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## Otoniel's capture unlikely to change the drug trafficking panorama

Heralded by President Iván Duque as Colombia's "biggest strike against drug trafficking this century" and a moment that "can only be compared to the fall of Pablo Escobar," the 23 October capture of Dairo Antonio Úsuga David ('Otoniel') made headlines worldwide. As the leader of the Clan del Golfo drug trafficking organisation (DTO), Otoniel was Colombia's most-wanted criminal. He also exemplified the interplay between supposedly ideological armed groups and the cocaine trade, having previously been involved in both paramilitary and guerrilla activities. Yet despite the government's presentation of his capture as a watershed moment, it is far from clear that the Clan del Golfo will suffer a long-term setback. Even if it does, the most likely outcome is that a rival DTO will fill the void.

Otoniel's capture marked the climax of a six-year operation by a vast security task force, codenamed Agamenón, which at its peak featured approximately 3,000 soldiers and police (PNC) officers. On 23 October it found its mark, in what Duque described as "the biggest [military] penetration of the jungle in the history of our country." Some 500 security personnel and 22 military helicopters swooped in on Cerro Yoki, a rural area in Necoclí municipality, Antioquia department. One PNC officer was killed during the raid, which, given its high-profile target, was otherwise notable for its relative lack of bloodshed.

That has raised suspicion in some quarters that Otoniel may have turned himself in as part of a negotiated truce. Driving this speculation is the fact that in September 2017 Otoniel reached out to the government led by former president Juan Manuel Santos (2010-2018), "expressing his wish to come in and submit to justice," as Santos put it at the time. The left-wing senator Gustavo Petro (Colombia Humana), the current frontrunner in the polls for the May 2021 presidential election, has been a leading proponent of the theory that Otoniel's arrest was not the clinical, unexpected strike that the government claims.

One key factor reduces the likelihood of Petro being correct; on the day of Otoniel's capture, Defence Minister Diego Molano Aponte announced that the government had launched proceedings for his extradition to the US, where he is sought on drug trafficking charges. Extradition would likely see Otoniel face the same fate of many extradited drug lords before him – life imprisonment in a maximum-security US prison, with few possibilities for more lenient sentencing in exchange for information. Whilst such a plea bargain would likely also be off the cards in Colombia, given Otoniel's notoriety, if tried there he could expect the country's maximum sentence of 30 years followed by conditional release.

The government has flatly dismissed any suggestion of a surrender. Following Otoniel's arrest, Molano said his capture was made possible by "information supplied by members of the Clan del Golfo." He added that the informants would be paid the Col\$3bn (US\$800,000) reward offered by the Colombian

## Otoniel

Otoniel had a foot in both camps in Colombia's internal conflict, being a member of the leftist guerrilla group Ejército Popular de Liberación (EPL) until its demobilisation in 1991, after which he joined the right-wing Autodefensas Unidas de Colombia (AUC) paramilitary group. He ran money laundering and extortion operations for the AUC until 2004, when it demobilised, and then formed the Clan del Golfo alongside his brother, Juan de Dios Úsuga ('Giovanni') in 2007. Otoniel's participation in the internal conflict will likely trigger domestic opposition to his planned extradition to the US, given that victims' associations have accused previous Colombian governments of extraditing former paramilitary leaders on drug trafficking charges before they could be tried for their crimes relating to the conflict [[SSR-08-06](#)].

government and the US\$5m bounty offered by the US. Whilst responding to Petro's allegations on 25 October, Molano also pointed to PNC figures showing a dramatic upswing in PNC operations against the Clan del Golfo from 2020-2021 – a 733% rise in members killed (to total 50), a 352% increase in seized firearms (371), a 155% rise in seized cocaine (31.47 tonnes), and a 135% increase in arrests (570).

Despite those metrics, the Duque administration is still far from vanquishing the DTO. This was highlighted at a 3 November press briefing by Colombia's PNC commander, General Jorge Luis Vargas, who said that it enjoys strong alliances with five of the key lynchpins in the international drugs trade – "Jalisco Nueva Generación and Sinaloa in Mexico, the Calabresa [Ndrangheta] and Sicilian mafias in Italy, and the Balkan networks." In addition, Vargas said that the Clan del Golfo's cocaine is shipped to at least 28 countries, reaching as far afield as China, Iran, Australia, and the United Arab Emirates. Within Colombia's borders, the authorities seem no closer to stamping out the DTO. According to specialist website *Insight Crime*, the Clan del Golfo operates in at least 17 of Colombia's 32 departments. Using its homelands of Antioquia, Chocó and Córdoba as its core bastion, the group also maintains a strong presence along the Caribbean coast, in the southwestern department of Valle del Cauca, and the Catatumbo region, which spills from Norte de Santander into Venezuela.

### Outlook after Otoniel's fall

Otoniel's fall was inevitably heralded by the Duque administration as the ultimate vindication of its hard-line security policy. Also inevitable were the comparisons between Otoniel's capture and the 1993 killing of Pablo Escobar, which brought about the immediate disintegration of his Medellín Cartel. But beyond a few obvious parallels – both Escobar and Otoniel were, at the time of their downfalls, Colombia's most wanted criminals, who had evaded massive manhunts for seven and six years, respectively – there is little reason to believe that the Clan del Golfo will fall apart as rapidly as the Medellín Cartel did.

The key reason for this is the different leadership styles of both men. Whilst Escobar ran his DTO in a rigidly hierarchical structure, the Clan del Golfo is far more decentralised. Regional commanders in its core strongholds will be waiting in the wings to replace Otoniel. Furthermore, at the time of Escobar's death he had become the personification of his DTO to such an extent that many of its members, and crucially also its rivals, could not conceive of it being rebuilt from the ashes. In contrast, Otoniel has built no such cult of personality. His replacement will be easier for the Clan del Golfo's members to countenance, and the DTO's practice of subcontracting local gangs via its decentralised command structure means it will likely be able to ride out a period of turbulence at the top.

The Clan del Golfo's ability to survive is, however, contingent on the DTO being able to swiftly decide on a new leader and repel any incursions by rival criminal groups that will seek to exploit this moment of vulnerability. Any internecine power struggle between the DTO's regional commanders could send it into a downward spiral. Likely flashpoints are Chocó department, where the Clan del Golfo was already engaged in a violent turf war with the Ejército de Liberación Nacional (ELN) guerrilla group; Antioquia, where it is clashing with dissident members of the Fuerzas Armadas Revolucionarias de Colombia (Farc) guerrilla group; and Catatumbo, where it is fighting both of these.

Furthermore, regardless of what takes place at the top tier of the DTO, these smaller cells are going nowhere. Even in the event of a total collapse of the Clan del Golfo's central command, many of them can be expected to continue operating as smaller, localised gangs, or to become assimilated into more dominant DTOs. As the Farc's 2017 demobilisation showed, removing a queen from the chessboard is not enough for the government to claim victory in the battle against criminal and insurgent groups. Until the government can consolidate its territorial control over Colombia's rural hinterlands, another criminal group is always likely to fill the power vacuum.

### Formal ICC investigation into alleged crimes against humanity

President Nicolás Maduro's government has been in the crosshairs of the International Criminal Court (ICC) at The Hague since 2018, when the court opened a preliminary examination into alleged crimes against humanity. That examination was escalated into a full investigation on 3 November, following a three-day visit to Caracas by the ICC's chief prosecutor, Karim Khan.

Khan's visit from 1-3 November was intended to guide the ICC on whether or not to expand the preliminary examination opened in 2018 under his predecessor, Fatou Bensouda (2012-2021). That examination, which related to alleged extrajudicial killings, arbitrary arrests, and torture in detention facilities, had been repeatedly hampered by the Maduro administration, which issued a stream of legal challenges claiming that the inquiry was "discriminatory" and alleging that it forms part of a wider plot by the US to overthrow Maduro and replace him with opposition leader Juan Guaidó.

Those legal appeals prevented any escalation of the examination under Bensouda. However, on 2 July the ICC announced that it had rejected the Venezuelan government's claims, and that a full investigation could be launched if approved by Khan, who had assumed the role of chief prosecutor the previous month.

With Khan's visit representing the Maduro government's last hope of averting such an investigation, Maduro dropped his usually hostile rhetoric towards the court, and was uncharacteristically silent for most of Khan's stay in Venezuela. Maduro's only public announcement before Khan announced the escalation of the ICC's examination followed a meeting between the two men on 1 November, when his office issued a brief statement welcoming Khan's "focus on understanding in depth the situation in Venezuela, and his willingness to meet in person with the national authorities."

Khan also made no statements to the media until the end of his visit, and amid uncertainty over his schedule in Venezuela, there were strong concerns among Venezuela's opposition that he was being prevented from speaking with local human rights organisations and victims. Many in the opposition dismissed the visit as a waste of time, with the Voluntad Popular party warning that the "absolutely controlled nature of the visit" would prevent Khan from "effectively reporting back on the human rights violations and crimes against humanity that have been committed."

On 3 November, however, Khan and Maduro jointly presented a memorandum of understanding (MoU) which stated that Khan "has determined that he will proceed to open an investigation to establish the truth" about the alleged human rights offences. The MoU notes that the Venezuelan government sees no "justification for the transition from the preliminary examination phase to the investigation phase" and "believes that the claims [of human rights abuses] should be investigated in the country by the national institutions that were created for such a purpose."

Therein lies a significant problem for the ICC. With the ICC not possessing any independent enforcement powers, any successful prosecutions would likely be reliant on cooperation from the Venezuelan government. Furthermore, even if the court does successfully prove human rights abuses in Venezuela, the perpetrators would have to either be handed over

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## Former defence minister dies in custody

Former defence minister Raúl Baduel (2006–2008) died in custody on 12 October in El Helicoide, the headquarters of Venezuela's intelligence service (Sebin). Baduel was widely viewed as the country's most high-profile political prisoner – a former ally of late president Hugo Chávez (1999–2013), he fell foul of the Chavista regime and, bar a brief hiatus from 2015–2017, had been imprisoned since 2009, accused of treason. Whilst Attorney General Tarek William Saab claimed that Baduel died of a heart attack while suffering from coronavirus (Covid-19), his family insist that he was murdered. Both the US and the United Nations Human Rights Council have called for an investigation into his death.

by the Venezuelan authorities or arrested while in a foreign country. With the Maduro administration having already stated that it sees no grounds for an ICC investigation, it is hard to imagine the authorities complying with any arrest warrant issued by the court.

The government has already signalled that it intends to obstruct the investigation. Diosdado Cabello, the vice president of the ruling Partido Socialista Unido de Venezuela (PSUV), said on 4 November that the Maduro administration would appeal the investigation on the grounds that the preliminary examination had not been given sufficient time to run its course. There is no reason to believe that the ICC will reverse its decision, having already struck down Venezuela's appeals against the case. Nonetheless, Cabello's comments indicated an uphill struggle that the court will face as it launches its investigation.

That said, the investigation could bode ill for Maduro and his allies when they eventually leave power. Should the opposition eventually gain control of Venezuela's state institutions, it would be all but certain to comply with any warrants issued by the ICC.

However, the court's low conviction rate means that Maduro is unlikely to be losing much sleep for the time being. Of the 45 people to have been indicted by the ICC since 2005, only 20 were successfully transferred to the court; of those, only nine have been convicted.

Whilst the prospect of any member of the Venezuelan authorities ending up on trial in The Hague currently seems distant, the ICC's decision to expand the investigation has been hailed as a landmark decision by human rights organisations. As José Miguel Vivanco, the Americas director at US-based NGO Human Rights Watch, noted, this is the first time that the court has opened a full investigation into a Latin American country (preliminary examinations were opened into Colombia from 2004–2021 and Honduras from 2010–2014, but were closed without being expanded further). With the ICC's previous investigations having overwhelmingly focussed on Africa, many activists across Latin America are now hopeful that human rights abuses in other countries in the region may now receive closer attention by the court.

Vivanco described Khan's decision as "a turning point," stating that it "not only... provides hope to the many victims of Maduro's government, but it is a reality check that Maduro himself could be held accountable for the crimes committed with total impunity by his security forces and others." Erika Guevara-Rosas, the Americas director at NGO Amnesty International, was similarly upbeat, describing the ICC's decision to expand the examination as "historic" and saying that it gives "hope in the struggle for the truth and justice for thousands of victims."

### Political prisoners

Those hopes are likely premature. According to the Venezuelan human rights NGO Foro Penal, there were 252 political prisoners in the country as of 16 November, of which 213 had not been convicted of any crime. These include a number of high-profile figures, including Javier Tarazona, the director of the NGO Fundaredes which played a fundamental role in exposing human rights abuses by the security forces and guerrilla groups in the Apure conflict along Venezuela's border with Colombia [SSR-21-07].

Tarazona was arrested on 2 July and remains in pre-trial detention, charged with treason, terrorism, and incitement of hatred. Since his arrest, the Apure conflict has effectively dropped from the headlines, although an October investigation by specialist website *Insight Crime* reported continued human rights violations by the government, including mass arbitrary arrests of villagers accused of collaborating with the guerrillas.

## Alleged military interference topples defence minister

### Juan Carrasco Millones

New Defence Minister Carrasco served as interior minister in President Castillo's first cabinet from July-October, before being fired in the 6 October cabinet overhaul. Carrasco was briefly investigated by the attorney general's office in his first week as interior minister for maintaining a salaried role as public prosecutor – the investigation was dropped when he resigned from the prosecutor position. Carrasco has no obvious background in defence, although in his time at the attorney general's office he worked on several high-profile organised crime cases. After being fired as interior minister he spent the six weeks before his appointment as defence minister working as an advisor to the justice ministry.

Embroiled in an escalating scandal over his alleged interference in military promotions, Peru's defence minister, Walter Ayala, resigned on 14 November. His resignation came after a congressional inquiry had been opened into the replacement of the army's general commander, José Vizcarra Álvarez, allegedly following Vizcarra's refusal to promote two colonels close to President Pedro Castillo. With congress's defence committee having voted to pass its findings to the attorney general's office, Ayala is now facing the possibility of a criminal investigation. The scandal has the potential to be highly damaging for the government, given the Peruvian Right's use of scare tactics in this year's election campaign to depict Castillo as an aspiring authoritarian.

Álvarez, alongside the general commander of the air force, Jorge Chaparro, was replaced in an unexpected overhaul of the military high command on 4 November. No official explanation was given at the time for the commanders' respective replacements by Walter Horacio Córdova Alemán and Alfonso Javier Artadi Saletti. However, on 8 November Vizcarra claimed to have been fired in response to his refusal to bow to political pressure to promote two colonels – Ciro Bocanegra and Carlos Sánchez Cahuancama – to the rank of general.

Subsequent investigations by the local media found that these colonels work at the presidential palace, and are both from President Castillo's home province of Chota, in the Cajamarca region. According to a 12 November report by national daily *El Comercio*, Bocanegra was acting as an unofficial advisor to Castillo, with his own office in the presidential palace.

According to Vizcarra, both Ayala and Castillo's presidential secretary, Bruno Pacheco (who resigned on 19 November), repeatedly pushed for Bocanegra and Sánchez's promotion, despite Vizcarra's insistence that accelerating their rise through the ranks would be a breach of military protocol. Vizcarra claims to have spoken to Castillo about this on 15 October and believed the matter was settled, before being fired three weeks later.

Ayala hung on to his position for nearly a week after Vizcarra made his claims, during which time congress's defence committee opened an investigation into the defence minister and Pacheco. With Vizcarra stating that he would present the committee with WhatsApp messages proving his allegations, Castillo announced on 14 November that he had accepted Ayala's resignation. Two days later, the defence committee voted to share its classified findings with the attorney general's office.

The scandal further adds to the woes of the beleaguered Castillo administration, which, following a 6 October cabinet reshuffle, was still struggling to shake off allegations of sympathies for the Maoist guerrilla group Sendero Luminoso [SSR-21-11]. Claims of irregular meddling in the military could cause problems for any government; for Castillo, the blowback will likely be worse, given that his right-wing rival in this year's presidential election, Keiko Fujimori (Fuerza Popular), spent much of her campaign portraying Castillo as a threat to the democratic order [SSR-21-09].

Meanwhile, Ayala's replacement as defence minister, Juan Carrasco Millones, can expect opposition from right-wing parties in congress. A former interior minister in Castillo's first cabinet, Carrasco attracted criticism in August for holding a salaried position in addition to his job as interior minister (*see sidebar*).

**Government vs. indigenous at the COP26**

The official Brazilian delegation at the United Nations Conference on Climate Change (COP26), which took place in Glasgow during the first fortnight of November, was the largest of any country: 479 members. In parallel, around 40 Brazilian indigenous leaders attended as observers, said to be the largest indigenous delegation to ever attend a COP, and with a more visible presence than in previous years. These two groups came with very different messages, however.

Under President Jair Bolsonaro, who took office in January 2019, Amazon deforestation in Brazil has soared, environmental law enforcement efforts have been hollowed out, and Brazil's reputation as an important player in international climate fora was shattered. At the COP25 in 2019, then-environment minister Ricardo Salles (2019-2021), a climate sceptic who showed little interest in Amazon conservation, led a belligerent delegation which was widely considered to have obstructed negotiations, notably on regulating carbon markets.

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Brazil's international isolation on climate issues only became more pronounced with the departure of former US president Donald Trump (2017-2021) and the priority his successor, Joe Biden, has given to tackling climate change. Over the course of this year, the Brazilian government began adapting its discourse (if not its actions); Salles was replaced by the less controversial Joaquim Leite in June; and the large Brazilian delegation (which did not include members of civil society or NGOs) went to Scotland at the end of the October with the aim of presenting a greener face to the world.

President Bolsonaro did not attend the conference in Glasgow, merely sending a pre-recorded video message that was played at the summit on 1 November. In it he said that Brazil has “always been part of the solution [in the fight against climate change], not the problem”. This was echoed by Leite in his official speech, delivered on 10 November, in which he listed Brazil's green credentials – such as its relatively clean energy matrix –, supposed efforts to combat illegal deforestation, and the climate pledges the country announced during the COP26.

These were notably a pledge to cut carbon emissions by 50% by 2030, relative to 2005 levels, and reach carbon neutrality by 2050; to end illegal deforestation by 2028; and support for the US and European Union-led pact to reduce methane emissions. In the latter days of the climate conference, Brazil also played an important role in the negotiations on regulating carbon markets, which resulted in a deal described by Leite as a “Brazilian victory” as the country could become a “big exporter” of carbon credits.

The outcome of the COP26 and Brazil's role in it have been hailed as a success by the Bolsonaro government. “From the beginning of the conference, the Brazilian government demonstrated to the international community that it concerns itself with the environment and climate, and that it is an active member and part of the global solution to this challenge. It is worth saying that this effort has been months in the making”, reads, apparently without irony, a statement on the environment ministry's website summarising Brazil's official participation in the COP26.

While some in Glasgow did celebrate Brazil's apparent willingness to cooperate as a breakthrough, most viewed the Bolsonaro government's sudden change of heart with scepticism, even before deforestation figures

## A hostile response

Txai Suruí did not mention the Brazilian government in her speech, but in comments to supporters in Brasília a few days later Bolsonaro attacked her: “They brought an Indian [to Glasgow]... to attack Brazil”, he said. Txai Suruí has since received a wave of racist abuse online, and also reported that a member of the official Brazilian delegation sought to intimidate her after her speech.

released in mid-November again laid bare the environmental destruction over which Bolsonaro is presiding (*see below*). Meanwhile, the Brazilian indigenous people and activists who attended the sidelines of the COP26 told a different story to that presented by government officials.

This year’s COP was widely criticised for being the most exclusive ever, as visa restrictions and coronavirus (Covid-19) vaccination requirements prevented a reported two-thirds of the civil society organisations which usually send representatives from doing so. Brazil appeared to buck that trend, however, with the visible presence of a mostly female indigenous representation, as well as representatives from the Coalizão Negra por Direitos anti-racist group flying the banner for environmental justice. Several environmental organisations hosted discussions at the Brazil Climate Action Hub, a sort of counter-stage to the official pavilion, where the logos of large business and agricultural lobbies loomed large.

Txai Suruí, a 24-year-old activist from the Paiter Suruí indigenous people in the northern state of Rondônia, was the only Brazilian to speak during the COP’s official opening ceremony on 1 November. “Indigenous peoples are on the front line of the climate emergency, and we must be at the centre of the decisions happening here”, Txai Suruí said in English before the world leaders gathered in Glasgow, demanding the end of “false promises” and calling on the world to act now to contain climate change. Her plea for action earned her attacks from Bolsonaro and his following (*see sidebar*).

Other indigenous leaders such as Sônia Guajajara, a former vice-presidential candidate, and Joênia Wapichana, Brazil’s only indigenous lawmaker, were also in Glasgow, present both at meetings with figures such as US climate czar John Kerry and the UK’s Prince of Wales, and alongside other activists at protests on the streets of the Scottish city.

“The governments have understood that the indigenous hold important power”, Dinamam Tuxá, a coordinator of the Articulação dos Povos Indígenas do Brasil (Apib) indigenous grouping, told French broadcaster *RFI*, hailing the establishment of a US\$1.7bn fund to support indigenous peoples as a “form of recognition”. However, Dinamam Tuxá echoed a disappointment voiced elsewhere: that indigenous communities, considered vital in the fight against environmental destruction, are still not given a seat at the negotiating table.

Also speaking to *RFI* another Apib leader, Alberto Terena, said that the Brazilian government is far from recognising the importance that indigenous peoples play in conserving forests and protecting the environment. He notably rejected part of Leite’s official speech, in which the environment minister associated the forest with poverty. “Our way of seeing things as a tradition people and an indigenous people is one of richness. If you only see the forest as something that generates profit, then maybe you see poverty”, Terena said.

### Deforestation

Preliminary deforestation figures for October, released by the government’s national space research institute (Inpe) on 12 November, showed Amazon deforestation increasing 5% compared with last year to 877km<sup>2</sup>.

“Emissions happen on the forest floor, not in Glasgow’s plenaries. And the forest floor is telling us that the government does not have the slightest intention of observing the commitments it signed at the COP26,” Márcio Astrini, the executive secretary of the Observatório do Clima network of environmental organisations, denounced.

Consolidated data for the year August 2020-July 2021, presented on 18 November, was even more worrying: annual deforestation increased 22% compared with a year earlier to 13,235km<sup>2</sup> – the highest figure since 2006. It appears the government deliberately withheld making these numbers public until after the conclusion of the COP26.

## State of exception in Mapuche territory divides opinions

Chile's President Sebastián Piñera declared a state of exception in part of the so-called Southern Macro-Zone on 12 October, allowing the army to go in and support the work of the Carabineros militarised police and civilian Policía de Investigaciones (PDI) in the face of growing violence, supposedly committed by radical indigenous Mapuche groups. The state of exception has already been extended twice, with some lawmakers reportedly pushing for a third extension at the time of writing. While it has been welcomed as necessary to address public insecurity by some, particularly on the Right, this decision to resort to the militarisation of public security in the Chilean south has also been heavily criticised in other quarters.

“The decision to send in the army to provide logistical, technical, and surveillance support to the police was taken in the face of “the serious and repeated incidences of violence committed by armed groups”, the government said. Piñera renewed the state of exception, which lasts for 15 days, once at the end of October, saying the presence of the army had already cut arson attacks by half and land invasions by 80%.”

“We are declaring a state of exception to allow the residents of the affected zones to live more peacefully and better exercise their freedoms and rights, without fear and without violence”, President Piñera said when he announced the state of exception in the provinces of Biobío and Arauco, in the Biobío Region, and Malleco and Cautín, La Araucanía Region, on 12 October. He added that the measure is to “better confront terrorism, drug trafficking, and organised crime, and is in no way directed at a people or group of peaceful citizens”.

The Araucanía area, which spans the present-day Biobío and La Araucanía administrative regions, is the ongoing site of a conflict between the Chilean state and the indigenous Mapuche people, who lay claim to their ancestral lands – today largely occupied by forestry companies. Radical Mapuche groups, who also demand autonomy for their people, have often resorted to violence to make their demands known, earning them the label of “terrorists” amongst political leaders on the Right.

The region has also become the site of growing criminal activity, linked to both the logging industry and drug trafficking. Experts consulted by *BBC Mundo* note that it is hard to know whether the episodes of violence, which most often take the form of arson attacks and have multiplied this year, are always in the name of the Mapuche cause or not, nor how much the radical indigenous groups have links to criminal organisations. “The government alleges that narcotrafficking has become the main motor [of the violence] but it has not provided proof of this”, Santiago Millaleo, a Mapuche lawyer and sociologist, told *BBC Mundo*, adding that there is a state of “limbo”, in which it is unclear whether the attacks are real or staged.

### Justifying the state of exception

According to figures cited by the government, rural violence in the four provinces concerned by the state of emergency is up 46% this year so far compared with last year, with 1,475 recorded violent incidents (such as arson attacks and shoot-outs). Arrests are also up. The decision to send in the army to provide logistical, technical, and surveillance support to the police was taken in the face of “the serious and repeated incidences of violence committed by armed groups”, the government said. Piñera renewed the state of exception, which lasts for 15 days, once at the end of October, saying the presence of the army had already cut arson attacks by half and land invasions by 80%.

Further extension of the state of exception required congressional approval, however, and Piñera sent a request to that effect on 2 November. A non-binding popular consultation held in the Araucanía a few days later helped the government's case: 81.56% of those who turned out to vote on 7 November were in support of the state of exception (turnout was at 16.36%). Four days earlier, a clash between supposed Mapuche militants and the security forces



## Politics

The results of the first round of Chile's presidential elections were unknown at the time of writing, although the last polls – from a fortnight earlier – pointed towards a defeat for the Chile Podemos Más candidate, with Kast and Boric expected to face each other in the run-off on 19 December. To read the latest analysis on Chile's presidential elections, see our sister publication, the *Latin American Weekly Report*.

had left one person dead. The nebulous circumstances of the incident are being investigated.

Both the chamber of deputies and the senate then voted in favour of extending the state of exception, thus maintaining it until 26 November. At the time of writing, lawmakers from Piñera's ruling coalition were reportedly calling on the government to request yet a further extension.

### Criticisms

Despite apparent popular support for the measure and the seal of approval from land and business owners in the south, who believed Piñera's move was long overdue, the state of exception has been slammed by members of the Mapuche community and the political Left, which has traditionally supported a resolution to the Mapuche conflict through dialogue, treating it as a socio-political issue rather than a public security one.

Elisa Loncón, a Mapuche academic and the president of the constitutional convention currently rewriting Chile's constitution, is amongst those to criticise the move. "What citizens here need are political solutions, [...] which allow us to overcome the poverty that affects these communities", she said when Piñera first announced the state of exception. Others, such as left-wing presidential candidate Gabriel Boric, noted that the involvement of the army in a conflict usually leads to more violence, not peace. After congress voted to extend the state of exception, Loncón expressed her disappointment with lawmakers for what she described as a "poor gesture", at a time when the country is discussing better recognition of indigenous rights and plurinationality through the constitutional writing process.

Chile's national human rights institute (INDH) and the governor of the Biobío Region, Rodrigo Díaz, an independent and former Christian democrat, were also amongst the critics of the measure when it was first announced. The INDH declared the state of exception to be a "new failure of the state", while Díaz lamented the fact that the government had not consulted local political representatives, noting that the outcome of the presence of the armed forces was an unknown and that while part of the local population supported the measure, others saw it as a risk.

### A political move

Beyond concerns over the militarisation of public security and the hardline approach to the Mapuche conflict, Piñera's decision to declare a state of emergency was criticised for being a political move taken in the context of the 21 November presidential elections (*see sidebar*). Sebastián Sichel, the candidate for Chile Podemos Más (the name under which the governing Chile Vamos coalition is competing in the presidential and legislative elections), had been struggling to garner strong support, polling between third and fourth place. The government will have been hoping that a tough stance on public security might win back some disenchanted voters who had turned to José Antonio Kast, the far-right candidate and frontrunner.

### Argentina's Mapuche conflict

The Mapuche conflict in Chile has grabbed more headlines in recent years, but the Patagonia region in neighbouring Argentina is also the site of a similar struggle between state authorities and Mapuche militants. Violence has flared up in Argentina as well recently, with an escalation of arson attacks. The governor of Río Negro province, Arabella Carreras, considers the attacks to be terrorism and requested reinforcements from the federal government in late October. However, the government led by President Alberto Fernández partially turned down her request, saying the situation was the provincial government's responsibility and only agreeing to deploy some extra gendarmes. The federal security minister, Aníbal Fernández, also rejected claims that the attacks amounted to terrorism and accused the provincial authorities of seeking to exploit the situation politically.

## Mixed picture for press freedom in Southern Cone

The Inter American Press Association (Iapa), a press freedom watchdog based in Miami, held its 77<sup>th</sup> General Assembly from 19-22 October during which it presented the results of the 2021 Chapultepec Index, a measurement of press freedom which is now in its second year, and which the Iapa produces with Venezuela's Universidad Católica Andrés Bello. The latest Chapultepec Index reveals a mixed picture for press freedom in the Brazil & Southern Cone sub-region, with some of the countries listed as having 'full freedom of expression', while freedom of expression is considered 'highly restricted' in others.

“Brazil is the worst-ranked country of its sub-region with a score of 31.60, and indeed the worst-ranked of all the countries that can be considered democratic. It is followed only by Nicaragua, Cuba, and Venezuela, countries which are listed as being ‘without freedom of expression’. In Brazil, freedom of expression is considered ‘highly restricted’, with notably poor scores in the category on a free and informed society, and on violence and impunity.”

According to the Iapa, the Chapultepec Index is based on the institutional actions of state powers in the area of freedom of expression. Four differently weighted variables are taken into account to calculate the score of 22 Latin American countries: a society that is informed and free to express itself (with a maximum possible score of 23); the practice of journalism (maximum score of 10); violence and impunity (42); and control of the media (25). A country with full freedom of expression can in theory score 100, but in practice the best-ranked country – Uruguay – has a score of 84.10. The average is 55.61 points. Across Latin America, the Iapa denounces a “bleak picture of violations of freedom of expression and press freedom”.

Brazil is the worst-ranked country of its sub-region with a score of 31.60, and indeed the worst-ranked of all the countries that can be considered democratic. It is followed only by Nicaragua, Cuba, and Venezuela, countries which are listed as being ‘without freedom of expression’. In Brazil, freedom of expression is considered ‘highly restricted’, with notably poor scores in the category on a free and informed society, and on violence and impunity. During its general assembly, Iapa highlighted President Jair Bolsonaro’s increasingly “aggressive attitude” against the press, and his attempts to squeeze the media financially. “President Jair Bolsonaro’s systematic attacks and the attempts to weaken the press economically indicate that, in Brazil, the government is looking to adopt a model similar to that of Venezuela, the Philippines, Turkey, or other regimes that do not coexist well with the freedom of the press”, Marcelo Rech, the president of Brazil’s national association of newspapers (ANJ), was reported as saying.

Argentina, ranked 14<sup>th</sup> out of 22 with a score of 53.27 (‘partially restricted’ freedom of expression), was singled out for seeing the worst drop in the index of any other country – it slid 12 places compared with the 2020 edition. Iapa notably expressed growing concern with judicial action against journalists in the country – a practice known as ‘lawfare’ [[SSR-21-07](#)]. Paraguay, with a score of 69.22 (above the regional average), is ranked eighth, with ‘low restrictions’ to freedom of expression. Nevertheless, in the concluding comments of its general assembly, the Iapa noted an “alarming” criminalisation of journalism via judicial complaints in the country.

Uruguay and Chile stand out as the only countries in their sub-region, and in Latin America, where there is full freedom of expression, ranked first and second in the Chapultepec Index (Chile has a score of 82.06). But even there, there are points of concern; Uruguay and Chile do not achieve a ‘full freedom’ score in the violence and impunity category, with the Iapa noting that “these [countries] were not exempt from episodes of attacks against communicators and the media”. Marking the International Day to End Impunity for Crimes against Journalists on 2 November, Iapa president Jorge Canahuati noted that impunity aggravates violence against journalists and censorship. “The lack of justice has an inhibiting effect on the exercise of press freedom”, he said.

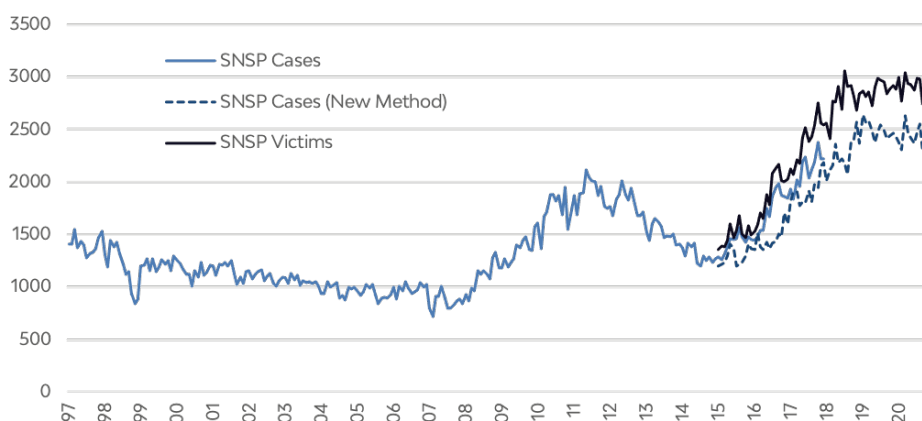
## Murder by numbers

Mexico still has one of the world's highest homicide and crime rates. The left-wing populist government of President Andrés Manuel López Obrador claims credit for a recent drop in the murder rate, and there are some signs that the public thinks security may be improving. But the devil is in the detail, and the numbers are not straightforward.

A graph in the recently published *Organised Crime and Violence in Mexico 2021 Special Report*, written by the Justice in Mexico team at the US-based University of San Diego, gets close to summarising the “headline story” about violence in the country over the last 20 years. It shows that until 2006-2007 the number of homicides in Mexico had been on a stable or falling trend. Things began to change for the worse during the right-wing presidency of Felipe Calderón (2006-2012), when he committed the army to fight a full-scale “war on drugs” leading to a first surge in the death rate. His centre-right successor, Enrique Peña Nieto (2012-2018) enjoyed a falling murder rate during the first half of his six-year presidency but then experienced a new and stronger wave in the second half. In turn his successor, the left-wing López Obrador, saw record levels of homicides in his first three years (2018-2021). There are some signs however that the murder rate has now reached a plateau and may be beginning to decline.

“While López Obrador has sought to tackle the causes of crime by reducing inequality and poverty and creating alternative sources of employment for young people who would otherwise join the DTOs, such policies will take years to have any effect, and in any case have been drastically weakened by the economic fallout of the coronavirus (Covid-19) pandemic.”

Number of Intentional Homicide Cases and Victims Reported Monthly by Law Enforcement, January 1997 - August 2021



Source: SNSP

The central problem is that there are no simple and persuasive explanations for the existence of these two waves. Despite their ideological differences the three presidents have pursued similarly militarised policies against drug trafficking organisations (DTOs), which broadly speaking, have failed to pacify the country. By its nature the military can deploy overwhelming force, but lacks the detection and forensic skills normally provided by civilian police, as well as being unable to counter-act the inefficiencies of the criminal justice system. In short, heavy-handed military intervention may win temporary control of territory, but often leads to human rights violations and alienates the population it is supposed to protect. Meanwhile the DTOs have shown their capacity to keep fighting back.

While López Obrador has sought to tackle the causes of crime by reducing inequality and poverty and creating alternative sources of employment for young people who would otherwise join the DTOs, such policies will take

“More recently head of the federal security ministry (SSPC) Rosa Icela Rodríguez said there had been 22,611 homicide victims in the first eight months of 2021, down 3.9% on 2020. The Justice in Mexico team notes “At the current rate, it is plausible that the total number of intentional homicide victims in 2021 will be around 31,000, a modest (10%) improvement from one of the worst years on record.”

years to have any effect, and in any case have been drastically weakened by the economic fallout of the coronavirus (Covid-19) pandemic. Despite his earlier criticism of the military, President López Obrador’s main initiative – the creation of a new force, the national guard (GN) - has itself taken an increasingly militarised approach. Some analysts also argue in any case that the murder rate is less a function of government policy and more a reflection of other variables, such as the rise and fall of competing DTOs. The battle among the DTOs for control of drug trafficking routes is itself an important predictor of the ebbs and flows of the homicide rate.

Matters are made more complicated by the use of different measures of homicides since 2015 by the national public security system (SNSP) and national statistics institute (Inegi). There are differences for example between the number of murder investigation cases, and individual victims (a single case may cover multiple deaths, particularly in DTO executions). This explains the different lines in the chart. The report notes that both the number of cases and victims reached record highs in 2019 and 2020. Yet in 2020 SNSP reported a 0.3% year-on-year fall in the number of international homicide victims to 34,515.

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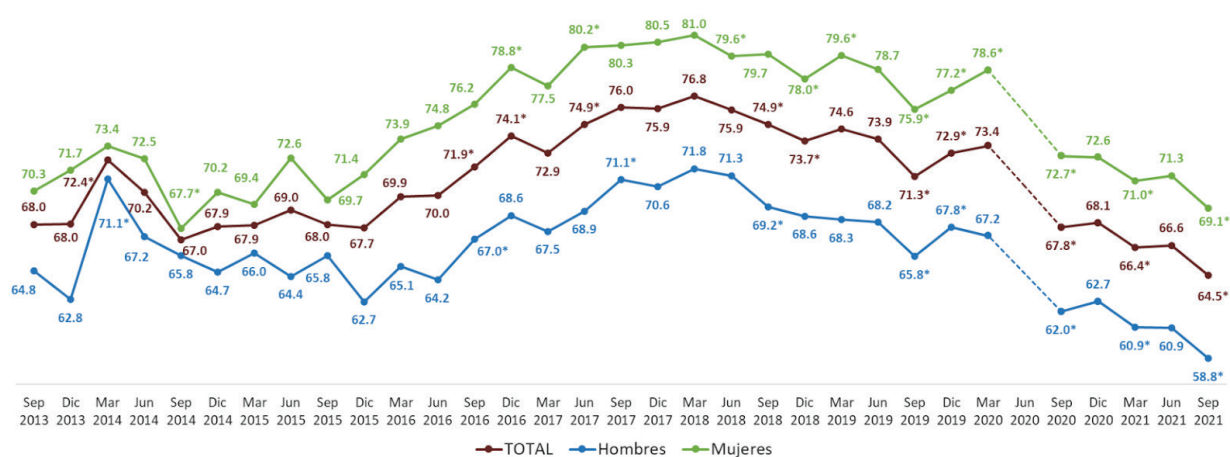
A 10% reduction would certainly be hailed as a major victory by the López Obrador government, but the report warns that this could be misleading. Current data excludes extra-judicial killings by police and military units, which could be significant. It also excludes the very high number of people reported as ‘disappeared’. According to the SSPC’s national search commission (CNB) there are over 93,000 people missing. It has to be assumed that a significant proportion of them are dead and have been victims of intentional homicide. The report’s sombre conclusion is that “we may never know how many people have died in the course of Mexico’s decades-long public insecurity crisis”.

One of the puzzling aspects of Mexico under López Obrador is that the president has remained highly popular despite his government’s poor performance in security-related matters. A recent Mitofsky poll for example, put his approval rating at 64%, the third highest score he has received since the agency began its monthly measurement in October 2019. Five months before a possible mid-term recall referendum (which López Obrador has engineered) 62% of respondents said they would vote for him to continue in office for the remaining three years of his six-year term.

What may matter is not just the prevalence of crime, but how it is perceived. The latest survey results from Inegi running up to September, show that perceptions of insecurity remain high, but are beginning to come down. Respondents were asked if they felt safe or unsafe in their cities of residence. A massive 64.5% said they felt unsafe. Women felt more unsafe than men (69.1% vs 58.8% of respondents). For both sexes, however, perceptions of insecurity have been easing down since March 2018, when a record 76.8% of respondents said they felt unsafe in their cities.

One potential explanation is that while reported crime has trended down, it is also possible that fewer citizens have directly witnessed crime, reflecting changing geographical patterns of offending. According to government data, in the first nine months of this year car thefts fell by 6%, home thefts were down 5%, and business thefts fell 11%. While the decreases are significant, sheer numbers remain very high – over 100,000 car thefts in the first nine months, over 45,000 home thefts, and nearly 65,000 business thefts. Homicides in the first nine months were down 2% to 21,495.

## Perception of insecurity



Source: Inegi

## MEXICO | DRUGS

### Cashing in on synthetics

On 28 October a joint operation involving the army and national guard (GN) operation in Culiacán, Sinaloa state, broke up a synthetic drug laboratory, arrested five members of a drug trafficking organisation (DTO), and seized 118kg of fentanyl, a synthetic opioid, the largest ever bust of its kind in Mexico.

The rise and fall of major Mexican DTOs has often been attributed to changes in business models. The introduction of new, harder marijuana species, the shift to crack cocaine, the rise of poppy/heroin production all made or broke big DTOs. If that is the case, the illicit industry may be facing another key turning point, the rise of synthetic drugs.

Broadly speaking the main products that the DTOs sell into the US and other markets are changing. As recreational use of marijuana becomes legal in more US and Mexican states, competition grows and profit margins shrink, so it has become less important to the DTOs. Demand for cocaine remains steady, but heroin is rapidly being overtaken by synthetic opioids such as fentanyl. There is also expansion of methamphetamines, and to a lesser extent in Mexico, of MDMA, the active ingredient in ecstasy. Mexico's two biggest DTOs, Sinaloa and Cartel Jalisco Nueva Generación (CJNG) are at the forefront in the move to synthetics. The bust in Culiacán – fentanyl with an alleged street value of US\$48m, in many ways illustrates the new business model – drug production through a network of clandestine laboratories in urban areas, often relying on skilled laboratory chemists recruited from manufacturing and chemical industries in the north of Mexico which serve the US market. In this case the laboratory was said to mainly supply the Sinaloa DTO for onward shipments.

Fentanyl and other synthetics are lighter and easier to smuggle into the US (they are hidden in industrial cargoes or even sent through the post as a powder). A report by the United Nations Office on Drugs and Crime (UNODC) published in October, says Mexico has now become one of the world's top synthetics suppliers, outstripping Myanmar, Nigeria and Afghanistan. The DTOs initially depended on China to supply the necessary precursor chemicals but have now diversified and frequently use suppliers in India.

The move to synthetics may have various implications. Significantly, it could weaken the long-present link to illicit agricultural production. Most DTOs have a pyramid-like structure with the capos at the top and impoverished peasant farmers at the bottom, growing the illicit marijuana,

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coca, or poppies needed as raw material for production. The need to protect agricultural production has led DTOs to effectively control isolated rural territories in a range of locations from north-eastern Colombia to the mountains of Sinaloa. While change will take time, DTO operations may become more urban in nature. Another significant change is that synthetics are more powerful than, for example, heroin and have already led to a sharp rise in overdose deaths in the US. Increasing alarm at these deaths will likely prompt the Washington administration to review and adapt its anti-narcotics strategy, with potentially far-reaching effects for Mexico.

## MEXIO | CORRUPTION

### Double blow for anti-corruption efforts

**A dinner in an up-market Mexico City (CDMX) restaurant, and a luxurious wedding celebration in Guatemala, have triggered two separate scandals, both of which may weaken the anti-corruption efforts of the government of President Andrés Manuel López Obrador.**

Emilio Lozoya, former director of state oil company Pemex (2012-2016) and close associate of former president Enrique Peña Nieto (2012-2018) must regret dining at Hunan, an up-market Asian food restaurant in CDMX on 9 October. Photographs of him sitting at a table and talking with friends eventually found their way onto social media and triggered a major political storm. This, because Lozoya stands accused of taking at least US\$10m in bribes from Brazilian construction company Odebrecht while head of Pemex. Under investigation, he was extradited from Spain in July 2020, nearly a year and a half ago. Many Mexicans asked themselves how such a high-profile rule breaker could still be out of jail and living the good life?

The answer is that for over a year Lozoya had been negotiating the Mexican equivalent of a plea-bargaining deal, during which he had been allowed relative freedom of movement in CDMX, while wearing an electronic tag. He had offered testimony that on Peña Nieto’s orders, the Odebrecht money went towards funding election campaigns by the centrist Partido Revolucionario Institucional (PRI) and was also used to bribe members of congress to ensure they would vote to support Peña Nieto’s liberalising energy industry reforms.

For President López Obrador, Lozoya’s hoped-for testimony could be political gold. The president accuses his three predecessors of being part of a corrupt “neo-liberal” elite and is trying to reverse Peña Nieto’s energy reforms. He has made no secret of his belief that Peña Nieto and other former presidents should face trial. Indicting one or more former presidents would be seen as a major political victory for his government. In addition, prosecutors accuse Ricardo Anaya of the right wing Partido Acción Nacional (PAN) of taking a bribe to vote in favour of the energy reforms. Anaya, who is a potential presidential contender in 2024, has moved to the US to escape what he says are trumped up charges that amount to political persecution.

From López Obrador’s point of view, the problem has been that plea bargaining negotiations have dragged on and Lozoya has so far not produced the evidence prosecutors need. The restaurant incident forced a change in approach. The attorney general’s office (FGR) told a CDMX judge that Lozoya must now be considered a flight risk. On 3 November the judge agreed, ordering Lozoya’s immediate preventive detention. With the press in attendance, the former Pemex head was taken from the court directly to the Reclusorio Norte prison. The judge did however give the FGR and Lozoya’s legal team another 30 days to see if they could strike a plea-bargaining deal. Lozoya’s lawyers have since offered to pay a US\$5m bond (part of which would be in the form of a property worth US\$3.4m) in exchange for his release.

## Surveys

Polls by lobby group Transparency International say that 44% of Mexicans believe corruption increased in 2020 relative to 2019, and 34% of respondents admitted to paying bribes to secure public services in the preceding 12 months.

A second scandal then emerged, based on an unlikely location: the colonial city of Antigua in Guatemala, where a luxurious wedding had been held. The groom and bride were both prominent Mexicans, but the celebrations quickly turned sour. On 8 November it was announced that the groom, Santiago Nieto, head Mexico's financial intelligence unit (UIF) had resigned. Nieto, until recently a close confidant of the president, had married Carla Humphrey, a senior official at Mexico's national electoral institute (INE). The scandal was that the Guatemalan authorities had seized US\$35,000 in cash from one of the guests, later identified as Juan Francisco Ealy Ortiz, president of Mexican newspaper *El Universal*. The newspaper later said the money was for medical treatment and had been properly declared. However, the incident remained somewhat unclear: another guest, CDMX tourism minister, Paola Félix Díaz, was reportedly arrested by the Guatemalan authorities who accused her of illegally trying to carry a large sum of money into the country. Félix denied any wrongdoing but presented her resignation to the head of the CDMX government, Claudia Sheinbaum, another potential contender for the presidency in 2024. Sheinbaum quickly accepted the resignation, saying Félix's main error had been to travel to Guatemala by private jet, something that ran counter to the government's principles of "austerity, honour and transparency". She added "here, nobody can get on a private jet".

The departure of Nieto, in effect the country's top anti-corruption official, is a setback for the government and has been linked to various internal factional struggles. Nieto is reported to have earned the enmity of Alejandro Gertz, the controversial attorney general (head of the FGR). Asked by the president to prepare a report on a long-running family feud for control of Universidad de las Américas Puebla (UDLAP) he had advised that Gertz, with personal ties to a rival university (UDLA) had a conflict of interest.

There are also credible claims that the wedding scandal was 'spun' by rival media teams linked to the two main candidates within the ruling Movimiento Renovación Nacional (Morena) to succeed López Obrador in 2024: Sheinbaum and foreign minister Marcelo Ebrard. Nieto was regarded as being close to Ebrard (who had been invited to the wedding but did not attend). Since deputy foreign minister Maximiliano Reyes did attend, the Ebrard camp felt criticism of the wedding was deliberately targeting their man. Separate press briefings concerning Félix's alleged involvement in carrying cash were therefore seen as a countermove intended to hit back at Sheinbaum.

López Obrador, who as recently as October had been fulsome in his praise for Nieto, took distance from him, describing the wedding as "scandalous". A few days later López Obrador said "Santiago Nieto is an honest professional, we respect him, but we cannot tolerate any act of extravagance nor any act which goes against republican austerity". He may also have been angered because some of the guests attending the wedding were well known conservative figures, such as Josefina Vázquez Mota, of the right-wing PAN, who ran against him in the 2012 elections (both were defeated by the PRI's Peña Nieto).

While separate events, both scandals suggest progress against corruption under the López Obrador administration is going to be limited. Pablo Gómez Álvarez, a Morena economist, politician, and former 1960s student leader, has been appointed as the new UIF head. While López Obrador appears to have a genuine commitment to personal austerity, both scandals highlight his instinct to seek political advantage from big corruption cases, effectively trying to override the independence of the judiciary so as to hit out at his opponents. The frontrunners to succeed him within Morena also seem to favour politicising the anti-corruption drive. Despite the talk of austerity, the president has done little to tackle underlying, structural causes of corruption (*see sidebar*). His claim that corruption "stopped" when he took office will be subject to increasing scrutiny.

### Tracing the transformation of the police and military

At the end of October, the Inter-American Commission on Human Rights (IACHR) published a report analysing the concentration of power in Nicaragua in the executive branch and undermining of the rule of law under President Daniel Ortega, who was re-elected on 7 November in an election widely slammed as undemocratic (*see our sister publication, the Latin American Weekly Report, for further discussion of the election*). The IACHR cites the “manipulation, control, and diversion of functions of the national police [PNN] and army” as crucial to this process. Here we consider key observations by the IACHR with regard to these institutions under Ortega, who first led the country from 1979-1990 and has been in office since 2007.

Released on 28 October, the IACHR report notes that the PNN was founded in 1979, months after the overthrow of the Somoza dictatorship (1936-1979). It cites Nicaraguan sociologist Elvira Cuadra Lira as saying that at the time the police “were confronted with many and prolonged social conflicts” and, despite a depletion of its forces and lack of equipment, it embarked upon a “professionalisation and modernisation process that gained national and international recognition”. However, Ortega’s assumption of the presidency in 2007 for the Frente Sandinista de Liberación Nacional (FSLN) precipitated “a major change in the conception of the State whereby a subordinate police force was essential to the regime”.

The IACHR highlights as a key event in this process, the enactment of a new law in 2014 “on the organisation, functions, career, and special social security regime” of the PNN under which it came to be directed by the president, thereby eliminating the interior ministry as an intermediary oversight and control entity. The IACHR points out that this gave the president the authority to designate and remove the PNN director general, among other things. As well as the institutional changes introduced through the 2014 law, the IACHR identifies other “executive branch transgressions into the police institutional structure”. These include the prolongation of the tenure of the former PNN director Aminta Granera for consecutive terms, from 2006 to 2018, despite the law only permitting one term in that post. It also highlights promotions and postings granted to officers prior to the established time in exchange for their loyalty.

Just as the PNN underwent change under Ortega, the military was also transformed. Again, the IACHR underlines efforts to professionalise the institution prior to Ortega taking office in 2007. It notes that following the 1979 overthrow of the Somoza dictatorship, the Ejército Popular Sandinista (EPS) was created, conceived “as an army to defend the Revolution’s political agenda”, before changing its name in 1990 to the Nicaraguan army and embarking upon a modernisation and professionalisation process. Ahead of Ortega’s assumption of office in 2007, public confidence in the military institution had been boosted by its decision in the 1990s to “refrain from involvement in domestic conflicts, even when police capacities were overwhelmed by the violence and high level of social mobilisation”.

The IACHR identifies as key to the military’s subsequent transformation under Ortega, a 2007 presidential initiative (290) which aimed to subordinate the army to the executive branch, through a “co-optation strategy (...) based on: reiteration of the government rhetoric that constantly reminded the army and police of their political origins and former party ties; the expansion of

### Alemán-Ortega Pact

In its report the IACHR highlights as crucial to the undermining of the rule of law in Nicaragua, the so-called “Alemán-Ortega Pact”, forged under the presidency of Arnoldo Alemán (Partido Liberal Constitucionalista, PLC, 1997-2002) in 1999. Under the pact, the FSLN and PLC negotiated a set of agreements aimed at ensuring executive branch control over the other branches of government, and the retention and/or attainment of privileges and immunities. A series of constitutional and legal reforms and political collaborative actions were gradually made possible through modifications to the Nicaraguan State’s institutional structure to ensure control of power by the FSLN and PLC, undermining the principal of separation of powers in the country.



### **Other mines suspended**

The CC had issued similar rulings against Canadian-owned Escobal silver mine in 2017 and the US-owned 'El Tambor' gold mine in 2016, also for failing to consult with local indigenous populations.

military autonomy, enabling it to create companies and perform different types of economic activities; and the designation of officers, active or retired, to key public offices, such as social security, construction and diplomacy”.

Further compounding this changed relation were a series of reforms to the military institution’s normative framework implemented in 2010, which significantly increased the role of the military in administering the State and provided for more direct coordination with the executive. Examples of these reforms included the national defence act; the borders legal regime act and the democratic security act. These were followed by further reforms implemented in 2014 and 2015 such as a sovereign security law approved in December 2015, which created a “national system of sovereign security” to be coordinated by the president, with the military to serve as its executive secretary, and at the time fanned concerns about the military’s growing influence over state institutions.

#### **US sanctions**

Senior PNN and military officials have featured among those sanctioned by the US government as part of efforts to pressure the Ortega government to improve the democracy and human rights situation in the country, particularly following the crackdown on its opponents which began in April 2018.

Those targeted by the sanctions (which include asset freezes and travel bans) include PNN chief Francisco Díaz and the general commander of Nicaragua’s armed forces, General Julio César Aviles. In March 2020 the US Treasury Department also sanctioned the PNN for its role in “serious human rights abuse in Nicaragua as an entity.”

#### **Shock troops**

In its report, the IACHR identifies as key to the Ortega government’s strategy of repression, the presence of “parastate groups”, known as Sandinista shock groups, formed in late 2007 and early 2008. According to the IACHR these groups, which comprise members of the FSLN youth, residents of poor neighbourhoods, and current or former gang members, “perform repressive functions and act in coordination with the PNN and which are in direct subordination to the presidency, vice presidency of the Republic and/or municipal mayors”. According to the report, in 2007, Ortega formed a paramilitary group, known as the “blue shirts” for the colour of their clothing, to strengthen his security. They were composed of former military members, and had “a quasi-military structure, [used] weapons of war, and [carried out] military operations.” Their presence was to be noted as a security force for Ortega in public activities in which the president was participating, and were used “to strike hard,” violently repressing anti-government demonstrations and citizen protests rejecting electoral processes denounced as irregular.

## **GUATEMALA | MINING**

### **Stage of siege declared over mining unrest**

Human rights groups have recently condemned the excessive use of force against indigenous protesters and journalists in Guatemala’s El Estor municipality, Izabal department. The concerns follow President Alejandro Giammattei’s declaration on 23 October of a 30-day state of siege in El Estor, which allows for a military deployment and restricts constitutional guarantees. This followed protests staged by indigenous groups against the Fénix nickel mine, which, despite a constitutional court (CC) ruling suspending its operations last year, has continued to operate, according to these groups. The government’s response has subjected it to familiar complaints of criminalising public protest and protecting powerful mining interests.

## Rise in attacks against human rights defenders

According to the OHCHR report, the local human rights NGO Udefegua registered 844 attacks against human rights defenders – including 310 men, 297 women and 70 organisations – between 1 January and 30 September 2020, a sharp increase of 71% compared with the attacks registered over the same period in 2019. As of December 2020, 14 human rights defenders had been killed.

The Giammattei government declared the state of siege following clashes between security forces and protesters who, led by local indigenous organisation Consejo Ancestral Maya Q'eqchi', had been staging peaceful demonstrations since 4 October against the mine which is run by the Compañía Guatemalteca de Níquel (CGN), a subsidiary of Swiss-based Solway Investment Group.

In June 2020, the CC upheld an earlier ruling ordering the suspension of the mine on the grounds that it violates the right to consultation with local communities. (In 1996 Guatemala ratified Convention 169 of the International Labour Organization [ILO], which entitles indigenous communities to free, prior and informed consent before the commencement of development projects that will directly impact them).

In a 23 October statement, human rights ombudsman Jordán Rodas complained the mine was functioning “illegally”. As regards the clashes, he also accused the security forces of repressing the public and journalists amid reports that the national police (PNC) fired tear gas at protesters. The mining & energy ministry (MEM), which claimed that 17 PNC officials had been injured in the same clashes, insisted that the mine’s suspension was still in effect but “activities such as the processing plant...in the area” were ongoing as they are “not related” to the CC ruling. As well as the continued operations of the mine, the exclusion of Consejo Ancestral Maya Q'eqchi' from a “pre-consultation” meeting in relation to the Fénix project on 28 September, was also reportedly a contributing factor in the demonstrations which began on 4 October.

The government’s decision to declare a state of siege and the aftermath drew condemnation from civil-society groups such as the local human rights platform Convergencia por los Derechos Humanos (CDH) which in a 31 October statement outlined various complaints. These included the “disproportionate use of force” in response to the state of siege – concerns echoed by the Inter-American Commission on Human Rights (IACHR) in a 4 November statement which condemned the excessive use of force by PNC officials and “indiscriminate use of tear gas”, and urged the Guatemalan government to carry out an investigation. CDH also said in its statement that 14 raids had been carried out on the homes of human rights defenders and cited press freedom violations amid reports of physical attacks and the destruction of journalists’ equipment – complaints that were echoed by US-based press freedom group Committee to Protect Journalists (CPJ) which said that police raided at least one news outlet and the homes of at least two journalists in connection to those protests.

### States of exception

According to a report published on 11 February 2021 by the United Nations High Commissioner for Human Rights (OHCHR) on the human rights situation in Guatemala in 2020, last year the Giammattei government declared 11 states of exception establishing limitations on the rights to freedom of movement, peaceful assembly and due process rights.

The OHCHR report notes that the length, scope and geographic span of the restrictions to fundamental rights varied. Less restrictive “states of prevention” were used on seven occasions, affecting 80 municipalities.

Two states of calamity were declared: one of these was declared nationwide owing to the coronavirus (Covid-19) health emergency, and a second state was declared in 10 regions in response to the tropical storm Eta which struck in November 2020.

The same report notes that the more severe state of siege was declared twice in predominantly indigenous areas to respond to conflict situations. According to the OHCHR, in each of these instances the armed forces were deployed to perform citizen security tasks, including in indigenous territories where human rights violations were perpetrated during the 1960-1996 internal armed conflict. In some cases, the population was unaware of the exact scope of the measures adopted, which generated uncertainty and fear.

## Medicinal cannabis legalised

### Controversy

Amid the discussions regarding the new legislative bill in Panama, the national authority for transparency and access to information (Antai), a government office, announced in August that it had launched an investigation into a possible conflict of interest with regard to the sector. This followed reports that Canna Med Panama SA, a firm which began operations in 2019 (incorporated in 2020) with the intent of becoming a vertically integrated medical cannabis company headquartered in Panama, had sponsored a June trip to the US by Minsa's director of pharmacology and drugs, Elvia Lau, and four other health ministry officials.

On 13 October Panama's President Laurentino Cortizo sanctioned a law approved at the end of August by the 71-member unicameral legislature, regulating the use of medicinal cannabis. Panama has thus become the first country in Central America to take the step, following in the footsteps of at least seven other countries in Latin America (Argentina, Chile, Colombia, Mexico, Paraguay, Peru, and Uruguay).

The initiative, which had been in congress for the past five years, was approved by 44 of the 71 votes with none against. It was championed by president of the national assembly Crispiano Adames and legislator Marcos Castellero (both of the ruling centre-left Partido Revolucionario Democrático (PRD) as a way of providing relief to individuals who suffer from a number of medical conditions, including epilepsy, multiple sclerosis, nausea caused by chemotherapy, and chronic pain.

The new law prohibits commercial use of homegrown cannabis and requires officials to import cannabis in pill or liquid drop form. It also stipulates that the health ministry (Minsa) will be responsible for distributing the medication to licensed pharmacies, which will have to apply for a permit and pass a site inspection in order to receive their licenses. Only pharmaceutical companies or those specialising in therapeutic services will be allowed to buy and sell cannabis. It also calls for the establishment of a technical council on cannabis and authorises Minsa to create a national programme for the study and medicinal use of cannabis and its derivatives, to promote research and educational initiatives with regard to the proper use of the drug.

The bill was borne out of increasing demand for access to medicinal cannabis across the country amid reports of its benefits for a growing number of conditions. Marie Millard, executive director of the NGO Luces Panamá, which supports people with epilepsy, said that the passing of the bill would improve the quality of life of patients, in particular those currently taking medication which does not work for them. She believes it will also help children with refractory epilepsy and their carers. Many legislators were swayed by the initiative's motto, "for a day without pain".

### Costa Rica to follow suit?

On 19 October Costa Rica's 57-member unicameral legislature approved the legalisation of cannabis for medicinal purposes and the production of hemp in a first debate. However, it awaits a second debate and on 22 October was sent by a group of ten national legislators to the constitutional chamber (SC) of the supreme court for legal review.

Meanwhile the health ministry and President Carlos Alvarado have expressed concerns about the initiative, which is promoted by independent legislator Zoila Rosa Volio, an agronomist.

The centre-left Partido Acción Ciudadana (PAC) government has said it supports hemp production, but has expressed reservations with cannabis; Health Minister Daniel Salas has acknowledged there is "a growing body" of research that proves the benefits of medicinal cannabis. However, he was also cited by the local press as saying that its production can only occur "when the country has all the conditions to guarantee that there will be no vulnerability in security," in reference to recreational use.

## Gov't under renewed pressure over disappearances

In November a councillor at San Salvador's municipal office, Héctor Silva, proposed an emergency plan to deal with disappearances in the metropolitan area. His proposal – which has so far fallen on deaf ears – comes as the government led by President Nayib Bukele, which continues to claim progress in security issues, particularly in relation to reducing homicides, is facing mounting pressure from institutions such as the Inter-American Commission on Human Rights (IACHR) to address the rise in disappearances.

Silva, a councillor for the small opposition party Nuestro Tiempo, called on 10 November for measures including the deployment of at least another 1,000 municipal police (CAM) agents and an increase in video surveillance. He also requested that the CAM director be ordered to draw up a plan within 15 days which would include “identifying high risk zones, an increase in the frequency of patrols in these areas and mechanisms for preventing abductions”. His call comes as figures from the attorney general's office (FGR) cited by the local media put the number of people registered as disappeared in the first nine months of 2021 at 936, up 150% on the same period in 2020. Figures provided to Spanish news agency *EFE* by the FGR earlier this year via the law of access to public information, showed the number of disappearances reported in the first four months of 2021 more than doubled compared with the same period in 2020, from 196 to 415.

Also piling pressure on the Bukele government to tackle the phenomenon, on 2 November the IACHR presented a new report on the human rights situation in El Salvador which said that it had received “alarming information on the lack of response by the state officials to the high number of complaints of disappearances in the last few years”. The IACHR urged the government to “make every effort to search for missing people” and recommends that “a regulatory framework for the national search policy be developed and implemented”.

### Homicides down

The reports of increased disappearances cast a cloud over President Bukele's claims of progress with regard to homicides. On 1 November, the day before the IACHR released its report, the Bukele government cited PNC statistics which showed that in the first ten months of 2021, homicides totalled 926, 17.75% less than in the same period in 2020. The government attributes this progress to its security initiative, Plan Control Territorial (TCP) which includes a mixture of preventative and repressive components.

### Mixed findings

The IACHR report underlined mixed findings regarding previous efforts to tackle the issue. As regards progress, it reported that, since 2017, the FGR had led a project entitled “Institutional strengthening for cases of disappeared persons associated with organised crime to reduce impunity in El Salvador” for the period 2017-2019. It notes that an urgent action protocol and search strategy for disappeared persons was drawn up and launched in December 2018, and the State announced the creation of a specialised unit for cases of disappeared persons in July 2019, which is dependent on the FGR. The IACHR report also highlighted the donation of an information system for the disappeared and corpses network (SIRDEC) and a forensic dental and clinical information system (Siclico), which will help standardise technical and scientific processes, coupled with the effective search and identification of disappeared persons.

However, the IACHR also observes “significant challenges”. It underlines that “in the absence of a legal definition or status to intervene in these cases, the authorities reportedly have to resort to different criminal categories such as that of “deprivation of liberty.” It warns that this creates major difficulties with regard to the registration and systematisation of official statistics on the number of disappeared persons and cases in which there could be evidence of enforced disappearance, loss, or other types of absence. The IACHR adds that the absence of a single registry, as well as current rules that clearly determine the powers and attributes of the authorities, allegedly prompt differences in the data collected by each institution such as between the police (PNC) and FGR.

## Opposition elects new leader

Grenada's opposition National Democratic Congress (NDC) has elected a new leader, Dickon Mitchell, who now has the monumental task of overturning the 15-0 seat majority held, for the second term running, by the ruling New National Party (NNP) led by Prime Minister Keith Mitchell.

The NDC was removed from power with the first clean sweep in 2013, primarily because of internal party disunity which undermined the-then prime minister Tillman Thomas (2008-2013). During its four years in power, the NDC suffered four ministerial resignations, with another minister being sacked and 10 members of the party expelled. Thomas also engaged in some dubious constitutional shenanigans in 2012 to avoid a no-confidence motion by persuading the governor-general to prorogue parliament. The electorate gave its unequivocal judgement on all this by failing to elect a single NDC member in the February 2013 election.

The NDC suffered the same dismal fate in 2018, then under the leadership of Nazim Burke, who had been an official in the finance ministry of the revolutionary New Jewel Movement (NJM) that ousted Sir Eric Gairy in the 1979 coup. Burke was then promoted to finance minister under the short-lived rule of the Revolutionary Military Council (RMC) which, in turn, had ousted (and executed) revolutionary leader Maurice Bishop in October 1983. It was a pedigree that clearly did not appeal to the Grenadian electorate of 2018.

Dickon Mitchell was elected at a virtual NDC party convention on 31 October, and in a positive sign for party unity he won by a resounding 277 votes to 43 against nearest rival Phillip Telesford. But it will take more than unity to beat Keith Mitchell and the NNP. The prime minister, who is now serving his fifth term as prime minister, has said that he will lead his party into the next election, but that will be his last. However, speaking on 2 November, he acknowledged that the NNP cannot expect quite such a landslide in 2023, or whenever the election is called. He said, in regard to decisions taken to combat the coronavirus (Covid-19) pandemic: "We are taking a decision to protect our nation. I have had to tell a number of people on a number of occasions [that] it may cost us some political votes because of some of the decisions that we are taking, but so be it. We should be more concerned that it saves lives, and if it's one life for 100 votes, we are going to do just that; one life lost is just too much."

Another consequence of the pandemic, of course, is that the government will be defending a very different economic record in 2023 than it was in 2018. The NNP government inherited an economy that had contracted by 1.2% in 2012. Under its tutelage, the economy then grew by 2.4% in 2013, 7.3% in 2014, 6.4% in 2015, 3.7% in 2016, and 4.4% in both 2017 and 2018.

The NNP government also dealt effectively with a debt crisis that saw the national debt peak at 108% of GDP in 2013. Since then, with the help of the International Monetary Fund (IMF) and some debt restructuring, national debt was reduced to 60% of GDP before the pandemic.

Now, debt is rising again, back to over 70% of GDP, and in 2020 the economy contracted by 13.1%. Of course, the NNP can legitimately say that the economic collapse was nothing to do with the government, and it can say that it was in reasonable shape to cope with the catastrophe only because it had got the country's finances in order. It would take strong nerves to bet against Keith Mitchell securing yet another term in power, albeit with a reduced majority.

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## Opposition in search of leadership for challenges ahead

The People's National Congress Reform (PNCR), which was the main component in the now-ousted Partnership for National Unity-Alliance for Change (Apnu-AFC) government led by former president David Granger (2015-2020) is looking for a new leader to restore its electoral fortunes. It lost power in August 2020 to the People's Progressive Party/Civic (PPP/C) led by President Irfaan Ali and his vice-president Bharrat Jagdeo, who was Guyana's president from 1999-2011.

The loss of the 2020 election could not have been timed more badly for the PNCR, coming as it did just as Guyana's newfound oil wealth was set to transform the economy. As the rest of the Caribbean (indeed, the world) has been suffering a desperate economic setback as a result of the coronavirus (Covid-19) pandemic, Guyana's economy expanded by 43.5% in 2020 and its estimated growth for this year is 20.4%.

A World Bank (WB) study, its first systematic country diagnostic (SCD) for Guyana, dated November 2020, estimated that Guyana's GDP could rise from US\$4.3bn in 2019 to US\$14.0bn in 2030, with the oil sector alone accounting for US\$3.6bn at the end of the period. Assuming the population growth rate remains on its current trajectory, Guyana's per capita GDP would exceed US\$16,900 by 2030, as against less than US\$5,000 in 2018.

It was precisely this prospect that motivated then-president Granger to ever more extravagant political and legal machinations to remain in power following the December 2018 no-confidence vote. It even took him five months to concede defeat after he lost the long-avoided 2 March 2020 general election.

Although the election was close, with 33 seats going to the PPP/C, 31 to Apnu-AFC, and one to A New and United Guyana, the PNCR faces an uphill struggle of fighting back against Guyana's notorious incumbency-bias, a bias which can only have been further boosted by control of the country's newly flowing oil wealth.

On 21 October, the current leader of the opposition, Joseph Harmon, threw his hat into the ring for a contest that will be decided at a party congress on 13 December. He did so with the launch of a 10-point agenda, but it was described in the *Guyana Chronicle* as "a routine, lacklustre, and basic presentation". The same commentary added: "Harmon is no David Granger, Robert Corbin, Desmond Hoyte, or Forbes Burnham [all former leaders of the party]...He does not possess the oratory skills or disposition like previous PNC leaders." And it concluded: "Harmon has neither the years of experience, statesmanship, intellectual aptitude, internationalism, deportment, and popularity to be successful in the race. Harmon failed in his bid to become party Chairman at the last election. He is now aiming higher and will need divine intervention to make him clinch the post of leader."

The one commitment from Harmon that few would argue with was his pledge to try to widen the appeal of the PNCR, which is widely seen as a party of Afro-Guyanese. Harmon said: "The party must reach out to every sector of this society. They must reach out to every ethnicity and broaden that base; people must feel at home in the PNCR."

Neither the current party leader, former president David Granger, nor current party chairman Volda Lawrence will seek election as party leader.

In addition to Harmon, one of the main contenders will be Aubrey Norton,

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a long-time party activist and former General Secretary of the PNCR who spent time in the foreign service. He is a strong supporter of the Apnu/AFC coalition, which he hopes to boost while rebuilding the PNCR. His main weakness (although it is perhaps not seen as such within the party) is that he is said to be highly Afro-centric. As one commentator put it, in a piece published online by *DemeraraWaves*: “Mr Norton comes over as too much of an Africanist for his own good, not so much as a potential leader for the PNC but for wider, diverse, and very polarised Guyana. To too many Indians, most likely others also, Mr Norton as a person and possible national political leader comes across as one very much in the mould of those notorious African dictators of old.”

This criticism of Norton has come from within the party as well as from outside. For example, one of Harmon’s prominent supporters, Roysdale Forde, pointedly said that “essential to consolidating the gains of the People’s National Congress Reform is recognising that the PNC is not a tribe...It is not a Black people party...A leader that is tribal, a leader that is tribalist cannot advance the cause of people that support the People’s National Congress.”

Norton responded by dismissing Forde’s insinuations that the PNCR would become a “Black Party” under his leadership as “laughable but mischievous”, and he listed various initiatives he had taken in the past to get the party to reach out to the Indo-Guyanese community.

### **The challenges ahead**

No one doubts that Guyana has been highly blessed with the recent oil discoveries, but the challenges for whichever party is tasked with managing this wealth, and under whichever leadership, have been starkly highlighted by the WB and others. The WB’s SCD is “an assessment of the constraint a country faces and the opportunities it can take to accelerate progress in reducing poverty and improving living standards of its people”. As the WB points out, “Guyana is a small state with abundant natural resources, but the country has a legacy of jobless growth, and deep geographic disparities and inequalities. In 2018, Guyana’s national poverty headcount was among the highest in Latin America and the Caribbean region at 43.4%.”

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The purpose of the WB’s SCD report was to map out “a vision of Guyana as a high-income economy on the path of inclusive and sustainable growth, with social cohesion and environmental resilience”. The starting point of the report is that the benefits of the newfound oil wealth will not be experienced by the majority of the population without good policy and sound governance. The report points out that, as oil exploration and production activities are currently located entirely offshore “with only modest ties to the nonoil economy”, public policy will play a major role in determining how the oil sector impacts the income levels and living standards of Guyanese households. The sector is expected to remain largely isolated from the larger economy “due to Guyana’s small manufacturing base and lack of specialized workforce skills”. Consequently, in the short-to-medium term, “public spending will be the major channel through which the oil sector impacts Guyana’s economic and social development”.

“The SCD goes on to say that measures that support environmental sustainability and green growth in Guyana should underpin all these policy areas.”

The report suggests several priority areas and related policy actions to maximise the benefits from the oil wealth for the maximum number of people, including:

**Achieving macroeconomic stability and environmental sustainability by:**

- Balancing fiscal spending with the absorptive capacity of the economy and managing the exchange rate.
- Mitigating fiscal risks arising from climate change as well as ensuring environmental sustainability.
- Boosting investment in climate-resilient infrastructure and adherence to environmental protection standards to facilitate more sustainable development and urbanization.

**Establishing good public sector governance and effective management of the petroleum sector by:**

- Addressing governance challenges in order to expand access to high quality public services; increasing government transparency and accountability “while sustainably managing the oil and gas sector and financial assets”; and encouraging greater public engagement and more collaboration among government agencies.
- Strengthening the public sector to deliver services and ramping up public spending on resilient infrastructure with environmental protection.

**Facilitating economic transformation and job creation by:**

- Improving the business environment, maintaining public sector employment at sustainable levels, and leveraging untapped human and natural capital. (Employment rates are already relatively low in Guyana, with a 54.5% labour-force participation rate in 2017, lower than the regional average. Currently, limited competition, a weak business climate, and small, underdeveloped markets are some of the challenges limiting employment.)

**Investing in human capital through:**

- Large-scale investments in education and health, along with infrastructure, to increase the opportunities for Guyanese people, including full coverage of basic services like improved water and sanitation, roads, electricity, primary and secondary education, healthcare, and financial services. Such full coverage of essential health and education services also needs to address the country’s geographic disparities. (The report notes that a child born today in Guyana will reach only 49% of their potential had they enjoyed complete education and full health.)
- Strengthening the social protection system, achieving universal health care, and developing quality systems for tertiary and technical education.

The SCD goes on to say that measures that support environmental sustainability and green growth in Guyana should underpin all these policy areas. In addition, basic conditions vary greatly across different regions of Guyana, so public policies should be adapted and prioritised to overcome these regional deficiencies and ensure successful development outcomes. The SCD suggests addressing the geographic disparities by identifying unmet development goals per region and “prioritising basic service delivery and infrastructure that match the needs in each region to support the social and economic well-being of all Guyanese”.