots are cast at the end of President Calderon’s six-year, “*sexenio*,” term.

On May 20, Mexico’s Attorney General Marisela Morales Ibáñez and Special Prosecutor for Election Crimes (FEPADE) José Luis Vargas Valdez asked senators to accelerate amendments to the penal code with regard to electoral crimes. The attorney general noted that “sophisticated practices or buying influence or coercing votes” placed state elections this year, and the presidential election of 2012, under inherent risk.⁴⁵

“Speak softly and carry a big stick.”

Externally, the “neighbor to the north” is incessantly worried about spillover violence along the U.S.-Mexico border; the impact of cartel violence on U.S. citizens and business interests operating in Mexico; and the potential for Mexican cartels to further evolve into outright terrorist or insurgent organizations that challenge both governments on a broader scale.⁴⁶

The deployment and movement of thousands of Mexican Army, Navy, and Marine troops along the border, opposite the placement of similar numbers of combined U.S. National Guard troops

⁴⁵ Elena Michel, “Amenaza narco a comicios, alertan,” *El Universal*, May 20, 2011, <http://www.eluniversal.com.mx/notas/766839.html>.

⁴⁶ J. Jaime Hernández, “Alerta Congreso de EU por ‘violencia terrorista’ aquí,” *El Universal*, January 27, 2011, <http://www.eluniversal.com.mx/primer/36248.html>.

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and identically uniformed and ranked U.S. Border Patrol agents, has yet to cause any significant territorial disputes or physical clashes between the two nations.

This is primarily because federal forces of both nations are focused on policing the activities of a third-party antagonist: the Mexican drug cartels. Yet, the inability of one government or the other to effectively control its mission interests on the border could also be cause for significant concern, lest an errant confrontation, situation, or incursion among these binational forces arise.

While U.S. concerns about a more-secure border are legitimate, the national security threat declarations coming from Washington should be tempered by the knowledge that Mexico is a willing neighbor fully motivated by the same concerns that trouble America.

Mexico undoubtedly realizes that diminished governance in the northern border states (or elsewhere) could translate into a loss of democracy as a political form of representation. Such challenges to authority could negatively affect the growth of commercial opportunities for their nation, which is integral if Mexico wants the international business community in the northern states to prosper.

It remains in the best interests of the United States to maintain an objective view of the Mexico violence problem, to “speak softly” by recognizing that cartel violence is generally restricted to the interior of Mexico, and to reduce the threat rhetoric attributed to the situation. The United States should increase and accelerate assistance to Mexico by providing the additional tools, knowledge, and capacity that it needs to confront the cartels on its own turf, in its own way.

To that end, it also would be beneficial for Mexico to maintain the continuity and tempo of their counter-drug operations—to “carry a big stick” by dealing with the cartels firmly, a policy that will likely eventually remove them from the geographic and political landscape.

The success of Mexico to govern its territories in a manner by which the political and judicial processes rule, and not succumb to violence or corruption, translates into a lessening of tensions and concerns on the U.S. side of the border and continued U.S. and multinational business

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investment in Mexico. Working together, both nations can restore security and public safety to a region of the world that has been tied culturally and geographically for hundreds of years and that will continue to prosper as a result of the common cause that drives the friendship.

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