

# Civic Engagement and the Judicial Reform: The Role of Civil Society in Reforming Criminal Justice in Mexico

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## INTRODUCTION

Mexico has historically featured a relatively weak civil society, due to the influence of corporatist structures controlled by the Mexican state. Yet, with regard to the criminal justice system, as other reports in this series have discussed, Mexican civil society has recently shown some encouraging signs of engagement and activism in response to significant rule of law and security concerns. Specifically, with regard to judicial reform, Mexican civic activists were very engaged in the historic 2008 constitutional and legal reforms that produced one of the most important changes in Mexico's contemporary history. This reform, which established the foundation for the country's New Criminal Justice System (Nuevo Sistema de Justicia Penal, NSJP), brought about significant changes to the Constitution on matters of criminal law, access to justice, alternative and restorative justice, the prison system, pretrial detention, presumption of innocence, criminal investigation, due process, public security, asset seizure or forfeiture, special detention regimes, labor conditions in public security, and legislative faculties of Congress in public security and addressing organized crime.

Through these amendments, Mexico joined a wave of progressive reforms that has spread throughout Latin America toward a more effective, democratic, and transparent criminal justice system. While the NSJP was reached by the agreement of political parties and hard negotiations in Congress, civil society played a significant role in the process, not only demanding a more just system, but also in pushing for the discussion, keeping the issue in the national agenda, and pursuing its final approval.

This report focuses on the role played by organized civil society in the judicial reform process, highlighting the efforts of certain organizations that became particularly influential and emblematic of civic activism in the area of criminal justice reform. To analyze how organized civil society became such an important player in the game, the author first walks through the reform process itself, then analyzes the social dimension of the NSJP, and ends with a look at how the

NSJP and society have influenced one another. Through a qualitative approach, the author obtained primary and secondary materials in an effort to analyze and measure the influence of civil society in the reform process. Specifically, the author gathered information on civil society organizations (CSO) that were considered to be among the most involved, visible and influential in the creation of the NSJP.

From those organizations, the author interviewed key experts and civic leaders to learn more about their efforts to promote judicial reform.<sup>1</sup> Through the insights pulled from interviews and analysis of articles and official documents focused on Mexico's judicial reform, the author developed a system to measure the influence of civic organizations on the NSJP. The influence of each CSO is shown finally through a diagram that aims to present the level of influence of each organization in a more clear and visual way to better understand the overall influence of civil society in the NSJP.

## OVERVIEW OF THE JUSTICE SYSTEM REFORM

### Contextual overview of the judicial system reform

The NSJP was incorporated into the Mexican legal framework on June 18, 2008, with the publication of a constitutional reform in the Official Journal of the Federation (*Diario Oficial de la Federación*, DOF). The reform consists of amendments to Articles 16 to 22, 73, 115, and 123 of the Constitution of the United Mexican States (Constitución Política de los Estados Unidos Mexicanos, CPEUM) and contains provisions regarding criminal justice and public security.

The systemic change of 2008 is not new to Mexico. Starting in the 1980s, political reforms began to set the path for the modernization of the justice system. By the 1990s, institutional and legal reforms gave greater autonomy to the Supreme Court (Suprema Corte de Justicia de la Nación, SCJN) and created an organism of control and oversight for the exercise of judicial functions within the judiciary, known as the Federal Judiciary Council (Consejo de la Judicatura

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<sup>1</sup> Specifically, the author wishes to thank the following interviewees for their contributions: Ernesto Canales, president of Renace and founder of the National Network of Civil Organizations in Support of Oral Trials and Due Process (Red Nacional de Organizaciones Civiles de apoyo a los Juicios Orales y el Debido Proceso [La Red]); Orlando Camacho, president of the Foundation México SOS; Miguel Sarre, professor at the Autonomous Technological Institute of Mexico (Instituto Tecnológico Autónomo de México, ITAM) and member of La Red; Ana Laura Magaloni, professor at the Center of Economic Research and Teaching (Centro de Investigación y Docencia Económicas, CIDE) and member of La Red; Eduardo Reyes, communications director of the Center of Research for Development (Centro de Investigación para el Desarrollo, A.C., CIDAC); Roberto Hernández, filmmaker and founder of Lawyers with Cameras (Abogados con Cámaras [LWC]); Francisco Riquelme Gallardo, board member of the Mexican Bar, College of Lawyers (Barra Mexicana Colegio de Abogados, BMA); Julio Hernández Pliego, vice president of the National and Illustrious College of Lawyers of Mexico (Ilustre y Nacional Colegio de Abogados de México, INCAM); and Moisés Castro, board member of the National Association of In-House Counsel Attorneys (Asociación Nacional de Abogados de Empresa, Colegio de Abogados, ANADE).

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Federal, CJF).<sup>2</sup> In the early 2000s, the government of President Vicente Fox (2000–2006) presented a formal initiative to reform the system into an adversarial criminal justice system, an initiative that did not get political consensus and was rejected by Congress (Edmonds-Poli and Shirk 2012, 269).

This first attempt to reform Mexico's justice system, however, inspired some states to enact their own reforms at the state level.<sup>3</sup> Following the national momentum, and at a time of siege due to the threat of organized crime during the government of President Felipe Calderón (2006–2012), an initiative was presented that drew on the previously proposed reforms (Edmonds-Poli and Shirk 2012, 269), but contained new provisions designed to strengthen the strategy undertaken against organized crime. Congress finally approved the reform package in 2008 and set a period of eight years for its full implementation nationwide. As such, the NSJP is supposed to be fully operative throughout Mexico by 2016.

### The traditional and the new criminal justice system

Mexico developed a judicial system that throughout its history became inefficient, inoperative, and unable to meet societal expectations (Shirk 2012). Criminal procedures in the traditional justice system were notorious for being long and slow, biased, partial, not respectful of human rights, and not particularly compliant with standards of due process. Such flaws have added to the general perception of it being an opaque system, prone to corruption, obsolete, authoritarian, enormously costly, and largely unjust. In general, the judicial system was viewed poorly by the public, and not well trusted; citizens did not want to be involved with it in any way (Reyes 2013).

Orlando Camacho (2013), president of the Mexican foundation México SOS, considers that the traditional Mexican judicial system is obsolete, encourages double victimization (of the victim and the accused), and is prone to widespread corruption. He argues that police training has been lacking, and that the image of public security institutions and the perception of criminal investigations have been severely damaged over the time, which raises potentially serious implications for due process in general. One of the major problems, Camacho says, is the disproportionate treatment of victims and victimizers, and the prosecution and the defense. Finally, he believes that a perverse system has been created in Mexico where many attorneys make a living without promoting the ideals of a society ruled by law. Many believe that the traditional system is brutally unjust, yet society became accustomed to it as the standard practice.

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<sup>2</sup> Scholars suggest that this reform proposed by President Ernesto Zedillo was intended to reduce political influence of the SCJN and establish new criteria for the selection of judges (Edmonds-Poli and Shirk 2012, 269).

<sup>3</sup> Among the states that passed their reforms prior to the 2008 reform were Nuevo León, Chihuahua, Oaxaca, Estado de Mexico, Morelos and Zacatecas (JMP 2010).

Experts on Mexico's justice system tend to agree. One of the most prominent figures of the NSJP, Ernesto Canales (2013), believes that the traditional justice system has always been surrounded by uncertainty, corruption, deplorable conditions, neglected by the authorities, and an overall obstacle to the healthy development of the country. In his words, having a criminal case is like being “in no man's land, believing that any kind of arbitrary decisions could happen.” The system is perceived to serve only the rich and the powerful, and used as political control by authorities.

Professor Miguel Sarre (2013), member of the National Network of Civil Organizations in Support of Oral Trials and Due Process (Red Nacional de Organizaciones Civiles de apoyo a los Juicios Orales y el Debido Proceso [hereafter La Red]), argues that there is no worthy aspect of the traditional system to highlight or exemplify. Rather, he points to its flaws, particularly the exorbitant cost involved in conducting criminal investigations. Sarre also highlights that a serious problem is the fact that the prosecutor who conducts the criminal investigation is not the prosecutor who then tries the case—meaning a new attorney who is unfamiliar with the case is brought on to try the case—which results in a duplication of efforts.

According to Ana Laura Magaloni (2013), another member of La Red, the traditional system lacks any kind of democratic control or checks and balances. In her opinion, the system has only worked well when used as an instrument of political pressure. She explains it as follows:

The traditional justice system is understood as the system of criminal persecution of an authoritarian country, and works for an authoritarian paradigm. ... The rationality of the system is to convert criminal persecution in a credible threat to the detractors of power ... and that required great margin of decision<sup>4</sup> and much political influence in the system, and lack of any control proper of democracies.

Roberto Hernández (2013), director of the documentaries *El Túnel* (The Tunnel) and *Presunto Culpable* (Presumed Guilty) says that a criminal case under the traditional system is a trial without evidence and without a judge.

According to Canales, among the most important issues that could explain the malfunctions of the traditional system, are:

1. The judge's absence during the presentation of the evidence, and thus not knowing the accused and not being familiar with the circumstances of the case;
2. The prosecutor's predominant role in the trial, meaning, for instance, that the prosecutor's power to decide what evidence is introduced and integrated in the case could decide the course of the trial; and

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3. The judge's inability to contradict or question the evidence provided by the prosecutor in the proceedings.

Canales and his organization Renace developed one of the first sets of statistics with a scientific approach to study what happens in a criminal case in the traditional trial. What they found was a startling low level of crime reporting in Mexico, with only 15% of victims actually reporting a crime to authorities, and of all cases that actually reach trial, a guilty verdict is reached in 90% of the cases.<sup>5</sup>

Given the serious flaws and inefficiencies in the traditional system, the 2008 constitutional reforms and the new criminal justice system break significantly from the notorious system described above. The NSJP establishes adversarial criminal justice with equal parties and an impartial and independent judge, introduces oral and public hearings, and incorporates alternative justice systems. Additionally, there is a strong emphasis on transparency and credibility within the judicial processes, and the introduction of a dynamic procedure that is less prone to the fabrication of cases (Sarre), provides checks and balances critical to the functioning of a democratic system, establishes a system of due process, is able to professionalize its operators, and removes the menacing power of the state (Magaloni).

With the introduction of oral and public hearings, the accumulation of enormous records that amasses under the traditional system is also addressed with the introduction of videotaping and electronic filing of all proceedings during the trial under the new system. In addition, due to the inclusion of alternative justice systems in the NSJP, many cases can be solved before they reach trial, which results in the court system not being overwhelmed and saturated with too many cases, working at a more efficient pace, and allowing judges and court staff to adequately manage all cases (Rodríguez 2012).

Another important feature of the new system is the existence of different judges for different stages of the trial. A judge—*juez de garantías* or *juez de control*—oversees the constitutional rights of the accused during the detention and investigation, and decides on the application of precautionary measures. A trial judge or panel of judges—*juez de juicio oral*—then takes over and leads the trial until the sentencing stage, where a third and final judge—*juez de ejecución de sentencia*—oversees and resolves all issues related to the execution and enforcement of the sentence.

Criminal investigations are modified as well under the NSJP, given that the prosecutor loses some of his or her *de facto* powers and has to build solid cases with sufficient evidence that will likely be contradicted in court by the defense attorney, who must be aware of and be present at every stage of the investigation.

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5 Canales (2013). ICESI victimization surveys suggest that no more than a quarter of all crimes (roughly 22% in 2008) are actually reported; 39% of those who do not report crimes indicate that it is a waste of time. The next largest proportion (16%) indicate that they do not trust the authorities and 10% say that the process of reporting a crime is too cumbersome. A third (33%) of those who reported a crime said that no result was obtained from reporting the crime (Shirk 2012). According to Guillermo Zepeda (2004), one or two out of every 100 crimes result in a sentence.

A single piece of evidence is no longer enough to sentence an accused individual.<sup>6</sup> All evidence must also be collected and preserved in a uniform fashion so it can be presented in trial and thus open for contradiction by the defense. Overall, this raises the bar for better-quality investigations and evidence gathering. Additionally, all detentions and apprehensions must be carried out according to due process with respect for human rights, and are subject to being judicially challenged if needed. Such changes aim to make the investigation phase in the NSJP more transparent and compliant with meeting fundamental rights of those involved.

There is also a relevant part of the reform that deals with public security issues, principally organized crime. This so-called “special regime for organized crime” includes measures of special confinement and prison conditions, certain process rules, a special detention regime called *arraigo*,<sup>7</sup> asset disposition by the authority called *extinción de dominio*, and certain exceptions to the due process rights granted by the same reform. Critics have questioned this “special regime” in the reform given that it limits some of the overall beneficial provisions of the NSJP, despite doing so with the big picture goal of combating organized crime and its influence.

The purpose of the NSJP is to restructure the way criminal justice has traditionally been conceived in Mexico. This reform is moving the criminal system toward a more democratic and transparent practice, which is more respectful of human rights and more efficient. Nevertheless, provisions regarding organized crime are more vague and obscure, and in some cases contradict the overall purpose of the NSJP. While the system tends to be more respectful of constitutional rights, the special regime for organized crime limits them; whereas the process tends to be more democratic and transparent, the special regime makes it somehow opaque and authoritarian.

In addition to provisions made under the special regime for organized crime, the NSJP has a number of other concerning areas. Among the main weaknesses of the new system identified by experts and members of the civil society<sup>8</sup> are:

1. The lack of a broad understanding of the reform, where a large segment of society is still not aware of the existence of the new system.
2. The limited knowledge on the part of state authorities responsible for implementing the new system’s provisions.

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6 In the past, a sole confession, even if the defense attorney was not present, could be considered to adjudge the culpability of the accused.

7 *Arraigo* is a special detention measure that allows suspects to be detained during the preliminary investigative phase of a case, before probable cause is established or the detainee is made aware of the charges being brought against him.

8 This list was generated based on responses during the interviews.

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3. The fact that the federal government has somehow neglected the system.<sup>9</sup>
4. The little to no planning for a successful implementation.
5. The lack of coordination among key actors involved in the planning, implementation, and execution of the NSJP.
6. The poor strategy for the socialization of the NSJP.
7. That in some cases, states have mixed the two judicial systems (traditional and accusatorial), causing serious confusion.
8. The abuse of alternative justice when there is not enough judicial oversight.

As pointed out by Magaloni, arguably the biggest drawback to the new system, though, is that it breaks from the norm in Mexican legal and political culture, and thus is difficult to implement in a society where there is a culture of arbitrariness.

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An informed civil society becomes very important in reform processes, particularly in the case of Mexico given that the country has a history of authoritarianism and corporatist control; the state has created, organized, licensed, funded, subordinated, and controlled “interest” groups (and most of the mass media); and there has been a long embedded view of cooptation, repression, and domination rather than bargaining (Diamond, 13). The regime, however, eventually came under pressure from “social, economic, and demographic forces,” and “successful socioeconomic development” produced a “profusion of authentic civil society groups that demand political freedom under law” (Diamond, 13–14).

### A snapshot of civil society in Mexico

The democratic consolidation of Mexico over the 20<sup>th</sup> century slowly led to the compilation of social demands that created an organized society that started to

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<sup>9</sup> While the federal government has given resources and support through the creation of the Technical Secretariat of the Coordinating Council for the Implementation of the Criminal Justice System (Secretaría Técnica del Consejo de Coordinación para la Implementación del Sistema de Justicia Penal, SETEC), the institution has limited powers. It was as though the federation left the states with little or no guidance on the federal procedures that could ultimately have important bearing on their own criminal codes (JMP 2010). However, in February 2014 the Mexican Chamber of Deputies (Cámara de Diputados) finally approved a national procedural code that will finally set the basis for the implementation of the NSJP at the federal level. Moreover, the new legislation is a national code that will apply to both the federation and the states in an effort to unify procedures and to help the states that have not made significant progress to fully implement the NSJP.

include its concerns in the political agenda of the country, setting the groundwork for the Mexican civil society of today.<sup>10</sup>

“[C]ivil society and NGOS have become fundamental structural agents reformulating how cultures and economies can do something national. What we are seeing now is a process of reorganization of Mexican society resting on two forms: *asociaciones políticas* and NGOS. *Asociaciones políticas* are groups organized to participate in the dissemination of ideas on some aspect of politics, such as multinationals or the law. They are very close to NGOS, but they are recognized by the state. The growing influence of NGOS in Mexican political and social life during the last fifteen years can be seen in different spheres of society. Slowly but steadily NGOS are reformulating the complex relations between the state and civil society.” (Thelen 1999, 694)

Ilan Semo (Thelen 1999, 697) suggests that Mexican NGOs are reshaping the relations between the state and society, despite still lacking a tradition of autonomous forms of organization. Nonetheless, the emergence of organizations gave a new dimension to Mexican society—showing the limits of traditional institutions and experimenting with forms of organization that enrich the capability of civil society to react to problems and conflicts—yet they are finding ways to link political and ideological pluralism with a pluralist form of social action.

Nevertheless, thus far there is a critical lack of analysis on civil society in Mexico in general, and especially on the role it has played in the justice system reform, since both the reform and the consolidation of civil society are quite new,<sup>11</sup> and some of the current debate in this regard has been focused mainly on society’s criticism against public policies, or on society’s lack of action, or on the perceptions among judicial system operatives and the general public.<sup>12</sup>

In short, there has been a tendency to ignore or at least underplay the importance of civic actors that have contributed to the reform effort. This is a

10 In Mexico, the exact number civil society organizations is unclear, but estimates range from 20,000 to 35,000, a small number in terms of population size, but with substantial growth and recognition in the public arena. Regarding their distribution by area of focus, 45% are concentrated in social support and/or aid services, about 18% in community development, and 8% in health; the rest focus on education, research, the environment, and human rights. Most of the organizations concentrate in the 20 most populous cities of Mexico. (Mexican Centre for Philanthropy, A.C.; Citizens’ Initiative for the Promotion of a Culture of Dialogue, A.C.; Social Administration and Cooperation, A.C. 2011, 29).

11 There is a consensus among scholars that Mexican civil society is still very young, and it has “been marked by the political and social dynamics created by institutions as well as the unwritten rules of the party that governed for more than 70 years” (Mexican Centre for Philanthropy, A.C.; Citizens’ Initiative for the Promotion of a Culture of Dialogue, A.C.; Social Administration and Cooperation, A.C. 2011).

12 Caballero (2010) states that the reform has not had much impact on society, that organized civil society has focused more on questioning certain policy issues than on the reform process, and that the challenge is to influence public opinion. Studies such as the *Justiciabarómetro* survey of operators of the judicial system conducted by the Justice in Mexico Project summarize the findings on the profile and opinions of judges and lawyers working in the Mexican criminal justice system. The survey includes a variety of questions on demographic characteristics, professional profile, perceptions of judicial system functioning, perceptions of lawfulness, corruption, due process, and the criminal justice reform of 2008 (JMP 2011).

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potentially dangerous tendency, given that civic actors and organizations—private attorneys, bar associations, and legal scholars—should be primary protagonists in shaping the implementation of the reforms. Therefore, it is fundamental to generate more studies to gauge the involvement of society in the reform and to have a better sense of the actual role of civil society and the organizations that are generating social capital while advocating for the justice reform.

### The role of civil society in reforming criminal justice

The prevailing opinion amongst experts and members of civil society is that civic engagement has been a clear and key factor for the achievement of the NSJP. Ernesto Canales (2013) believes the reform was generated from the particular to the general, or from the ground up, which is unlike most of the reforms in Mexico that are generated at the upper levels of government and society downward, or, using Canales's language, from the general to the particular. Canales mentions that it was a movement, initiated completely by the citizenry, that united to create a voice that could not have been ignored or not heard—a movement that made politicians and decision makers meet the demands of the society. Most important, says Canales, is that it was a campaign of persuasion, and not confrontation.

Indeed, organized civil society was instrumental in the approval process of the judicial reform, and exemplified how civil society could and should operate in other areas (Magaloni 2013). As Magaloni mentions, the context in which the judicial reform was approved was extremely complicated given the security situation of the country and the corresponding political discourse under Calderón administration; however, civil society managed to develop a strong presence and was able to achieve its approval. Since the reforms were initially conceived, civil society has been incredibly influential in pushing authorities to finally consider, approve, and implement the changes to the judicial system (Sarre). Without civil society, the NSJP reforms would not have been developed, enacted, or achieved, considering the role civil society played in promoting it and in keeping it on the radar of policy makers (Camacho), bringing together not only members of organized civil society, but also businesspeople and academics into the discussion (Reyes).

Nevertheless, the influence of civil society in the actual implementation of the NSJP has been less apparent. The presence of civil society is much weaker in the implementation, says Magaloni, as the processes are slow, happening in different regions of the country—which makes the effort to monitor them more expensive—and are difficult to track and follow due to the various personal activities of all the members of the organized civil society. Sarre also recognizes the decreased role of civil society in the implementation process, noting that government and academia are instead largely those currently more active in this stage.

## MEASURING CIVIC ENGAGEMENT IN THE JUSTICE REFORM

It is clear that civil society was a key factor for the achievement of the NSJP. As previously mentioned, many organizations became main actors of this change, directly or indirectly involved in the reform process with different backgrounds, scopes, geographical location, and activities, but contributing in some ways to the implementation efforts nationwide. Though, in order to develop this analysis, the author identifies some organizations from the vast array that have influenced and promoted the NSJP, for being considered amongst the most influential, while taking into account their geographic presence, size, prestige, visibility, and the type of activities they carry out.

As previously mentioned, the purpose of this research is to show the presence of each CSO through a diagram that represents their level of influence on certain indicators, which encompass the diverse activities civil society conducts vis-à-vis the NSJP. This analysis took a qualitative approach by asking a representative of each CSO to evaluate the level of involvement or influence the organization has in each of the four chosen indicators: policy and legislation influence, public education, analysis and evaluation, and technical assistance.

The question was asked to the representatives of each CSO in the following way: “Using a scale of 1 to 7 where 1 means low and 7 means high, how much does ... [the CSO] ... focus on the following topics, and what concrete actions have been developed in each of them?” The indicators labeled as “topics” in the question were explained in the following way:

1. **Policy and legislation.** This criterion is met if the organization conducts regular activities before political actors to gain support for the NSJP; if they try to influence legislation; if they make public appearances or presentations before Congress or other political institutions; and/or if they meet regularly with authorities to lobby in favor of the reform.
2. **Public education.** This criterion is met if the organization has an outreach agenda regarding the NSJP; appears before media outlets; publishes editorials in newspapers and magazines; organizes discussions and forums; and/or has had advertising or social media campaigns related to the reform.
3. **Analysis and evaluation.** This criterion is met if the organization has an academic research agenda for the NSJP; develops studies and analyses; and/or publishes journal articles, books, or reports related to the reform.
4. **Technical assistance.** This criterion is met if the organization provides training or practical education for the NSJP, and/or any kind of technical assistance for the reform.

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**TABLE 1: INDEX OF KEY CIVIL SOCIETY ORGANIZATIONS INFLUENTIAL TO THE NEW CRIMINAL JUSTICE SYSTEM**

Organization	Place and date of creation	Main activities
Renace A.C.	Monterrey, 1994	Organization that provides legal assistance in cases of evident injustice; specialized in cases of prison inmates. Their activities are divided in the following areas: 1) Legal aid; 2) Psychological Aid; 3) Addictions; 4) Administration; 5) Outreach relations with funders and partner organizations.
México SOS A.C.	Mexico City, 2008	Organization that promotes rule of law by generating political influence and reaching the society for more awareness. The organization has three main axis: 1) legal, where they study and generate law initiatives; 2) institutional strengthening, to overcome weak and corrupt institutions that do not generate confidence amongst society; and 3) efficient social participation (civic engagement) to provoke the awakening and commitment of society in a common agenda of security and justice.
Centro de Investigación para el Desarrollo A.C.	Mexico City, 1984	Think tank that develops research and policy recommendations for the development of Mexico in the areas of rule of law, democracy, economy, and social development.
Red Nacional de Organizaciones Civiles de Apoyo a los Juicios Orales y el Debido Proceso	Mexico City, 2005	Network of experts, CSO and civic leaders that offer concrete solutions to the problems caused by the ineffectiveness of the justice system. It is focused on monitoring and promoting the adequate implementation of the reform at the federal and state level.
Lawyers with Cameras	Mexico City, 2010	Organization composed by filmmakers and researchers Layda Negrete and Roberto Hernández. As organization and individuals, they currently focus most of their efforts in academic research, though their documentaries El Túnel and Presunto Culpable have a high level of public education and policy influence.
Barra Mexicana Colegio de Abogados A.C.	Mexico City, 1922	Bar Association that seeks to ensure the prestige of the legal profession; defends the collective interests of the group; monitors the professional practice of lawyers, the correct application of law and respect for justice; and strengthens the legal culture.
Ilustre y Nacional Colegio de Abogados de México	Mexico City, 1760	Bar Association that defends collective interests of the group; promotes the study of the legal science; monitors the practice of the legal profession, the administration of justice, and the enforcement of the rule of law; and provides advice to authorities when requested.

## Renace

Renace has been very involved in the NSJP reform and implementation from the beginning, so much so that Renace's founder, Ernesto Canales, can be considered the father of the NSJP. Even more, the organization can claim credit for the reform's success in the state of Nuevo León, the first state to implement the new judicial system, which it actually did before the 2008 federal constitutional reforms. Renace's objective of creating change to the justice system in Mexico began with the experiences its own members and the organization as a whole had had in the traditional criminal justice system. As described above (See Table 1), through their work mainly with prison inmates, Renace employees noticed serious cases of injustice, which initiated their campaign to address the judicial system. They gathered academics and experts from different countries to analyze the situation, began a reform to the criminal justice system, and ultimately advocated to create the first adversarial justice system in Mexico, which took root in the state of Nuevo León. Renace's actions in Nuevo León inspired other states to follow suit and, thanks to the strong influence of Renace and Canales, the NSJP was eventually included in the Mexican Constitution.

Renace continues to deepen its role in implementing the reform and the NSJP, particularly by overseeing and evaluating the NSJP for failures and human rights violations, which is specifically useful given that the feedback provides recommendations for states to continue moving toward a more transparent, efficient system that obeys human rights. The organization is also advocating for obligatory bar association of all legal professionals in Mexico. Overall this exemplifies the high level of policy and legislative influence such civil society organizations can have. Renace was not only fully involved in drafting the reform, but it continues to keep itself involved through its active participation to define and advocate for legislation relevant to the success of the NSJP. In addition, Renace produces text books on the judicial reform, participates in the generation of related curricula, has always been very active in giving legal aid to low-income citizens and prisoners, and has developed a training program for reinserting released prisoners into society. Renace also trains system operators, and has ventured into the training of police officers in the NSJP. The organization also works on training CSO in different states on the contents of the NSJP, its relevance, and its association with complex issues such as public security.

## México SOS

Despite not being part of the initial reform that Renace spearheaded, México SOS immediately became part of the network of support for the NSJP after the organization was founded, with the goal of pushing the system's implementation

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forward above all else. SOS promoted the reform through public forums with the purpose of keeping it on the public agenda and on the authorities' radar. SOS also participated in the Agenda Mexico 12.18,<sup>13</sup> and continues to focus on identifying exemplary models throughout the country—states with good practices in implementing the system, such as the northern Mexican state of Baja California—to use as examples for others to follow while undergoing the transition.

SOS has also supported and lobbied for relevant legislation within the justice system, such as the law that supports the victims of kidnapping and the controversial “geolocation” law,<sup>14</sup> and was a strong advocate for the Unified Criminal Code that was finally approved by the Chamber of Deputies in February 2014 (Cervantes 2014). The organization has also been a key actor for the political reform and the law for victims, among others.

Both in general and with regard to the NSJP, SOS identifies itself as one of the organizations with the strongest effective traditional and social media presence. This area—including blogs, Facebook, and Twitter—has been rapidly growing. SOS has also organized and participated in countless forums in universities and states, and regularly contributes to online and print newspapers.

Despite its strong presence in the security and justice fields, SOS recognizes that evaluation and analysis of the NSJP are not its strengths nor are they its focus. Similarly, the organization does not consider itself to have a significant role in NSJP technical assistance, which is logical given that technical assistance is not one of SOS's goals. However, SOS has gathered experts to generate studies and promotes training efforts for NSJP, fields that have been indirectly influenced by this particular CSO.

### CIDAC

The Center of Research for Development (Centro de Investigación para el Desarrollo, A.C., CIDAC) does not consider itself as an advocating entity; however it does believe it has indirectly influenced the reform process, especially given that CIDAC's content and materials are routinely used by actors involved in the reform, most notably state governments.

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13 Agenda 12.18 is a document that proposes certain measures in order to achieve more security and justice in Mexico. Among the points they pushed for with regard to justice are: the creation of a unified criminal legislation, autonomy of prosecutors, creation of a new police for criminal investigations, transformation of the prison system, establishment of alternative justice, and evaluation of the NSJP (México SOS 2012). Two major reforms in 2014 met some of these efforts, the approval of the National Procedural Criminal Code (Código Nacional de Procedimientos Penales CNPP) for the national unification criminal procedural standards (Cervantes 2014) and the political reform (*reforma política*) that gave autonomy to the PGR from the executive branch, thus 'granting' prosecutorial independence (Notimex 2014).

14 The *ley de geolocalización* sets regulatory frameworks for telecom companies to collaborate in criminal investigations and allows the PGR to track phones without judicial order. This legislation was approved by Congress in 2012 and then ratified by the SCJN in 2014 after resolving a constitutional controversy (Torres 2014).

Specifically in the fields of rule of law and justice, CIDAC is considered to have experienced three different stages: 1) The first stage was led by CIDAC researcher Guillermo Zepeda and focused almost entirely on analysis and research. It resulted in the production of a comprehensive diagnostic analysis of the reality of the states in the implementation process, as well as corpus of studies of the criminal system and the security situation. 2) The second stage focused more on communicating and disseminating the content already produced by the organization. This stage was henceforth more about the “socialization” of content—the presentation of findings and indicators in a more visual and friendly fashion—that Reyes mentions. In CIDAC’s words, the direction it followed was a risk the organization wanted to take; it sees itself as a pioneer in this regard. Ultimately, this stage led CIDAC to find that the NSJP was widely unfamiliar and unknown throughout Mexico, even by those who ought to have knowledge and familiarity with the reform. 3) The third stage is considered more as a continuation of the second, in which CIDAC tries to maintain the “socialization” effort, but is generating its own indicators in the process, describing it as a more product-oriented phase.

CIDAC has played a strong role as a social educator in this process, providing information on the NSJP to educate the public on the new system. The organization has produced videos, released specialized content through social networks, dedicated a website to make indicators publicly available in a more “friendly” way, and even exercised a certain level of citizen activism. It has also organized and participated in forums in universities and throughout the states, and serves as a source for media reports on the topic. A clear example of their influence in the field of socialization or public education is the campaign #NoMás (#NoMore) by their project “*Esto es la Justicia*.” Through a series of videos, CIDAC informs and educates society about various topics related to the NSJP, including videos such as “*No más ya ni modo*” (*No more anyways*) that addresses restorative justice, “*No más coyotes*” (*No more coyotes*) that addresses the problems of corruption and unethical behavior of private attorneys, and “*No más tortura*” (*No more torture*) that addresses the problem of torture by prosecutors and investigative police (CIDAC n.d.).

As previously mentioned, the first stage of CIDAC strongly focused on the analysis and evaluation of the judicial reforms. While its production of content since then has been lower, the organization has instead turned its concentration to the socialization of the materials—that is to say to the dissemination of the content for public knowledge. Like México SOS, CIDAC does not see itself playing a role in NSJP technical assistance, nor is that one of its focuses.

## CIVIC ENGAGEMENT AND THE JUDICIAL REFORM: THE ROLE OF CIVIL SOCIETY IN REFORMING CRIMINAL JUSTICE IN MEXICO

### La Red<sup>15</sup>

In the same way that Renace can claim credit for the reforms in Nuevo León, La Red can claim it for the national reform. La Red is believed to be *the* decisive factor for the creation of the constitutional reform, as it advocated for it against the status quo, even against major political players such as President Calderón himself, the Supreme Court, and certain opposition in the Congress. Sarre and Magaloni concur that it also faced opposition from bar associations and part of academia, though it finally garnered enough support that it won a seat at the table with political actors, actors who certainly would not have taken the initiative to push for, discuss, and eventually approve such an important and necessary reform without the advocacy and pressure from La Red. Along with La Red's significant influence on policies, the group has also contributed to the shaping of relevant legislation, both by supporting proposals from other organizations and pushing for its own initiatives to be completed.<sup>16</sup> Other relevant activities of La Red are its official positions on certain policies, legislative initiatives, and reforms.<sup>17</sup>

Since 2007, La Red has organized forums to discuss different aspects of the NSJP by gathering stakeholders and major figures from the social and political arena, including the president, renowned politicians, and prestigious academics.<sup>18</sup> The organization also has a strong presence in the media through public campaigns.<sup>19</sup>

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15 Created by a group of more than 70 organizations from different regions of Mexico, such as Coparmex, Grupo Azteca, UNAM, ITESM, Grupo Reforma, INACIPE, CIDE, Renace, México Práctico, IMEJ, México SOS and Causa en Común, among others. It does not have a rigid and pyramidal composition. Its main leader is Ernesto Canales and there are groups that are linked to different sectors: to businesspeople, to academics, to politicians, and to civil society and other CSOs. However, this division is more voluntary and informal rather than an actual institutional organization. Most of its funding comes from its founders and donors such as Canales, but they have also received grants—from USAID and Open Society Initiative, among others—for concrete projects. Notwithstanding, La Red does not regularly operate under its own funding; the costs it generates are relatively minimum.

16 “Seminarios para la discusión del anteproyecto del Código Federal de Procedimientos Penales de la Secretaría Técnica del Consejo de Coordinación para la Implementación del Sistema de Justicia Penal” (2010); “Propuesta de reforma a la iniciativa de Código Federal de Procedimientos Penales del Presidente de los Estados Unidos Mexicanos” (2011). La Red was also a key actor for the approval of the CNPP, which unifies criminal procedural legislation nationwide.

17 La Red generated, for instance, a position on the Nuevo León reform initiative of August 24, 2012: “Posicionamiento de la Red Nacional de Organizaciones Civiles de Juicios Orales y Debido Proceso frente a la iniciativa de reforma del Poder Ejecutivo del estado de Nuevo León al nuevo sistema de justicia penal.”

18 “Para escapar de la trampa de papeles: Juicios Orales” (2006); First (2009), Second (2010), and Third (2011) National Forum on Security and Justice (Foro Nacional sobre Seguridad y Justicia); and the First (2011) and Second (2012) Local Forum on Security and Justice in Nuevo León (Foro Local sobre Justicia y Seguridad en Nuevo León).

19 An example of a campaign is “Sin nuevas reglas no hay justicia.”

La Red itself does not have a strong research agenda—though it has published books and memoranda, and participated in the publication of studies<sup>20</sup>—nor has it been active in the field of technical assistance, as that is also not one of its areas of specialization.

## Lawyers with Cameras

Abogados con Cámaras (Lawyers with Cameras, LWC) was registered as a CSO in 2010, but its members and founders Layda Negrete and Roberto Hernández have been active promoters of criminal justice reform in Mexico for more than a decade. They became known for the documentaries *El Túnel*, which describes criminal courts in Mexico City and compares them to ones in Chile, and *Presunto Culpable*, which shows the limits of the traditional justice system in Mexico and which reached an estimated 1.7 million viewers in movie theaters and 13.5 million on television. The material put together by LWC is mostly visual, though it feeds from actual data gathered and generated by Negrete and Hernández, which is then presented through real-life case studies. Even though these documentaries do not promote the reform directly, they do generate attention and support for it.

As individuals, Negrete and Hernández are among the most influential people in the justice system reform. Their influence, though indirect in legal and political terms, is that they were able, says Hernández, to define the problem of Mexican justice, leaving it not only at the authorities' but also at the general public's reach. Hernández believes that through their documentaries they defined the problem "in a more sophisticated way," one that could easily be adopted by the citizenry and policymakers. Since one of the major problems in Mexico is a lack of reading, studies and reports regarding relevant issues do not get the attention they should. The documentaries were able to put the problems of Mexican justice in a far-reaching and popular channel, television. LWC told the story of the problem, and that somehow enabled political interpretation, generation of legislation, and even methods for measurement.<sup>21</sup>

Hernández considers that is difficult to describe an organization such as LWC, since it is very "thin" and has in fact no staff. This on the one hand has the advantage that LWC does not require major financial support to function; on the other hand, this causes to be less efficient in generating products.

It could be said that the work of LWC is strongly focused on public education because its work is constantly referenced and cited and its number of viewers grows

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20 This is exemplified by the publication from ITAM y La Red: *Las reformas de la reforma procesal penal en Chihuahua* (Ríos Espinosa and Cerdio 2012).

21 Nonetheless, because of *Presunto Culpable*, Negrete and Hernández faced a great deal of criticism and negative campaigns from authorities, legal experts, and media outlets. They still have cases pending in Mexican courts, particularly in regard to damages for showing people in a documentary without their consent.

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every day. It has a strong component of policy influence, since it tries to influence policy and legislation by exposing the flaws of the traditional system. More recently, LWC is holding dialogues with political actors promoting the reform, in particular lobbying for the adoption of indicators to measure different aspects of the system.

The work of LWC has indeed relied on actual research; aside from its documentaries, Negrete and Hernández have a strong research agenda that analyzes issues regarding due process and the justice system in general. While their deliverables are not numerous, most of their time is dedicated to academic research.

The organization is not particularly focused on providing training or continuing education, nor is its intention to do so.

### BMA

In words of Francisco Riquelme Gallardo (2013), board member of the Mexican Bar, College of Lawyers (Barra Mexicana Colegio de Abogados, BMA), this organization has been active for several years in the justice reform process. At the initial stages of discussion of the initiative, the organization participated in various meetings with the President's Legal Advisers Office, and both chambers of Congress, achieving to include adequate changes to the initial and subsequent projects of reform. It has also maintained the discussion and the monitoring of the implementation process through a great number of events organized by the BMA's Criminal Law Commission since 2007. The organization also played a significant role in the adoption of the unified criminal code through technical opinions about the initiative that were presented to both chambers of Congress.

BMA does not have a formal research agenda, but has analyzed the topic of the adversarial system and the Mexican reform itself through some of its publications, especially in articles featured in its magazine *La Barra*.

On the academic and public education area, BMA has constantly participated in partnerships to organize courses about the adversarial system, and have created a master's program in Criminal Law with focus in the adversarial system. The Criminal Law Master's Program has a practical approach that provides basic tools for members of the bar and outside private attorneys to understand the new adversarial system. Though despite their next step is to implement litigation workshops, BMA has not been very active in providing technical assistance to practitioners on adversarial litigation.

### INCAM

According to Julio Hernández Pliego (2013), vice president of the National and Illustrious College of Lawyers of Mexico (Ilustre y Nacional Colegio de Abogados de México, INCAM), the organization participated in several meetings during the

drafting of the project to reform the criminal justice system. After the reform was approved in 2008, INCAM met frequently with representatives of the executive branch and of both chambers of Congress to monitor the implementation process. Additionally, the organization has been involved in the implementation of secondary legislation, especially in the initiative of a unified criminal code, which was approved in 2014.

INCAM is constantly participating and organizing forums and conferences about the new system, and partners with other institutions in the discussion of various issues regarding the reform. Most recently INCAM has been participating in litigation skills discussions and trainings with the American Bar Association Rule of Law Initiative (ABA ROLI) and Universidad Panamericana.

Despite not having a defined research agenda, at the Criminal Law section of INCAM, its members analyze constantly court decisions and legislation regarding the new adversarial system, as well as other relevant issues.

## ANADE

The National Association of In-House Counsel Attorneys (Asociación Nacional de Abogados de Empresa, Colegio de Abogados, ANADE) is a Bar Association with a corporate law approach, meaning that its members are both independent corporate attorneys and in-house counselors; thus, as an organization it focuses on all areas of law as they relate to private companies. Despite the profile of the association to always seek the best advice for companies, it has been increasingly consulted by various government agencies to give technical opinions on legal issues.

In the words of Moisés Castro (2013), member of the board and the Criminal Law Commission of ANADE, the organization's focus has always been on the impact that the NSJP may have on companies and corporate legal practice. As well, the organization does not have a technical approach for the analysis and promotion of reform, though given its size and magnitude, the Mexican government has requested ANADE's support in different aspects of the implementation process. It has been particularly active in matters relating to victims, crime, precautionary measures, and procedural issues that could have a direct impact on the interests of its members. ANADE's technical opinions, however, are intended to inform broader legislation and decision-making by the government, thus complementing the work of the other two largest bar associations in Mexico, INCAM and BMA.

Notwithstanding, the purpose of ANADE is not to influence public policy. Yet in some cases their technical opinions have somehow helped promote legislation and public policies, as was the case of the procedural criminal code for the Federal District (Distrito Federal, DF), which establishes the NSJP for Mexico City, in which it was very active and involved in the process of drafting and discussion.

As for public education regarding the NSJP, ANADE has been involved in its

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promotion and dissemination, primarily within the business sector. Since 2008, ANADE's Criminal Law Committee has conducted forums and discussions, and participated in events organized by various government agencies such as the Supreme Court and SETEC. It has also published a number of op-ed articles related to the matter, particularly in the magazine *Abogado Corporativo*.

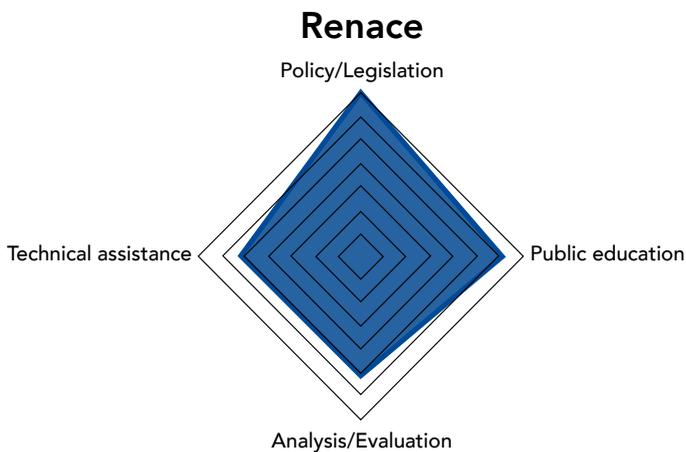
Though its members individually made efforts to analyze the NSJP and the reform itself, ANADE has not developed an agenda of research and analysis, nor is that an approach the organization is interested in pursuing.

Although it has organized some courses and workshops to explain the principles of oral advocacy, ANADE has not been particularly active in this area. This is because its members, as corporate attorneys, do not seek to have oral advocacy skills for the NSJP; rather they seek to understand the implications of the system in their field of expertise.

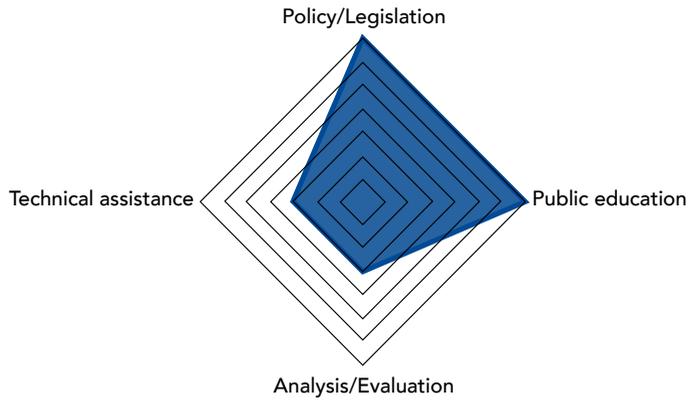
### Overall influence of CSOs in the reform process

According to the data gathered from the series of interviews and from documental research, the author developed a diagram that shows the level of influence each CSO has in the chosen indicators; the measures are from 1 to 7, where 1 means low and 7 means high, and zero represents no influence or specialization whatsoever. Based on this scale the author generated a diagram for each, which are presented below:

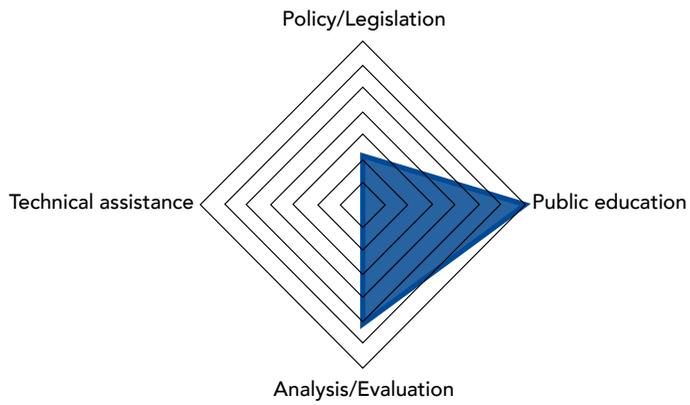
**TABLE 2: AREAS OF INFLUENCE OF KEY CIVIL SOCIETY ORGANIZATIONS WITH REGARD TO THE NEW CRIMINAL JUSTICE SYSTEM**



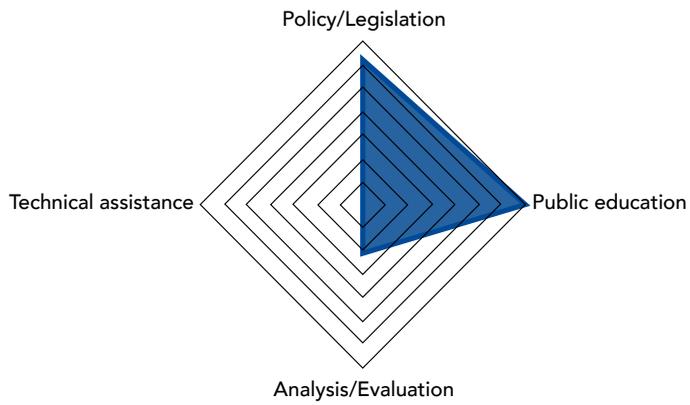
### México SOS



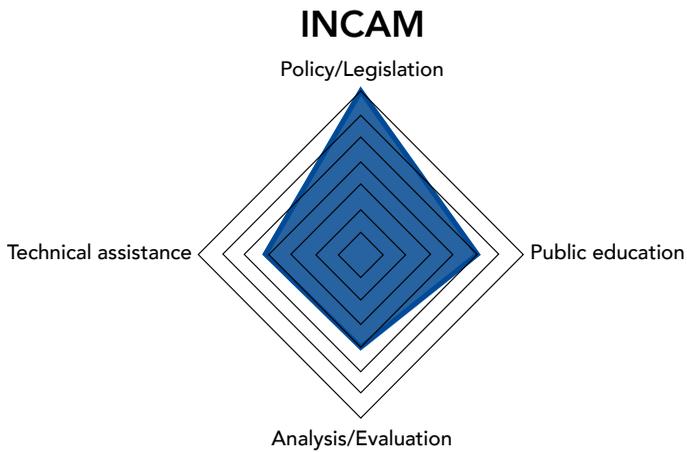
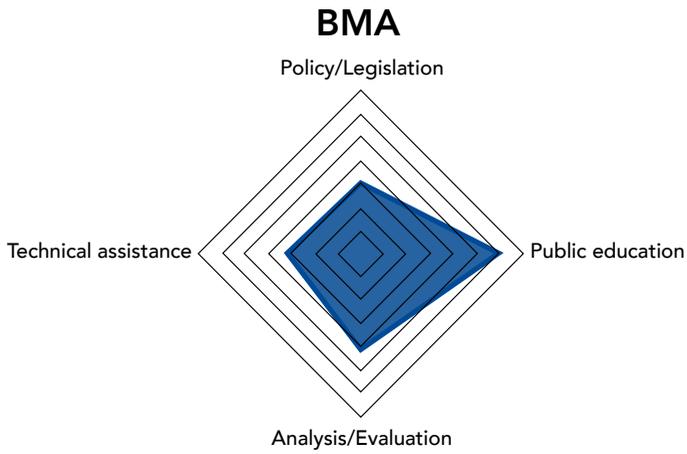
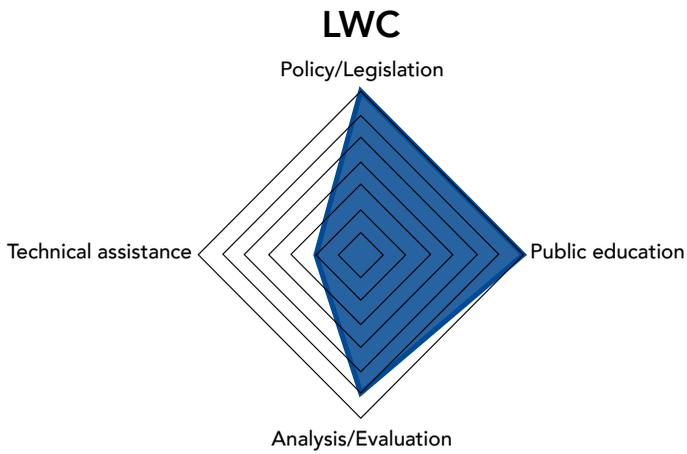
### CIDAC

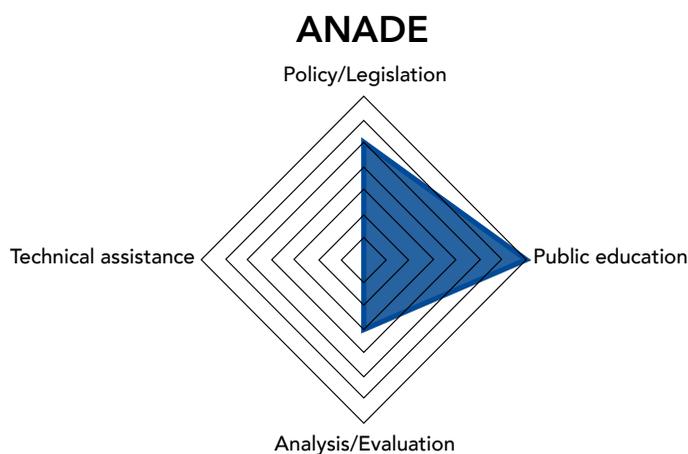


### La Red



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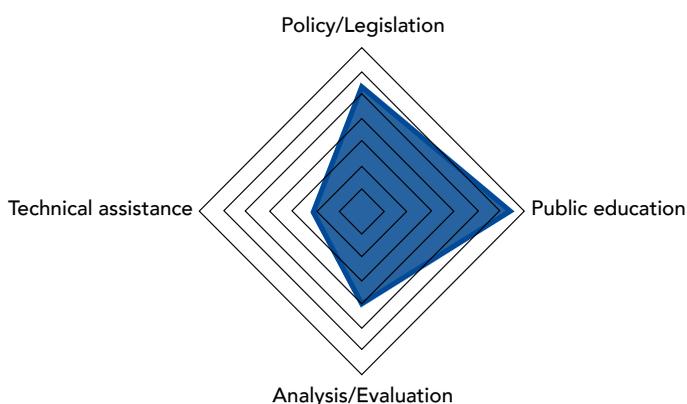
In order to present, all combined, the level of influence of the analyzed CSO, the author calculates the average number for every indicator divided by the number of CSO included in the study.

**TABLE 3: AVERAGE INFLUENCE OF KEY CIVIL SOCIETY ORGANIZATIONS WITH REGARD TO THE NEW CRIMINAL JUSTICE SYSTEM**

Organization	Policy / Legislation	Public education	Analysis / Evaluation	Technical assistance
Renace	7	6	5	5
México SOS	7	7	3	3
CIDAC	2	7	5	0
La Red	6	7	2	0
LWC	7	7	6	2
BMA	3	6	4	3
INCAM	7	5	4	4
ANADE	5	7	3	0
Average	5.5	6.5	4	2.1

Therefore the combined level of influence of the above-mentioned CSO in the NSJP could be represented as follows:

TABLE 4: DIAGRAM OF AVERAGE INFLUENCE OF KEY CIVIL SOCIETY ORGANIZATIONS WITH REGARD TO THE NEW CRIMINAL JUSTICE SYSTEM



Even though this analysis is far to present the general picture of the influence of civil society in the NSJP, it rather looks at individual organizations' impacts taken collectively. Nonetheless, the analysis did find that the level of involvement of these organizations somehow represent the general influence of civil society in all the processes of the NSJP. Considering that the diagram was generated based only on the information of a small number of CSO, it probably does not show fairly the level of influence of civil society in general, but does represent a trend that this research found, a very high impact in policy and legislation; an enormous influence through public education, especially through forums, traditional and social media; moderate influence in the generation of academic analysis and evaluation, with academia more involved in that regard; and finally a relatively weak involvement in technical assistance, especially in training, in which governments and academic institutions have been taking the lead.

There are many other associations and individuals that are and have been extremely influential to the reform, such is the case of academic institutions, whose contribution is vast, and would therefore deserve a separate analysis. However, for the purposes of the report, it was necessary just to mention and highlight the tremendous work of several universities throughout Mexico, which are still very active in the promotion of the reform and are the main leaders of the training of operators and students in the new accusatorial system.

## FINAL CONSIDERATIONS AND RECOMMENDATIONS

A healthy state must have a participative society and strong institutions. A vigorous civil society will ensure that the state respects rights and is transparent in its actions; at the same time, strong institutions will prevent civil society organizations to introduce obscure interests in the political agenda.

Even though Mexican civil society is quite young and still developing, its role in the reform of the criminal justice system was fundamental. Through political influence, public education, and research, civil society has managed to advance the NSJP in several states and keep the reform on the public agenda, advocating for action to ensure all states comply with constitutional reforms and meet the deadline for implementation by 2016.

Moreover, civil society played a significant role in the approval of the CNPP that unifies criminal procedural legislation nationwide and that could help the federation to finally take significant steps toward the implementation of the NSJP, supporting at the same time other states that have not been able to do significant progress in this regard.

Nonetheless, this research found many issues that should be considered and addressed in order to foster civic participation and strengthening civil society. While some of those have been mentioned already, the author recaps these and some others, and offers some final considerations aiming to define a concrete catalogue of recommendations for governments and civil society moving forward.

### Be proactive rather than reactive

It is clear that civic engagement was the key factor in drafting, discussing, and enacting the reform. Collaborating in an unprecedented way, CSO, civic leaders, academics, and businesspeople were able to initiate one of the most important changes that Mexico has experienced in its contemporary history. This movement showed how it is possible to provoke political and social change by means of organization instead of relying on the government to enact the changes, which Mexican society was accustomed to before. A solid civil society that evolved slowly throughout the 20<sup>th</sup> century finally managed to reach the levels of participation that a healthy democracy requires. Yet there is a lot to do, especially given that civic engagement is still rather young in Mexico and needs to strengthen and further consolidate.

One of the most important lessons learned from civil society's involvement in judicial reform is that it moved from being reactive to government actions, to proactive, pushing the government to take such actions and thus, generated the momentum for a reform when authorities were not necessarily considering such a change. Therefore, is recommended that organizations throughout Mexico should take a more proactive role moving forward, especially in those states were reforms

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are still taking place, especially now that a unified legislation has been approved and there is just need to fully implement the system.

### Address shortcomings of the reform

As much as this reform represents a triumph of civil society, it is important to keep in mind that the federal government was able to include in the reform proposal a component designed to combat organized crime, which in its very nature is contrary to the spirit of the reform. Measures such as *arraigo* and *extinción de dominio* have been viewed as contrary to human rights and due process. It is important to note that organizations such as SOS consider such measures as necessary until better strategies are put in place (Camacho 2013), though other experts—Magaloni and Sarre—argue that no measure contrary to due process in any circumstance should be carried out in democratic regimes.<sup>22</sup>

There is a role for civil society in trying to address the downsides of the reform. If civil society had the strength to get the reform approved, it has the power to address the issues that are considered contrary to due process, especially since the Peña Nieto administration (2012–2018) seems to be more receptive to discussing and addressing the shortfalls of the reform than the Calderón administration.

### Increase social awareness

In 2008, the NSJP became a reality nationwide, but while some states had started the process before (i.e., Nuevo León, Chihuahua, Oaxaca, Estado de Mexico, Morelos and Zacatecas), the majority was not prepared for such a change. There are many issues that have to be addressed, one of which is the lack of awareness by society in general and even by certain authorities. When the citizenry is not informed about a political or reform process and the government is not particularly committed to the public's education on the topic, it creates a great opportunity for civil society to engage and to foster and enhance the processes of reform and political change. "Civil society participation ... inevitably prevents hasty, *ad hoc* implementation of reform proposals," (Grajzl and Murrell 2009, 3) and it is therefore necessary to take action in promoting the change to the public and pressuring political actors to make the changes.

Change is ineffective if the public's knowledge on the topic is lacking. As Hernández says, it is important that the people are aware of the problem, and that the problem itself is defined so concrete actions can be developed. Therefore, there

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<sup>22</sup> Jesús Murillo Karam has marked his arrival as attorney general of Mexico with a commitment to stop the abuse of *arraigo*. Unless and until Mexico's Constitution is amended, Murillo recognized that its articles would continue to provide for law enforcement's recurrence to *arraigo* for use in extreme cases. In the meantime, however, he clearly stated his intentions to largely eliminate the use of this form of preliminary detention (JMP 2012). This situation has been received very positively from experts and critics (Magaloni).

is a significant need for a broader “socialization” campaign of the “problem” of the Mexican justice, but also for the reform to reach the general public, as well as law students, professionals, and authorities with various levels and depth of content. Social media and video campaigns, such as those modeled in CIDAC’s #NoMás series, or more informational yet visual products such as *Presunto Culpable* by LWC, appear to be a largely effective tool in this regard.

## Dialogue with opposition

Despite great advances being made with the new judicial system, critics, opposition, and movements against the NSJP have become more vocal and present as its implementation continues to advance. Known as “Counter Reform,” these movements intend to modify the reforms already in place, such as in Chihuahua (Ríos Espinosa and Cerdio 2012), which was one of the first states to implement the system, and thus became a role model for other states to follow. Some of these movements against the reform even have political support. The increasing discontent with the new system is natural and at some point is needed in a democratic system, especially since pushback can create informed dialogue and citizen involvement. Nevertheless, there is the reality that such opposition could have stemmed from the public’s lack of knowledge of the reform or from inadequate implementation of the new system.

The risk of a pushback of the reform seems less feasible thus far with the approval of the CNPP that mandates all states to comply with the NSJP. However, there is always a possibility that the legislation can be amended in a negative way, and thus is necessary to keep an open dialogue with the voices in favor of and against the system so that any change or modification to the system is the result of a concerted decision and not a political maneuver.

Above all, it is important to welcome the voices questioning and criticizing the reform, provide a space for dialogue when the objections and claims arise, and try to avoid any political agenda that would detract from the discussion. We should remember that this is a new system, unknown to most of the country, and that it will take time and patience to fully and correctly implement it.

## Promotion of civic engagement

Authorities have been receptive and welcoming of civil society participation in many cases; however, they have not been particularly supportive of its operative work. It is true that government officials have been open to civil society insight and have in fact used materials various organizations have produced, yet they have not been active or involved in promoting and seeking a broader level of civic engagement. Once authorities commit to increase their support to civil

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society, another challenge arises in that there must be better communication and collaboration among all actors involved in the reform process—civil society, government, and academics. As Sarre explains, there was collaboration between civil society and the authorities to approve and enact the reform, as well as collaboration between authorities and academia for implementing the NSJP, and particularly on how to provide technical assistance. However, there is not a defined system or network of collaboration among the three. According to Sarre, “the triangle is not complete.”

It is therefore important that authorities, which have not been supportive enough of civil society along the way, increase communication and collaboration efforts with civil society and academia, and for them to seek channels for communication with authorities and amongst each other during the subsequent stages of the implementation.

### Strengthen local civil society

Even though civil society was one of the main motors of the judicial reform, its involvement in the implementation processes has been rather slow. This is because the processes are more widespread, and occurring at different paces and times in different regions. CSO with national presence and that played a central role in the promotion and approval of the reform might not have the reach or manpower to assist and monitor state level reforms. At the same time, most local organizations that are physically present in the locations where the reforms are occurring do not have the resources or means to assist in implementation. Civil society has not been a strong participant in this phase for these reasons, which does not bode well for the articulation and communication of efforts among actors. Despite civil society’s shortcomings in this respect, academia has excelled in this regard, taking over the lead on implementation because it requires more technical knowledge, knowledge that is clearly abundant in universities and academic institutions.

There is no doubt that civil society has been active and effective in almost all aspects of the reform process. However, its rather weak presence in the implementation stage is attributable to the widespread nature of the reforms given that each and every state and municipality must comply nationwide. There is also a lack of resources among civil society organizations. Since national CSO cannot bear all the responsibility, it is vital that regional and local CSO and networks play a bigger role during this stage. As previously mentioned, authorities must be supportive as well, helping to engage organizations at all levels and to promote the creation of stronger and more collaborative regional and local networks. This must be done to be able to implement the system in a timely and proper way. Trainings of local CSO—such as the ones conducted by Renace—appear to be a very good practice in this regard.

## Welcome international support

The weaker involvement of Mexican civil society in the implementation processes, particularly with training, has been supplemented by a number of international organizations, particularly from the United States, many of them funded by the Merida Initiative. Some international organizations have been very active in this regard, such as the Conference of Western Attorney Generals (CWAG) that has been training prosecutors—largely, but not exclusively—in oral litigation skills; the American Bar Association through its Rule Of Law Initiative (ABA ROLI) has partnered with Mexican institutions to conduct similar trainings; and many academic institutions from the United States, such as the University of San Diego through its Justice in Mexico Project, or Emory University, among others, which have partnered with their Mexican counterparts—the Autonomous University of Baja California (Universidad Autónoma de Baja California, UABC) and Universidad Panamericana (UP), Tec de Monterrey, among others—to develop technical assistance courses, and to train public defenders, prosecutors, judges, and even private attorneys on the new judicial system, particularly on oral trials.

International support has proven to be instrumental in the reform. Moving forward, it is therefore important from the Mexican perspective to welcome and embrace this support, setting aside cultural sensitivity to the matter. After all, it is best to learn from those who already have experience in the field who can share their best practices despite if they come from Chile, Colombia, or the United States.

## Sensitive international approach

Contractors for the United States Agency for International Development (USAID)—initially PRODERECHO and later Management Systems International (MSI)—have been active in all stages of the reform, including the implementation processes. While international support—largely coming from the United States—has been instrumental to the implementation processes, the approach often has not been the most adequate and has sometimes been perceived as aggressive, which led to certain criticism from some sectors.

International governments and institutions have to be aware that many of the problems affecting their relationship with Mexico could be addressed if a better justice system is in place. It is therefore not only necessary that there be a continuous effort to keep promoting the development of the system, but also that efforts and support continue to increase over the coming years until a strong, stable, and efficient justice system is rooted. The better the judicial system, the more likely it will be able to help address some of the other problems—e.g., corruption, public security crises, criminal organizations—Mexico faces at this time.

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Nevertheless, it is important for international support for the NSJP to remain as respectful and supportive as possible, and avoid being aggressive and patriarchal, as that could affect Mexicans' outlook and trust of foreign support, particularly that from the United States.

### More federal involvement

As mentioned before, the NSJP has somehow been neglected by the federal government, which has given little support to institutions in charge of the implementation oversight, such as SETEC. As Castro mentions, there has been a lack of political will on the part of federal authorities, and their attitudes have been contradictory — on the one hand they have promoted the reform, but on the other they have not taken the necessary steps for its correct implementation, and the institutions responsible for promoting the process have serious difficulties. Overall, there is still a lack of funding, promotion, and training.

Additionally, for several years the lack of a federal code to incorporate the reform at the federal level left the states with no guidance for the implementation, which was a major obstacle to the final consolidation of the system, and needed to be addressed. Nevertheless, our interviewees see the benefits of the approach taken by the Peña Nieto administration with regard to the NSJP, specifically his inclusion of it on the list of priorities for the federal government (JMP 2012). Also, in December 2012, President Peña Nieto sent a positive message with regard to security and justice when he unveiled the “Pact for Mexico” (Pacto por México), an agreement he signed with representatives from Mexico's major political parties that itemized a list of policy and reform priorities set forth in several areas related to security and justice issues (Molzahn, Rodríguez Ferreira and Shirk 2013). Likewise, with civil society playing again a significant role, the initiative of President Peña Nieto for a unified legislation for the country was approved by the Chamber of Deputies in February 2014, setting the basis for a definite implementation of the system at the federal and state levels.

It was important for the federal government to be part of the effort, however late; it showed the will to change and to generate the guidelines some states need for their own implementation processes. Whether it was the best solution or not, the national code will indeed serve as a model for and solve discrepancies among states in the implementation process. In these respects, the federal judiciary and the Supreme Court have to take a more proactive role, and SETEC has to be granted more functions and duties in order to positively increase its influence and control on the judicial system reform. Nonetheless, the code's approval is just the first step, and the federal government has to take a more proactive attitude in the actual implementation of the new system at the federal level and to keep supporting the states in implementing it in their own jurisdictions.

## Oversight and evaluation

One of the main issues remaining for the entire implementation process to succeed is to define performance indicators to measure the development of the process and the system in general. Oversight and evaluation have been a concern for all actors and stakeholders in the reform, but have not been clearly addressed or advanced. While SETEC has developed a method to evaluate the performance of the system<sup>23</sup>—an important and exemplary step others should follow—the levels of evaluation for the system nationwide are weak or even nonexistent.

Moreover, it is not yet clear if the methodology followed by SETEC is the most adequate to measure and evaluate, and there does not seem to be a coordinated effort by actors involved to set forth a generalized methodology to evaluate the performance of the NSJP. That is why civil society, authorities, and academia have to become more involved in analyzing the current evaluation systems, such as the one developed by SETEC, and develop an adequate and standardized way to evaluate the system that could be replicated by all the states. Such efforts would lead to similar indicators with similar values used in the review process, and therefore allow for easier cross-references and evaluations from those overseeing the system.

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