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'Authorized Crime' in Mexico  
A Paradigm to Explain Violence<sup>1</sup>

By<sup>2</sup>

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## **Introduction**

A 33-year old businessman's legs are cut off for failing to pay extortion; eleven family members of a Ciudad Juarez businessman are murdered for failing to pay extortion; 22 members of a successful family in Villa Ahumada are forced to flee Mexico due to extortion and murder; a 30 year old maquiladora worker walking home in Ciudad Juarez is kidnapped and raped by a municipal policeman. All of the above are victims of authorized crime.

## **Defining authorized crime**

Neither the failed, faltering or supplanted state models can explain the current Mexican condition unless authorized crime is considered as a dominant component of each model. In some cases organized crime works together with police, public officials and judges in one or more levels of government (municipal, state, federal), or all of them together. For example, policemen working as sicarios or for or as cartels, protecting criminal activities such as protecting "picaderos"<sup>3</sup>; military converted into law enforcement and working in complicity with criminals;

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<sup>1</sup> The field study supporting this article is based on the one hundred cases of Mexican exiles seeking political asylum in the United States. All of them are represented by the law office of Carlos Spector, who provides pro bono services to 75% of the victims. The authors have received permission from all the victims to use their real names, to protect the innocent left behind.

<sup>2</sup> The authors have a book on press entitled *Tras el muro* (México, D.F.: Cámara de Diputados, 2013)

<sup>3</sup> Drug retail stores.

public officials approving or encouraging legal violations<sup>4</sup>. Besides representing state violence the different complicities create authorized crime. Spector<sup>5</sup> says:

Authorized crime posits that such criminal activity in Mexico cannot occur and indeed flourish without the complicity of municipal, state or federal authority. This necessarily shifts the presumption of criminal responsibility from elements of organized crime to the state.

Authorized crime can either be the result of a failing state or a contributing factor to a failing state. It is based on different levels of impunity and it might reach the level where criminals are not concerned about calling attention (calentar la plaza in Spanish) when they carry on their vendettas with the most impunity<sup>6</sup>. The same way none of the models of state deterioration is absolute the same happens with different zones of impunity, it all depends on the connection and complicities of criminals with state officials and institutions to produce different zones of impunity<sup>7</sup>. This complicity involves either direct or indirect state action by commission or omission which furthers the interests of either the state, organized crime, or both. This necessarily shifts the presumption of criminal responsibilities from elements of organized crime to the state.

### **Villa Ahumada: A case study on declining State Power**

Villa Ahumada is a city of 8,753 people, located 87 miles (132 km) south of Ciudad Juarez and 154 miles (247 km) north of Chihuahua, the state capitol city. It is a transit point between both cities that has gained economic viability due to be a customary stop to enjoy its gastronomic activity which produces cheese, burritos and quesadillas. There is a train station that is no longer in operation, but now the

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<sup>4</sup> For the famous case of governmental authorized ongoing illegal torture, President George W. Bush admits that he personally approved of waterboarding but hypocritically claims that "his" government attorneys made a secret finding for him in 2001 that torture is really legal. President Obama reversed Bush's claims and banned U.S. torture when he took office in 2009. See Bush's statement to *The Times of London* that his use of waterboarding had saved London's Heathrow airport and its Canary Wharf financial district, a statement politely ridiculed by British officials in [http://www.thirdage.com/news/george-w-bush-authorized-torture-terrorists\\_11-9-2010](http://www.thirdage.com/news/george-w-bush-authorized-torture-terrorists_11-9-2010).

<sup>5</sup> Spector, Carlos, 2013. **Mexican asylum: an alternative paradigm**. Presented in AILA, 2013.

<sup>6</sup> The discussion on why Ciudad Juarez, Chihuahua, is rated as one of the most violent cities in the world while El Paso, Texas which seats over the Rio Grande river is rated as one of the safest cities in the US, might be approached from the perspective that while criminals are not interested in calling the attention in the US to protect their personal safe haven and drug operations authorized crime in Mexico facilitates impunity, thus violence is restricted by the borderline.

<sup>7</sup> Authorized crime as a concept was originally used for concentration camps (Nazi, soviet) and ethnic cleansing processes.

bus companies use it as a maintenance and refueling stop, which offers an important boost to the economy of the growing city. In spite of its small size the city can serve as an example of what is happening on the national level.

Recently, 20 members of the Porrás family have fled the city, and are filing for political asylum in the United States. The size of the family makes it the only case of its kind in the world, however due to asylum law, which only permits immediate family members to file; the case has been broken down into six asylum cases.

The Porrás understood the economic opportunities of the city very well; they opened the oldest creamery, began to produce their own cheese, had a shoe and clothing stores, a beer store, a car wash and an insurance company<sup>8</sup>, by Mexican standards were an example of great success. All was well until members of organized crime began to charge them for “protection”, the patriarch of the family decided not to pay and was assassinated, when his youngest son went to visit his grave he was also assassinated. Subsequently, and this is within a matter of days, they received phone calls threatening to kill the mother and all of the remaining family, this was when they decided to leave, literally with the clothes on their back. They consider that being founding members of the opposition Partido Acción Nacional introduced a political component to the aggression they suffered.

They fled like refugees living in war zones. This is not the only case of displaced families. For example, in Coyuca de Catalán in the state of Guerrero 45 families abandoned the town after the assassination of the environmental activist Juventina Villa and her son Reynaldo Santana. Similarly in Ciudad Mier in Tamaulipas became a ghost town after the population fled due to threats from the Zetas.

Villa Ahumada is a micro example of what Schmidt considers a “Supplanted State”,<sup>9</sup> wherein organized crime takes over the essential functions of the actual State displacing some of the institutions or works together with the authorities (e.g. police, major, judges): imposing taxes mainly in the form of fees for “protection” demanding the fees for protection from all gangs and from government, sustaining armed forces, drafting laws, doling out punishment and regulating economic activity. Crane Brinton refers to this same phenomenon as a

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<sup>8</sup> Davila, Patricia. A family torn apart in three days. Borderland beat. Aug. 4, 2012. <http://www.borderlandbeat.com/2012/08/a-family-torn-apart-in-three-days.html>

<sup>9</sup> Schmidt, Samuel. 2012. “México: Estado Suplantado”. **PROFMEX**, Vol. 17.5 (early fall) <http://www.profmex.org/mexicoandtheworld/>.

“dual sovereignty”<sup>10</sup>, because it creates institutions that share decisions generally reserved to the state. This is in contrast to what we define as “legitimate sovereignty” which is supported by formal political processes and institutions. Even though it is controversial we can consider that criminals can attain a legitimization through acceptance by society, which occurs when people accept the rules imposed by organized crime. Fear through violence is an important component of coercion which is applied by the state and by criminals.

We sustain that the displacement and supplantation of the state happens in the micro level, and the complicity between criminals and governments create authorized crime.

Thus, Villa Ahumada is already a concrete example of a the transition between the “supplanted State” to the “failed state”; defined by Fund for Peace by three requirements of the failed State: (1) Social issues which include mounting demographic pressures, massive displacement of refugees, creating severe humanitarian emergencies, wide-spread complaints from groups seeking vengeance, chronic and sustained human flight, slum creation in poor areas; (2) Economic issues which include uneven economic development along group lines and severe economic decline; (3) Political issues which include criminalization and/or de legitimization of the state, deterioration of public services, suspension or arbitrary application of law, widespread human rights abuses, security apparatus operating as a “state within a state”, the rise of factionalized elites, and intervention of external political agents.

Barry Richard McCaffrey, former director of the Office of National Drug Control Policy defines Mexico as a faltering state. The International Crisis Group<sup>11</sup> considers the following concepts to define Kyrgyzstan as a faltering state: Fraudulent elections, street violence, popular anger, corruption, ineffectual government, endemic protests in prisons, internal dissent, international crisis, serious property disputes, security services slipping out of governmental control, government, criminals and other interests scramble for valuable assets, deteriorating infrastructure. All three categories (supplanted state, failed state and faltering state) share common denominators, they either complement each other or can be a part of a process.

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<sup>10</sup> Quoted by Grayson, George W. Y Logan, Samuel. 2012. **The Executioner's Men: Los Zetas, Rogue Soldiers, Criminal Entrepreneurs, and the Shadow State They Created.** New Brunswick: Transaction Publishers.

<sup>11</sup> International Crisis Group. **Kyrgyzstan: A faltering state.** Crisis group Asia report. No. 109. Dec. 16, 2005.

A failed State occurs when the formal structure of government has fallen apart and the legitimate actors of power have lost all control which resembles the conditions for a faltering state. In Villa Ahumada organized crime has appointed the mayor and the chief of police, but also produce an ineffectual government and appropriate valuables assets. The supplanted state occurs in different regions and in different moments, in Villa Ahumada it already happened because criminals appointed the mayor and the chief of police and has the power to expropriate businesses and access to bank accounts. However, no one of the models alone can fully explain the impact of organized crime and the relationship between organized crime and the state. The aforementioned models can only help to explain specific and distinct circumstances throughout the country involving authorized crime.

This situation is repeating itself in a growing number of Mexican cities. In Ciudad Juárez business leaders interviewed by these authors calculate that 70% of legitimate businesses pay for “protection”, in Michoacán organized crime controls the produce market determining which businesses are authorized to transport avocados, provide the boxes, even selling tortillas<sup>12</sup>. The same is done in other parts of the country in a variety of industries such as in ranching in the northern part of the country and even chile cultivation.

The payment of “protection” is not restricted to the production sector where property is protected in exchange for a “tax”. In Michoacán mayors pay for protection<sup>13</sup>; in Hidalgo, the Zeta’s headquarters, a chief of police also pays for protection. Extortion has become a fundamental criminal activity that permits elements of organized crime to amass large quantities of money. Calderón also made an error of omission, in that he did not bother to concentrate his efforts on the financial bases of organized crime.

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<sup>12</sup> “Hay alguien que manda, que manda que no haya venta de tortillas y no hay aquí... hay municipios que hace tres o cuatro meses no tienen gasolina”. Prohíben cartels hasta vender tortillas en Michoacán. El Diario. 11-01-2013. [http://diario.mx/Nacional/2013-11-01\\_49ef0f28/prohiben-carteles-hasta-vender-tortillas-en-michoacan](http://diario.mx/Nacional/2013-11-01_49ef0f28/prohiben-carteles-hasta-vender-tortillas-en-michoacan)

<sup>13</sup> Schmidt interviewed a federal police commander who closed his personal business because organized crime was charging for protection.

For George Grayson,<sup>14</sup> extortion produced 186,620 million pesos (1,435,538,461 dollars) in profits for criminals in the period 2001-2007. According to INEGI the personal loss due to crime in 2011 at the national level has risen to 150,618,732,538 pesos (almost 12 billion dollars which is over 1% of the GDP) and money laundry exceeds 3% of the GDP. There are now cities whose fortunes are based on organized crime, being managed by people who have gained respectability, donate money to political campaigns and are influential in the running of the city.

Extortion does not have only an economic motive it can have a political connotation. Lori Rosenberg a former member of the Board of Immigration agents considered this when she issued a dissent in Matter T-M-B, 21 18N Dec 775 (BIA 1997) when she coined the concept "extortion plus" which she applied to mixed motive situations where extortion was not the sole purpose of the persecutors. In Ciudad Juárez Alfredo Holguín an owner of a transportation company who was paying extortion called for a transportation strike to force government to help, the next day he was threatened and told to stop his complaints, a few weeks later his son was killed and a few busses were burned. Notwithstanding he was paying extortion he was "punished" for talking. Extortion then becomes a political issue, because it infringes upon freedom of speech, one of the constitutional freedoms, thus supplanting the state.

According to the Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública (Enviipe) 2013, the so called "cifra negra" or "black numbers" which refers to unreported crimes<sup>15</sup> amounts to 92.1%. Many victims decide not to go to the police because they are leery of the relationship between the police and criminals elements which could result in retaliation if reported, this helps to explain the relatively low level of criminal complaints and police investigations and impunity; authorized crime explains the low level of police investigation and punishment. "80% of the 623,213 people detained in operations against organized crime and drug trafficking in Mexico during the Felipe Calderon administration (2006-2012) are free provisionally or definitively".<sup>16</sup>

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<sup>14</sup> Grayson, George W. Y Logan, Samuel. 2012. **The Executioner's Men: Los Zetas, Rogue Soldiers, Criminal Entrepreneurs, and the Shadow State They Created.** New Brunswick: Transaction Publishers.

<sup>15</sup> Includes theft to persons, houses, kidnappings, extortion, fraud and sexual rape.

<sup>16</sup><http://noticias.univision.com/mexico/noticias/article/2012-12-03/el-80--de-detenidos#ixzz2j3xQcEHJ>

Viridiana Rios and Michele Coscia<sup>17</sup> have documented that organized crime has played a supporting role in the election of several congressmen, and they note that the present speaker of the house (PRI) has been accused of having ties with drug traffickers. They also suggest that in 2012 drug traffickers were political actors in 731 municipalities-- 30% of the municipalities in Mexico.

Grayson (Op. Cit.), however, suggests that the number of criminals involved is as high as all of Mexico's municipios, which number 2,435 producing what we consider zones of impunity in 233 zones (Lacey<sup>18</sup>). In the war on drugs Mexico fights drug cartels and itself. The complex complicity between criminals and authorities produces a paradox where the legitimate violence is used against society.

As in other parts of the country, organized crime in Villa Ahumada has also diversified, as it continues to transport drugs, it engages in kidnappings, and are involved in a variety of crimes (carjackings, burglary of businesses and habitations), the national increase in crimes from 2007-2011 is: kidnappings 83%, theft with violence 65%, extortion 40%, sexual crimes 16%, theft in highways over 100%, theft of vehicles do have doubled. Additionally extortion has managed to penetrate and coopt lawful businesses. In Villa Ahumada organized crime controls gas stations that supply the town with stolen gasoline. Their power even extends to the banking industry, as reflected in an incident wherein a member of the Porras family attempted to withdraw money from their account while in El Paso, Texas. He later discovered that the account had been emptied by members of organized crime.

Perhaps, we are facing a new type of criminal. It is possible that the modern day hit men have diversified and in addition to the drug trade are tied to other criminal activity (theft, kidnapping, extortion). This in turn creates results in the diversification of criminal activity.

There is now a new generation of criminals who are exercising unprecedented levels of violence, and all this together serves to illustrate the difficulty in combating this problem, because even if drugs are decriminalized they would make-up for those missing funds by committing more extortions and other

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<sup>17</sup> Viridiana Rios and Michele Coscia, 2012. **Using Google to track Mexican drug trafficking organizations.** Harvard CID Research Fellow & Graduate Student Working Paper No. 57, August

<sup>18</sup> See Grayson, George. 2011. **Mexico narco violence and a failed state.** New Brunswick, Transaction books.

crimes. Maybe drug traffickers is not a proper label and it will be more precise to define them as organized crime in order to understand that combating the problem goes much deeper than a War on Drugs.

President Calderón's administration took on a bloody frontal attack that failed to resolve the problem in depth while creating innumerable human right's violations. At the end of his administration Calderón informed Washington that drug traffickers had destabilized power in both sides of the border.

The new presidential administration led by Enrique Peña Nieto since December 1, 2012, shows signs of continuing the strategy of using heavy-handed police force. Nonetheless, the administration claims it will retake political control over law enforcement. Assuming the elimination of cartel leadership the administration is left with the reality of cartel member's relationship with law enforcement.

To take advantage of Villa Ahumada's geographical location, organized crime has positioned itself with access to (1) Ciudad Juárez which connects to East Texas (El Paso), (2) Ojinaga, which connects to Central Texas and the East Coast (Presidio), and (3) Puerto Palomas which connects to the heart of the United States which opens to U.S. West Coast (New Mexico, Columbus). Moreover, Villa Ahumada connects to the mountain ranges of Chihuahua, Sonora, Sinaloa, and Mexico's East Coast as well as to the southern route that goes through the capital city of Chihuahua and connects to Durango and Coahuila which are both important cartel headquarters.

A criminal defense attorney from El Paso told us that by the year 2000 criminals from Durango had become so involved in the drug trade of Villa Ahumada that the local population was forced to flee leaving the town in the control of the cartels<sup>19</sup>.

Meanwhile, there is an effort to silence those who protest. Mexico is one of the deadliest countries in the world for reporters. It ranks third in the world for the number of reporters murdered annually, and first place in Latin America. Since 2002, 83 journalists have been assassinated the majority since 2005. In Michoacán two priests have murdered since 2004 as the results of their denunciation of human rights violation by authorized crime. The same could be said about the people who

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<sup>19</sup> Familia sale de México para evitar la extorsión. **La opinión**. November 2, 2013. <http://www.laopinion.com/article/20120928/IMPORT01/309289868>



are forced to leave the country. Only in El Paso, Texas a group of people have created Mexicanos En Exilio with an approximate membership of 100 people including children.

It is not only those who speak out who pay with their lives, but also activists, especially those that fight for human rights, some have managed to flee, thinking that the United States is a sanctuary for the persecuted, only to discover that they have to pass through the house of mirrors that is the political asylum process.

Since 2006, in Chihuahua alone 23 Human rights activists have been assassinated, one (Marisela Escobedo) at the doors of the same State Capitol Building where criminals flaunt their disdain for authority and the sparse measures of protection they have implemented. The case of Escobedo has become so visible that the government has been forced to act in a most unusual way, by intentionally convicting the wrong person. The son and brother of the victim who have identified the actual killer of Marisela Escobedo continue to protest the government's effort to resolve this matter at all cost. As one hit man stated, "If drug traffickers can transit tons of drugs, then why could they not transit one person?<sup>20</sup>" especially when they need a "hit man" to kill potential witnesses against them.

Environmental activists also pay with their lives when they try to protect the environment from depredation by criminals frequently protected by governmental authorities, in Guerrero 25 environmentalists have been assassinated since 2005, and 15 of them since 2011.

This is the phenomenon that Felipe Calderon implicitly allowed to flourish, he did not understand the depth and the social roots that make-up organized crime. Criminals use extreme violence to punish which also intends to silence the victims<sup>21</sup> and the government follows the same rationale. A silent society is easy to manipulate.

According to a school teacher in El Paso, Texas who requested anonymity, when she asked her class (the majority being Mexican) what occupation that they wanted to take up when they graduated from school, many surprised her when they responded with: "a hit man (sicario)."

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<sup>20</sup> Rosi, Giancarlo and Bowden Charles. **El Sicario**. [http://www.youtube.com/watch?v=7q\\_1OU-JBPo](http://www.youtube.com/watch?v=7q_1OU-JBPo)

<sup>21</sup> One exile was cut his legs by police when he refused to continue paying extortion.

Such a response does not so much involve exaltation of the hit man or of the “prowess” of the criminals as they are portrayed in *narco corridos*, but with the superficial benefits that society appreciates (shoes, cars, drugs, pleasure, and especially women [The sicario, op. cit.]). Although salaries in organized crime seem to have significantly decreased, that factor does not dissuade new candidates.

Transporting a car with drugs from Chihuahua to El Paso pays 50 dollars, and one can hire a hit man to kill for a few hundred dollars.

Calderón’s administration made a mistake by responding to a deep social and cultural problem as if it were simply a bloody war to be fought.

On the one hand, Molly Molloy has reported by gathering information from news reports that there have been 100,000 deaths in the Narco War since 2008.<sup>22</sup>

On the other hand, a Mexican general in a meeting in the US mentioned 250,000 assassinations. Due to the Mexican tendency of not reporting crimes, as we already mentioned, we can assume that the actual statistic can be multiplied by 8, which would mean around 800 thousand deaths. This statistic can be further multiplied because it does not count the number of people who have “disappeared,” and who are most likely dead.

According to the National Institute of Statistics (INEGI),<sup>23</sup> the number of victims for every 100,000 residents of 18 years and older in 2011 rose to 24,499, the number of total victims reached 18,675,004, while crimes committed reached 22,389,492. Mexico has a population of 112 million people, which means that 15% of the population was victim to some sort of crime in one year alone. The probability that every Mexican is affected by crime in 5 years is very high and has created an attitude of resignation where the populace says that as long as it is only a robbery and they do not get killed then things are not that bad.

Displacement of people is an even greater problem. Violence displaces large social groups. In Chula Vista, CA., there is a neighborhood that has been established called “Little Tijuana,” meanwhile in 2010 in El Paso, TX thousands of people celebrated Mexican Independence Day (September 15) with the local mayor, but on the other side in Ciudad Juárez the mayor celebrated the same ritual

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<sup>22</sup> Her account can be accessed in <https://groups.google.com/forum/#!forum/frontera-list>

<sup>23</sup> Encuesta nacional de victimización y percepción sobre seguridad pública.

<http://www.inegi.org.mx/inegi/contenidos/espanol/prensa/boletines/boletin/comunicados/especiales/2013/septiembre/comunica15.pdf>

in front of an empty plaza surrounded by soldiers. It has been estimated that between 30-100,000 people have moved to El Paso.

It is estimated that the number of displaced people is 160,000, which is a low estimate, because it based on numbers coming out of Tijuana and Juarez. There are two types of displaced people: economic and political, the economic are due to changes in the economic activity such as the downturn in maquila production which caused plants to close and others to layoff workers which many of them returned to their hometowns; the political displacement is related to authorized crime. Among some of the many who have fled Mexico, some are refugees as for example the members of Mexicanos en Exilio, a group organized in El Paso, Texas; thousands have solicited political asylum in the United States<sup>24</sup>, just in 2007 and 2011 there have been 21,172 asylum claims, of those 340 have been granted, which is 1.6%, meanwhile, the percentage of asylum claims that are granted for Colombians is above 30% and for Venezuelans in 2011, 46% of cases were granted.

A separate consideration deserving attention is the economic losses produced by violence. The Porras family lost their creameries and their ranch where they produced milk to make their cheese.

All over the country there are stories of people who have lost all of their assets, their houses, ranches, and businesses were all burned down, and sooner or later the State will have to compensate them for their losses. In the Victims Law approved by the Mexican congress in 2011 vetoed by Felipe Calderón but approved in 2013, complete restitution of goods lost due to actions of elements of organized crime was considered as well as what could have been gained or produced during the time that they were out of the owner's possession. The public expenditure cannot support this rule.

The lack of a theoretical framework to explain violence in Mexico could be a major contributing factor to the exceptionally high rate of denials for asylum claims in the US. Also, perhaps because the immigration judges, who were appointed by George Bush were previously immigration officials whose job was to deport immigrants especially Mexicans and they continue handling the cases with the same criteria.

According to the USA government the high numbers of political asylum requests can be due to an abuse, such position has been used before, they even

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<sup>24</sup> <http://www.morningledger.com/flood-of-asylum-requests-at-u-s-mexican-border/132806/>

thing that Mexicans are tutored to proceed. "According to draft testimony for USCIS Associate Director Joseph Langlois that was to be submitted for a congressional hearing on asylum requests last month, USCIS received more than 19,119 asylum requests through the end of May. The agency anticipates receiving more than 28,600 by the end of the fiscal year [2013]. "[Mexicans are being told not to cross the border illegally, but go to the border and say certain words: they fear of the drug cartels will kill them in Mexico and they need to seek asylum in the USA.] "According to the testimony, during the 2009 budget year the agency received just 5,369 such requests," the AP reports."<sup>25</sup>

Maybe the problem for the USA can be the question of accepting the abuse of the police and military with resources of the Merida plan, as has been suggested by Human Rights Watch, such recognition will force the US government to suspend all foreign aid to a country that has mass violations of human rights.

Bowden<sup>26</sup> suggests that US agencies might have been involved with organized crime, the recent claim that the CIA killed Kiki Camarena<sup>27</sup> gives credence to the notion that authorized crime might have a bi-national relevance thus transforming its power into a complicated issue hard to solve.

Historically a discrepancy between the US and Mexico has considered that while Mexico is a drug transit country the US is the biggest drug consumer in the world. Neither position is absolutely correct. Mexico has become a great consumer and the US a big producer. Organized crime has become a transnational enterprise similar to a great corporation, no country is immune to corruptions, and we find the complicity of international law enforcement with organized crime in different countries, thus authorized crime is an international issue, and the failed state, faltering state and supplanted state are an international problem, because one country will have to deal with the one most affected and intervention will become a complex issue and probably a faulty political decision.

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<sup>25</sup> "Piden investigar alza en EUA de peticiones de asilo por mexicanos," *El Por Venir*, 24 de agosto de 2013, [http://www.elporvenir.com.mx/notas.asp?nota\\_id=694472](http://www.elporvenir.com.mx/notas.asp?nota_id=694472)

<sup>26</sup> Bowden, Charles. 2010. *Murder City: Ciudad Juarez and the Global Economy's New Killing Fields*. New York, Nation books.

<sup>27</sup> *Proceso*, No. 1929, October 20, 2013.