



## Fabricated justice: How due process reform enables evidence manipulation<sup>☆</sup>

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### ABSTRACT

This paper examines how due process reforms enable evidence manipulation. During the past two decades, most Latin American countries have radically reformed their criminal justice systems, with the aim of strengthening rights protections and curbing abuses. Focusing on Mexico, we uncover a paradox of these institutional reforms: confronted with social pressures to punish crimes, police officers and prosecutors with limited investigation capacities fabricate criminal cases that pretend to conform with stricter judicial standards. Using difference-in-differences designs with a representative prison survey and ethnographic fieldwork among criminal prosecutors, we document a decline in torture and a parallel rise in convictions grounded in fabricated evidence, most commonly planted drugs and weapons. This shift toward what we call “fabricated justice” has fueled an increase in drug trafficking convictions. This recent increase in planted evidence suggests that when rule of law reforms are implemented without corresponding investments in state capacity, they can generate new and unexpected forms of abuse.

### 1. Introduction

During the past two decades, Latin America has undergone one of the most sweeping legal transformations in its modern history: the transition from inquisitorial to adversarial criminal justice systems. This shift—described by Langer (2007) as the most important legal reform in the region in over two centuries—was driven by the goal of strengthening due process protections for criminal suspects in the face of widespread human rights abuses. The reform introduced oral trials, adversarial procedures, and heightened judicial oversight of prosecutors and police officers with the intent of curbing the authoritarian coercive tactics long embedded in Latin American criminal justice institutions (Hammergren, 2008, 1998; Domingo and Sieder, 2001; Ungar, 2002).

This paper explores how enhanced due process protections influence the behavior of police officers and prosecutors. Specifically, the paper documents a transition away from the reliance on confession-based evidence—which, in the Mexican context, has historically been obtained through the use of torture as the predominant “method of criminal investigation” (Magaloni et al., 2018)—toward fabrication of evidence. Most notably, we document that police and prosecutors engage in the systematic planting of incriminating objects, such as drugs and weapons, to simulate the discovery of evidence and legitimize arrests and indictments. This has fueled a significant increase in drug trafficking convictions. Our findings reveal that rather than complying

with the spirit of due process, law enforcement officers have strategically adapted.

We argue that this behavioral adaptation stems from three interrelated forces. First, increased judicial oversight and procedural standards have made traditional coercive methods less viable, particularly as courts have become more vigilant against torture (Magaloni and Rodriguez, 2020). Second, institutional and societal pressure to prosecute amid escalating violence, spiraling insecurity, and endemic impunity (Dell, 2015; Calderón et al., 2015; Ríos, 2013; Osorio, 2015; Trejo and Ley, 2018, 2020), as well as concomitant mobilization against the rise in insecurity and impunity (Gallagher, 2017, 2023), creates performance pressures that incentivize results over compliance with the new procedure. Third, the persistence of weak investigative capacity has led law enforcement to bypass legal regulations through evidence fabrication rather than building genuine institutional capability.

The paper speaks directly to a puzzling paradox: why do impunity, arbitrary prosecutions, and abusive policing endure despite sweeping institutional reforms and the formal expansion of due process protections? Although our empirical findings corroborate previous work suggesting that Mexico’s formal shift from an inquisitorial criminal justice to an adversarial legal system has curtailed the use of torture to obtain confessions (Magaloni and Rodriguez, 2020), we demonstrate that the new system has created conditions for systematic criminal fabrication. This behavioral shift reveals how institutional changes fail

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to address underlying capacity constraints, leading state actors to find new ways to circumvent legal regulations.

Understanding how increased judicial scrutiny led to a shift from self-incriminating confessions obtained through torture to planted evidence involves complex methodological challenges. Both practices are illegal and are therefore systematically hidden. They are deliberately executed in ways that leave no trace in official records, such as court documents or criminal justice statistics. In these records, cases involving forced confessions and planted evidence appear indistinguishable from other cases not involving abuse.

To uncover the systematic nature of these illegal practices, we employ a combination of quantitative and qualitative methods. Although prosecutors present cases of forced confessions and fabricated evidence as lawful and judges routinely approve these on a case-by-case basis, statistical analysis allows us to identify broader patterns that reveal the systemic character of fabrication. To detect such patterns, we draw on the second National Survey of the Population Deprived of Liberty (ENPOL for its Spanish acronym), conducted in 2021 by the Mexican National Statistics Agency (INEGI). This nationally representative survey includes responses from roughly 60,000 prisoners to an extensive series of questions, including their abuse experiences during both the investigation phase and their criminal trial.

We leverage the staggered implementation of the reform in judicial districts to examine, through difference-in-differences (DID) designs, how it influenced patterns of torture and evidence manipulation. Our empirical analysis follows the methodological recommendation of [Chiu et al. \(2023\)](#) regarding recent advances in causal panel analysis. To identify the effects of the reform, we employ the Fixed Effects Counterfactual (FEct) estimator developed by [Xu \(2017\)](#). We find that the criminal justice reform reduced the reliance on confession-based evidence extracted through torture and increased reliance on physical objects such as drugs and weapons. Second, the reform drastically increased judicial oversight and prosecutors no longer preside over criminal trials. Third, we find a systematic increase in convictions for drug trafficking that we argue is caused by evidence fabrication.

Extensive ethnographic fieldwork with police officers and prosecutors was key in uncovering the causal mechanisms behind the shift from torture to evidence fabrication. We conducted interviews and group discussions with police officers responsible for arrests in Mexico's three largest cities (Guadalajara, Mexico City and Monterrey) and eighteen months of ethnographic fieldwork within criminal investigation agencies in Mexico's capital and largest city. There, we observed investigative procedures, interviewed police officers and prosecutors, and watched recordings of judicial hearings. We followed dozens of cases from arrest to their judicial hearings.

This fieldwork showed how police officers systematically arrest suspects on false accusations and transfer them to criminal investigation agencies, where suspects are booked for drug dealing or violent robbery using planted evidence. Prosecutors knowingly collect this fabricated evidence, certify it to meet the higher evidentiary standards and judicial scrutiny introduced by the reform, construct narratives of the arrests to conceal the fabrication, and present these cases in court. The judges knowingly or not validate these cases, completing the fabrication cycle that leads to the punishment of incriminated suspects.

Our qualitative work also revealed that the shift from confession-based evidence and torture to evidence fabrication through the planting of drugs and weapons is influenced by law enforcement authorities' receptiveness to social pressures for punishment. Due process reforms might encourage state abuse when a population concerned about crime demands punishment from law enforcement without the investigative capacity to meet the new legal standards.

A justice system built around fabricated evidence risks generating widespread wrongful convictions. If the system can prosecute and convict primarily through evidentiary manipulation, two possibilities follow. First, innocent individuals may be routinely convicted, with devastating personal and social consequences. Second, police and

prosecutors may, in fact, "know" who the actual perpetrators are, but lack the tools and institutional capacity to build persuasive cases, instead resorting to the planting of drugs and weapons as a means of obtaining convictions. In either case, the criminal justice system fails in its fundamental task: to distinguish innocence from guilt.

As historian Pablo Piccato has argued, the Mexican justice system has long struggled with the inability to sort truth from fabrication ([Piccato, 2017](#)). This incapacity not only invites abuse and miscarriage of justice but also weakens the deterrent effect of criminal law. When convictions do not reflect actual culpability, the ability of the legal system to prevent crime through punishment is fundamentally compromised. In this context, the criminal justice reform has produced a surface-level transformation that leaves intact the deeper pathologies of impunity and arbitrariness.

Our paper contributes to three strands of literature. First, we engage with scholarship on Latin America's criminal procedure reform. Early studies emphasized institutional design and the diffusion process that facilitated its adoption ([Langer, 2007](#)), as well as the role of international actors and donors ([Domingo and Sieder, 2001](#)). Subsequent work turned to the persistent gap between legal reforms and actual practice ([Hammergren, 2008](#)). More recent analyses have adopted a strategic perspective, examining how reforms shape incentives for crime and affect crime rates ([Zorro Medina et al., 2016](#); [Cepeda-Francesc and Ramírez-Álvarez, 2023](#); [Huebert, 2021](#); [Hernández, 2019](#); [Blanco, 2016](#)).

Less attention has been paid to how actors within the law enforcement apparatus adapt to new institutional constraints. [Magaloni and Rodríguez \(2020\)](#) show that Mexico's reform significantly reduced torture but left loopholes that continue to enable police brutality and abuse, particularly in cases of "organized crime" and when criminal organizations fight violent turf wars. In line with this work, we demonstrate that while torture decreased, police and prosecutors facing new constraints are developing alternative practices: planting drugs and weapons to justify arrests and convictions. Our findings echo [Hanson and Kronick \(2024\)](#) in showing how institutional reforms can generate unintended adaptations in police behavior, yet differ in that, whereas in Venezuela police bypassed the courts through 'official vigilantism,' in Mexico they adapted within the legal system by fabricating evidence to sustain prosecutions.

Second, our paper contributes to the literature on democracy and the rule of law. Although democracy is often assumed to reinforce legality by increasing accountability and restraining state coercion ([Davenport, 1999](#); [Davenport and Armstrong, 2004](#)), recent work shows that this relationship is much more ambivalent. Studies of policing reveal how public demands for security empower officers in relation to elected officials and encourage practices that bypass legal regulations ([González, 2020](#)). Citizens often equate police authority with punishing wrongdoers, even at the cost of breaking the law ([Willis, 2015](#)), and officers sometimes cut community ties to satisfy retributive demands ([Goldstein, 2020](#)). Moreover, the militarization of police and the deployment of the armed forces, common in high crime democracies, have been shown to increase human rights abuses ([Magaloni and Rodríguez, 2020](#); [Flores-Maías and Zarkin, 2019](#); [Flores-Maías and Zarkin, 2024](#)). Courts display similar tensions: at times they enforce constitutional constraints, while in other contexts they bend due process or implement reforms without institutional foundations ([Botero et al., 2022](#); [González-Ocantos, 2016](#); [González-Ocantos et al., 2023](#)).

Together, this research highlights how democratic pressures can foster authoritarian policing and judicial practices that erode, rather than reinforce, the rule of law. Our work contributes to this body of scholarship by demonstrating that, notwithstanding the formal strengthening of due process protections, the limited investigative capacity of the criminal justice system fosters the persistence of abusive practices. In particular, Mexican authorities plant evidence as a mechanism to cope with elevated crime rates and satisfy the intense societal and institutional pressures to deliver convictions.

Third, we contribute a more nuanced understanding of criminal justice systems by focusing on prosecutors, a less studied actor = Prosecutors serve as intermediaries between police and courts (Skłansky, 2016) legitimizing state violence. In Mexico, prosecutors convert evidence the police plant into cases that judges validate, a process we call fabricated justice. Prosecutors' offices vary widely in their organization and role across Latin America. They may belong to the executive or judiciary, operate independently, be elected or appointed, and either direct investigations or rely on police to collect the evidence (Michel, 2019). This heterogeneity reflects a deep uncertainty about whether prosecutors should respond to public demands, act as neutral law enforcers, or mediate between competing logics of law and discretion (Langer and Skłansky, 2017; Skłansky, 2018). By emphasizing prosecutors' intermediary role between police work on the streets and judicial proceedings in court, this study bridges research on police and courts, which are often analyzed separately despite their interdependence in the criminal justice process. We situate prosecutors at the core of the analysis, filling a critical gap in the literature, showing how they legitimize police abuse by fabricating crimes in ways that even more vigilant judges will endorse.

Finally, our paper contributes to the study of institutional reforms and why these often yield results that are incoherent with their stated objectives (Faguet and Shami, 2022). By tracing the unintended consequences of well-intentioned legal reforms, we illuminate a central dilemma: How to strengthen the rule of law in contexts where state actors confront strong incentives to circumvent new constraints, while chronic underinvestment in investigative capacity leaves them unable or unwilling to pursue accountability through lawful means.

## 2. From inquisitorial to adversarial justice

In recent decades, Latin America has undergone a profound transformation of its criminal justice institutions. Countries in the region decisively moved away from the inquisitorial procedures inherited from colonial rule. The democratic transitions of the 1980s and 1990s catalyzed this change, as legal scholars increasingly viewed existing institutions as incompatible with democratic principles due to their weak protections for due process (Michel, 2018; Langer, 2007; Ungar, 2002). Under authoritarian regimes, widespread human rights abuses had often occurred with the complicity of judicial and law enforcement bodies. In response, Argentina and subsequently Guatemala initiated the first wave of reforms, explicitly framing the overhaul of their criminal justice systems as essential to consolidating democracy (Michel, 2019). These efforts triggered a broader process of South-to-South diffusion, whereby legal professionals and reformers disseminated this new model across the region (Langer, 2007).

Starting with Argentina in 1991 and Guatemala in 1994, most countries followed the model (El Salvador (1998), Costa Rica (1998), Venezuela (1999), Chile (2000), Paraguay (2000), Ecuador (2001), Bolivia (2001), Honduras (2002), Nicaragua (2001), Dominican Republic (2004), Colombia (2005), Peru (2006), Mexico (2008), and, most recently, Uruguay (2023) (Michel, 2019; Langer, 2007; Biebesheimer and Payne, 2001; Rodrigo de la Barra Cousino, 1998).

In an inquisitorial criminal justice system, the judge plays a leading role in the investigation, directing the collection of evidence and later deciding whether the accused is guilty. Inquisitorial criminal justice systems were typically secretive and written rather than oral. However, Mexico followed a mixed-inquisitorial model: While the judge did not conduct investigations directly, the prosecutor led the evidence gathering process. In practice, this gave prosecutors significant power, as judges based their rulings almost entirely on the case file police and prosecutors assembled during the investigative phase, with little independent scrutiny or adversarial testing.

During the authoritarian regime in Mexico, criminal investigations often involved the extraction confessions through torture. The judiciary routinely endorsed the use of torture, as reflected in several Supreme

Court rulings cited in Magaloni et al. (2018):

- If the defendant modified his statement before the judge, the evidence rendered to the prosecution should have greater probative value because it was the "most spontaneous" (Thesis XLIII, Sixth Period, First Chamber, Federal Judicial Seminary, January 1961, p. 37).
- Traces of physical maltreatment during detention do not invalidate a confession if it is corroborated by other evidence on file (Thesis 139–144, Seventh period, First Chamber, Federal Judicial Seminary, November 1980, p. 36).
- Regarding the lack of defense counsel during detention, the Court emphasized that "the prosecution could not be accused of denying a defendant representation, since it could not be proven that a detainee had not exercised that right" (Thesis 63, Seventh Epoch, First Room, Judicial Seminar of the Federation, March 1974, p. 23).

Before the criminal justice reform, prosecutors were the central actors in Mexico's mixed-inquisitorial justice system (Magaloni Kerpel, 2009). They not only directed police investigations, but also had the legal authority to certify the veracity of collected evidence, with almost no institutional checks on its validity. In practice, prosecutors often presided over judicial hearings, while a court secretary transcribed the proceedings. Hearings could involve direct confrontation between parties, but judges were not required to be present; instead, they reviewed the transcripts and based their rulings on the criminal file.

The criminal file prosecutors wrote on the basis of police investigations was the backbone of the cases. Defense attorneys and prosecutors could question the accused, but only on matters not already included in the file. This left defense lawyers with little room to present substantive evidence to challenge the prosecution's narrative. As a result, confessions extracted through torture were routinely included and rarely challenged. In most cases, judges never directly heard the version of events of the accused, reinforcing a system in which prosecutorial power was virtually unchecked (Magaloni Kerpel, 2009). The Mexican criminal justice reform, enacted through constitutional reform in 2008, overhauled the criminal procedure to establish higher due process standards. The reform introduced the figure of the "juez de control" (due process judge) to oversee detention legality and early stages of investigation, where most violations including torture and evidence fabrication occur. Key provisions include: mandatory rights notifications; stricter use-of-force standards; a National Registry of Detentions; and 48-hour limits for prosecutors to file charges before due process judges. The reform established stricter evidence collection protocols with chain of custody requirements, mandating that police demonstrate legal collection and follow individual accountability protocols. Police are no longer allowed to interrogate arrested suspects before taking them to prosecutors' officers for booking.

Moreover, the reform guaranteed defendants' right to professional defense throughout the process and prohibited self-incriminating confessions unless obtained in the presence of a defense attorney (Shirk, 2016). Due process judges are mandated to release suspects if detentions are unlawful or evidence does not meet probable cause standards, which means that prosecutors must prove that there are enough grounds to presume that the suspect committed the crime.

Furthermore, the reform transformed court proceedings into an oral adversarial system in which evidence must be presented before judges rather than through written files, with the mandatory presence of judges, defendants, and attorneys. However, investigations are still centered on criminal files that prosecutors read during hearings.

Despite these protections, our ethnographic research revealed that criminal justice officers systematically circumvent some new provisions: prosecutors modify detention narratives to comply with new probatory standards, alter evidence collection narratives, and certify the validity of planted evidence. In fabricated cases, police plant drugs or weapons to charge suspects with drug dealing or robbery involving fake victims,

usually paid by the police, while prosecutors seek judicial approval of this evidence during hearings.

Despite the reform, major loopholes remain, especially in cases of “organized crime.” These cases, typically prosecuted in federal courts, allow authorities to hold suspects in extended pretrial detention under the exceptional legal figure of *arraigo* enabling authorities to extend detention without charges for suspects accused of organized crime for up to 40 days with a possible extension of 40 days. This figure leaves the door open to abuse and torture.

### 3. Implementation of the criminal justice reform

The constitutional amendment enacting the reform was approved in 2008. It established eight years for the full implementation, which technically ended in 2016 for all of Mexico’s 32 states. Each state passed at least one law that details the timetable for replacing its criminal procedure code. There were three ways in which the states adopted the reform.

(1) Geography: states created a timetable in which the reform would take effect in specific geographic units (judicial districts or the entire state) on a specific date; (2) class of crime: states defined a timetable whereby the reform would begin covering certain classes of crime on a given date; and (3) a combination of the two.

Our statistical analyses exploit the staggered implementation of Mexico’s criminal justice reform across judicial districts between 2008 and 2016. [Table 1](#) show the reform implementation dates by state. We code prisoners as “treated” if they were arrested in a municipality after that district adopted the new criminal procedure code. To ensure clean identification, we restrict our analysis to states that implemented the reform uniformly across all crimes within each judicial district, rather than crime-by-crime. This approach is necessary because prisoners are frequently convicted for offenses different from their original arrest charges, making crime-specific treatment assignment unreliable.

### 4. Mixed-methods approach

This paper focuses on systematic illegal practices committed by state authorities. Analyzing these practices poses significant methodological challenges, not only because they are illegal—leading authorities to seek to conceal them—but also because they are often disguised as other activities, making detection difficult.

To trace the transition between two illegal practices committed by state authorities, we use a mixed-methods approach that combines long-term ethnographic observation with quasi-experimental statistical analysis. First, we conducted ethnographic observations in criminal investigation agencies to understand the factors that led prosecutors to transition from confession-based evidence to fabricated evidence and the fabrication of crimes. Then, we use data from ENPOL and leverage the staggered implementation of the reform across different judicial districts to perform a difference-in-differences analysis. Our analysis provides causal empirical evidence that the criminal justice reform curtailed the reliance on confession-based evidence extracted through torture, while encouraging greater use of physical objects such as drugs and weapons in securing convictions. At the same time, the reform displaced prosecutors as the sole arbiters of trials, introducing meaningful judicial oversight, and judges now presiding over the overwhelming majority of proceedings. Yet these institutional gains go hand in hand with new distortions: the statistical evidence reveals a systematic rise in drug trafficking convictions, closely associated with the fabrication of evidence. This paradox underscores how reforms designed to strengthen due process may simultaneously reduce some forms of abuse while entrenching others ([Faguet and Shami, 2022](#)).

Finally, we rely on our ethnographic material to explore the mechanisms behind these statistically significant behavioral patterns. We conducted fieldwork with police officers and prosecutors. One of us—a political scientist—conducted interviews with police officers in the

**Table 1**  
Reform implementation dates examined.

State	Implementation dates (year month day)
Aguascalientes*	2014-11-07, 2015-05-01, 2015-11-06, 2015-12-11, 2016-05-27
<b>Baja California</b>	2012-03-05, 2010-08-11
Baja California Sur	2015-07-01, 2016-01-01, 2016-06-17
Campeche	2014-12-03, 2015-08-04, 2016-05-18
Coahuila*	2014-09-27, 2014-10-28, 2015-03-09, 2016-02-29
Colima	2014-12-31, 2015-09-01, 2016-05-20
Chiapas*	2015-02-25, 2015-09-23, 2015-11-25, 2015-12-30, 2016-03-31
<b>Chihuahua</b>	2016-06-13
Durango	2014-05-07, 2014-06-10, 2015-05-07
Guanajuato	2016-06-01
Guerrero	2014-09-30, 2015-03-03, 2015-04-03, 2015-05-03, 2015-08-05, 2016-05-20, 2016-05-25, 2016-06-01
Hidalgo	2014-11-18, 2015-07-14, 2015-09-29, 2016-02-16, 2016-06-07
Jalisco	2014-10-01, 2015-03-15, 2015-06-29, 2016-01-15, 2016-02-15, 2016-05-31
Mexico (City)*	2015-12-02, 2016-06-16
<b>Mexico (State)</b>	2009-10-01, 2010-07-01, 2010-08-01, 2011-07-01, 2011-10-01, 2011-07-01
Michoacan	2015-03-07, 2015-08-03, 2016-02-11, 2016-05-09
<b>Morelos</b>	2012-01-12, 2009-07-06, 2008-11-30, 2015-01-07
Nayarit*	2014-12-15, 2015-12-31, 2016-06-15
Nuevo Leon	2014-10-31
Oaxaca	2008-09-09, 2008-09-09, 2013-09-27, 2015-12-02, 2016-02-02, 2016-03-02, 2016-06-18
Puebla	2014-05-21, 2014-09-17, 2016-06-17
Queretaro	2014-06-02, 2014-09-29, 2016-05-30
Quintana Roo	2014-06-10, 2016-06-18
San Luis Potosi*	2014-09-30, 2015-03-27
Sinaloa	2014-10-15, 2015-06-01, 2016-01-15, 2016-06-13
Sonora	2015-12-15, 2016-03-30, 2016-05-30
Tabasco	2014-10-04, 2014-10-06, 2014-12-15, 2015-04-06, 2015-08-24, 2015-10-19, 2015-12-07, 2016-04-25, 2016-06-06
Tamaulipas*	2015-10-15, 2015-11-05, 2015-12-04, 2016-01-11, 2016-02-03, 2016-03-01, 2016-06-13
Tlaxcala*	2014-12-31, 2015-11-30, 2016-06-18
Veracruz	2014-11-11, 2015-05-12, 2015-11-10, 2016-05-11
<b>Yucatan</b>	2011-11-15, 2012-09-11, 2012-09-21, 2012-03-12, 2014-06-03, 2015-09-22
<b>Zacatecas</b>	2009-01-05, 2014-01-06, 2016-01-04, 2015-01-05, 2016-01-04

From [Magaloni and Rodriguez \(2020\)](#). States with only one date imply that the reform was implemented across the state all at once, while those with multiple dates imply staggered implementation across judicial districts. \* Refers to states that implemented the reform by category of crime. States in bold refer to dates that differ from [Magaloni and Rodriguez \(2020\)](#) after reading various official state-level documents confirming when the reform was implemented.

largest cities of Mexico: Mexico City, Monterrey and Guadalajara<sup>1</sup> Interviews were collected with the commander in chief, supervisors, and street officers between the fall of 2017 and first six months of 2018. We spoke with 115 police officers individually or in a focus group format. The interviews were collected in a structured, semi-structured, and

<sup>1</sup> Monterrey and Guadalajara are organized along municipal lines, which means that each city has as many preventive police units as its number of municipalities. In Monterrey we conducted interviews 12 municipalities in the metropolitan area. In Guadalajara we collected interviews in the two largest municipalities, Zapopan and Guadalajara. In Mexico City, a single police force covers the entire jurisdiction.

narrative approach. These interviews were geared toward understanding how the criminal justice reforms have changed incentives for police officers.

In addition, one of us—an anthropologist—conducted 18 months of ethnographic fieldwork at the Mexico City State Attorney's Office from 2019 to 2022. During this period, fieldwork was conducted in seven different criminal investigation units, where the author observed the procedural stage known as preliminary investigation. This stage includes the booking process, during which police officers present evidence collected at a crime scene to prosecutors, who certify this evidence, decide how to charge suspects based on it, and defend their cases in the initial hearing, where due process judges determine the legality of the detention and the validity of the charges. This stage typically lasts around 48 h due to constitutional limits on extended detentions. The fieldwork involved spending hundreds of hours with prosecutors in criminal investigation agencies, conducting 85 unrecorded interviews across the State Attorney's Office chain of command, analyzing 116 criminal files, viewing 64 recordings of initial hearings, and observing 32 booking procedures, many of which involved planted evidence. We obtained formal permission to conduct fieldwork for this research from a Deputy State Attorney in exchange for providing a policy assessment aimed at reducing institutional reliance on evidence fabrication.

This fieldwork was based on the principles of non-participant observation (Fassin, 2013). We abstained from actively contributing to law enforcement, minimizing as much as possible the consequences of our presence on the result of cases. Having formal permission from high-ranking officers, developing rapport with rank-and-file prosecutors through long-term engagement, and the promise of confidentiality, enabled us to witness and discuss their participation in illegal practices such as torture and evidence fabrication.

We selected the Mexico City State Attorney's Office as our case study for several reasons. With around 15,000 employees, it is by far the largest state attorney's office in the country, more than double the size of the second largest. It has jurisdiction over Mexico's economic, cultural, and political capital, so it handles many of the cases that attract the most media attention and are considered some of the most relevant. This increases the sensitivity of state authorities to social pressures to prosecute. Mexico City completed the implementation of the criminal justice reform in 2016. As one of the last states to do so, police officers and prosecutors were still adjusting to the increased procedural restrictions during our fieldwork.

## 5. Quantitative data and hypotheses

Our quantitative data comes from the second wave of ENPOL, a nationally representative survey of the prison population collected in 2021. The survey consists of 10 questionnaires covering prisoners' backgrounds, their life in prison, and their experiences with the criminal justice system. This paper uses a series of questions about abuse prisoners experienced during the pre-trial phase as well as questions about their trials.

We follow Magaloni and Rodríguez (2020), in classifying pre-trial abuses as (a) Brute Force including beating and beatings with heavy objects; (b), Threats including false charges and harming family, and (c) Torture, including suffocation or submersion in water, electroshock, burns, and stabs. This paper will focus exclusively on torture. Our main hypotheses are:

**H1: Torture** *The implementation of the criminal justice reform should reduce the reliance on confession-based evidence extracted through torture.*

**H2: Fabrication** *The implementation of the criminal justice reform is expected to increase the reliance on physical objects (e.g., drugs and fire arms) as the basis for prosecution.*

**H3: Judicial Scrutiny** *The reform should increase judicial scrutiny in criminal proceedings by removing prosecutors from their role as trial presiders and requiring judges to be present throughout the process.*

**H4: Drug trafficking Convictions** *The reform should lead to a systematic increase in drug trafficking convictions, coinciding with greater dependence on fabricated physical evidence.*

**H5: Homicide Convictions** *The reform should contribute to a decline in homicide convictions, reflecting how limited investigative capacity creates bottlenecks that impede the prosecution of complex and serious crimes.*

To describe the move from confession-based evidence extracted through torture to object-based evidence, we first estimate simple models of average rates of torture and convictions based on objects such as drugs and fire arms. This approach has two advantages. First, it provides a clear descriptive picture of how torture and object-based evidence changed across arrest cohorts, independent of fluctuations in the overall prisoner population. Second, it allows us to visually align long-term trends with key institutional and policy changes.

Torture is measured as a dummy variable coded 1 if the respondent reports experiencing any of the following abuses: suffocation, submersion in water, electrocution, burns, or stabbing. Object-based evidence is coded as a dummy equal to 1 if the prisoner reports that such evidence was presented against them during the trial. To analyze how both torture and the use of object-based evidence evolve over time, we estimate the following model:

$$y_{ist} = \alpha + \lambda_t + \epsilon_{ist}, \quad (1)$$

where  $y_{ist}$  is a binary indicator that equals 1 if prisoner  $i$  (arrested in year  $t$  and detained in state  $s$ ) reports having being tortured or having being convicted on the basis of objects (weapons and drugs). The parameter  $\lambda_t$  captures year-of-arrest fixed effects, which yield predicted rates by year.

Fig. 1 plots the model-implied rates by arrest year for all prisoners. Three vertical lines are included to mark critical turning points in Mexico's security and justice context: (i) 2006, the onset of the "drug war" that produced a sharp escalation of violence, homicides, and arrests for drug trafficking; (ii) 2014, the beginning of the criminal justice reform, when states gradually started to implement the new system; and (iii) the end of 2016, when the reform was fully adopted nationwide.

The data reveal a significant increase in torture after the onset of the "drug war" and a drastic decline after 2014, when the criminal justice reform began to be implemented. The lower graph shows a different and almost opposite pattern: convictions based on objects (drugs and weapons) slightly increase with the onset of the "drug war" and then, after the end of 2016, when all states had finished adopting the criminal justice reform, these sharply increase.

To describe how the composition of crimes among convicted prisoners evolved over time, we follow the same approach as in Fig. 1. We estimate simple models of average conviction rates by arrest year. We plot predicted conviction rates by arrest year for all convicted prisoners. This descriptive exercise allows us to visualize how the share of convictions for these crimes changed over time. As before, we add three vertical lines marking critical turning points in Mexico's security and justice context.

As shown in Fig. 2, for drug trafficking (top panel), conviction rates remained relatively low and flat throughout the 1990s and early 2000s. However, around the onset of the drug war in 2006, the predicted share of convictions for drug trafficking started to rise steadily. The increase became sharper after 2010, with the trend accelerating after the end of 2016, when all states had implemented the criminal justice reform. This pattern is consistent with the escalation of anti-drug enforcement in 2006 and a strategic shift to drug trafficking convictions after the criminal justice reform.

In contrast, homicide convictions (bottom panel) exhibit the opposite trend. The predicted share of prisoners convicted for homicide was

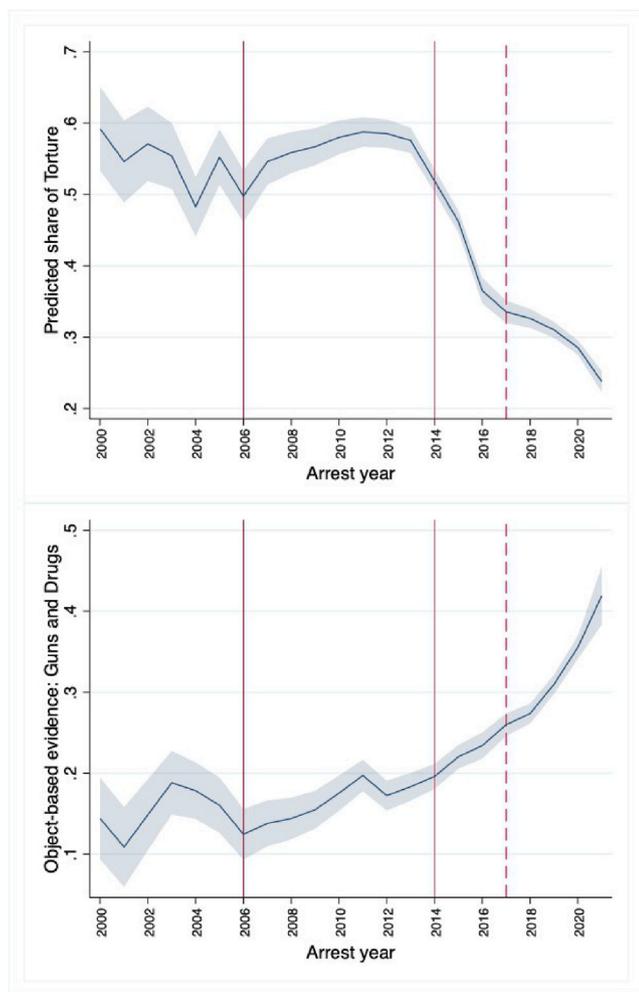


Fig. 1. Torture and objects (drugs and weapons).

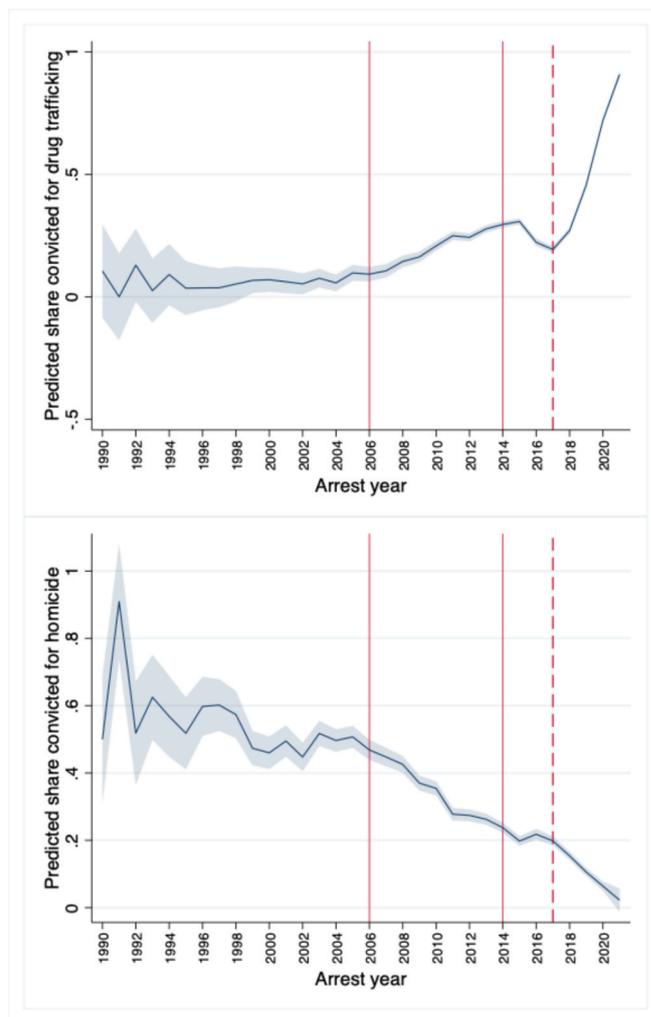


Fig. 2. Composition of crimes among convicted prisoners.

relatively high in the early 1990s, followed by a gradual decline. After 2006, this downward trajectory became more pronounced and by the mid-2010s the share of homicide convictions had fallen substantially. However, there does not appear to be an accelerating downward trend after 2016, when all states had implemented the reform.

Taken together, these patterns suggest a reallocation in the types of crimes leading to convictions: as drug-related prosecutions expanded in the wake of the drug war and subsequent reforms, homicide convictions became less prominent in the overall composition of convicted prisoners.

Our ethnographic material shows how these mirroring patterns can be caused by the radical increase in evidence fabrication consistent with Fig. 1. Homicide is a crime that cannot be fabricated because it typically involves a corpse, which is a form of evidence that is extremely difficult to plant. Instead of charging suspects for homicide, police officers and prosecutors are fabricating cases for crimes such as drug trafficking in which evidence can be easily planted. We explain the logics and dynamics behind this change in the ethnographic section.

Focusing on the states that implemented the reform geographically, Table 2 reports descriptive statistics for our main variables of interest before and after the reform, along with tests of differences in means. To construct these data, we first identified the municipal composition of judicial districts from each state’s Organic Judicial Law in order to record the specific dates of reform implementation at the municipal level. We then used information on the place and date of arrest reported by prisoners in the survey to determine whether each arrest occurred before or after the reform. Accordingly, a prisoner is classified as “treated” by

Table 2  
Descriptive statistics before and after reform.

	Prior-reform	Post-reform	Difference	P-value
Torture	0.59	0.33	-0.25	0.00
Objects (Guns, Drugs)	0.17	0.28	0.11	0.00
Drug Trafficking	0.22	0.46	0.23	0.00
Homicide	0.35	0.14	-0.21	0.00
Judge Present	0.42	0.92	0.49	0.00
Defense Attorney	0.58	0.84	0.26	0.00
Prosecutor (MP)	0.66	0.88	0.22	0.00

the reform if they were arrested in a municipality after the reform had been implemented.

Table 2 reveals that there is an average 25 % decline in torture after the reform. By contrast, there is an 11 % increase in convictions based on object-based evidence (drugs and weapons). Column five shows the p-values for the difference in means, which are all statistically significant.

Table 2 further shows that the types of crimes for which prisoners are accused or convicted changed in ways consistent with evidence fabrication. Following the reform, arrests for drug trafficking increased by 23 %, while arrests for homicide declined by 21 %. In line with expectations, judicial oversight also rose substantially: before the reform only 42 % of prisoners reported the presence of a judge during their trial, compared to 92 % afterward. Similarly, the presence of defense attorneys increased by 26 percentage points, and prosecutors also became significantly more likely to attend hearings.

5.1. Modeling the effects of the reform

We use a two-way difference-in-differences (DiD) specification to estimate the effects of the reform on our outcomes of interest. We employ this design because the reform was implemented in a staggered fashion across judicial districts between 2008 and 2016. This setup naturally lends itself to DiD, as it allows us to compare changes in outcomes experienced by prisoners within districts before and after they adopt the reform, while comparing these with prisoners from districts that had not yet adopted the reform as contemporaneous controls. Our specification includes judicial district fixed effects, which absorb time-invariant differences across districts, and year fixed effects, which account for national shocks or trends common to all districts in a given year. This ensures that the estimated effects are identified from within-district changes relative to appropriate counterfactuals. We also control for observed individual-level covariates. The estimating equation is given by:

$$y_i = \alpha + \beta_1 T_i + \sum_k \delta_k X_{ik} + \gamma Federal_i + \lambda_i + \alpha_t + \epsilon_{ij} \tag{2}$$

where  $y_i$  is a dichotomous indicator of the outcome reported by prisoner  $i$ , and  $T_i$  is an indicator for treatment. The model includes  $k$  individual covariates (gender, age, education, ethnicity, and income), as well as judicial district and time fixed effects ( $\lambda_i$  and  $\alpha_t$ ). We also control for whether the prisoner was prosecuted for a federal or state crime. This distinction is important because the federal criminal code, particularly in cases of “organized crime,” provides fewer due process protections because of the exceptional figure of arraigo. Although most prisoners in our data are prosecuted for state-level crimes, those charged under the federal code are substantially more likely to experience abuse.

We estimate this specification using the `reghdfe` command in *Stata*, which efficiently incorporates multiple high-dimensional fixed effects, such as judicial district, state, municipality, and time, while addressing potential collinearity across levels. Since treatment is defined at the judicial-district level but law enforcement institutions are organized at both the state and municipal levels, this approach allows us to control for unobserved heterogeneity across all relevant geographies. We cluster the errors at the judicial district level, which align most closely with the treatment unit.

In subsequent sections, we address methodological concerns raised by Chiu et al. (2023), who highlight important limitations of two-way fixed effects (TWFE) designs. Following their recommendations, we also implement an imputation-based fixed-effects counterfactual estimator (FEct). This requires restructuring the ENPOL microdata into a judicial-district-year panel and allows us to test the parallel trends assumption directly. Because ENPOL is not designed to be representative at the judicial-district level, our empirical strategy combines individual-level TWFE models with the imputation-based district-level approach, thereby balancing representativeness with methodological rigor.

5.2. From torture to evidence fabrication

The criminal justice reform, as argued above, has made it harder for police and prosecutors to use torture to extract confessions in great measure because of due process judges. Consistent with Hypotheses 1 and 2, we expect confession-based evidence extracted through torture to decline and convictions based on objects to increase.

Table 3 presents the results of our DiD models. We note that the sample is larger for torture because it includes individuals under detention and those not yet sentenced. Prisoner responses to questions about evidence offered in trials include only those who have been convicted. These are a fraction of the total number of prisoners, many of whom remain in prison awaiting their trials.

Table 3

Effects of reform on torture and convictions based on objects (guns and drugs).

VARIABLES	(1) Torture	(2) Torture	(3) Drugs & Guns	(4) Drugs & Guns
Reform	-0.085***	-0.086***	0.030***	0.035***
Constant	(0.017)	(0.018)	(0.011)	(0.011)
	0.127***	0.129***	0.108***	0.132***
	(0.027)	(0.028)	(0.018)	(0.024)
Observations	39,021	38,721	29,142	28,831
R-squared	0.155	0.177	0.091	0.114

Notes: The dependent variables are dummies for torture (columns 1–2) and convictions based on objects (guns and drugs, columns 3–4). The sample is larger for torture because it includes individuals in pre-trial detention and those not yet sentenced. Estimates are obtained using the `reghdfe` command in *Stata*. Standard errors (in parentheses) are clustered by judicial district. Models 1 and 3 include judicial-district and year fixed effects; Models 2 and 4 additionally include state and municipality fixed effects. \*\*\*  $p < 0.001$ , \*\*  $p < 0.01$ , \*  $p < 0.05$ , +  $p < 0.1$ .

All models confirm the expected pattern. Following the reform, there was a systematic decline in torture and a corresponding increase in convictions based on objects. Before the reform, 58 % of the prisoners reported experiencing torture. The estimated coefficient of -0.085 implies an 8.5 percentage point reduction, reducing the expected prevalence to approximately 50 %. This amounts to a relative decline of roughly 15 % from the pre-reform baseline, indicating a meaningful reduction in the use of torture against detainees. In contrast, prior to the reform, 17 % of prisoners reported that drugs or weapons were presented as evidence against them. The coefficient of 0.030 suggests that the reform increased this likelihood by 3 percentage points, raising the expected prevalence to about 20 %. In relative terms, this represents an 18 % increase compared to the baseline, consistent with a shift toward greater reliance on object-based evidence.

These estimates likely understate the full effects, as they exclude judicial districts in states that implemented the reform by type of crime. For most of these, the “true” implementation date is closer to the end of 2016, when we observe a marked increase in the use of drugs and weapons as evidence, as shown in Fig. 1, which incorporates responses from prisoners across all states.<sup>2</sup>

Table 4 presents robustness tests using placebos that artificially move the date of the implementation to 12, 18, and 24 months before the actual implementation of the reform. The models truncate the data at the date of the real reform. The coefficients for these artificial reform variables are not statistically significant.

5.3. Increased judicial scrutiny

Building on the previous results, Hypothesis 3 predicts that the criminal justice reform should increase judicial oversight. Table 5 reports the results of our difference-in-differences models, where the dependent variables are binary indicators based on prisoners’ responses about who was present at their trials.

Results in Table 5 demonstrate how the reform substantially increased judicial oversight during trials. Before the reform, only 41 % of prisoners reported the presence of a judge at trial, increasing by 33 percentage points to an estimated 74 % afterward. Defense attorneys were present in 58 % of the trials before the reform, rising by 13 points to about 71 %. Prosecutors, already present in 66 % of cases, also increased their participation by 14 points to roughly 80 %. These large changes highlight a marked strengthening of judicial scrutiny and due

<sup>2</sup> We note that since the coefficients of Models 1 and 2 that use judicial district and time fixed effects and judicial district, state, municipal and time fixed effects, respectively, are almost identical, hereafter we will use a design using fixed effects for judicial district and year and exclude state and municipal fixed effects. The same logic applies to Models 3 and 4).

**Table 4**  
Placebo tests: effect of reform on torture and convictions based on objects (guns and drugs).

variables	(1)	(2)	(3)	(4)	(5)	(6)
	Torture	Torture	Torture	Gus & Drugs	Gus & Drugs	Gus & Drugs
plc 12 months	-0.010 (0.019)			-0.007 (0.015)		
plc 18 months		-0.013 (0.020)			-0.015 (0.015)	
plc 24 months			-0.040** (0.018)			0.001 (0.014)
Constant	0.244*** (0.058)	0.243*** (0.057)	0.234*** (0.057)	-0.067* (0.038)	-0.066* (0.038)	-0.067* (0.038)
Observations	12,175	12,175	12,175	10,962	10,962	10,962
R-squared	0.113	0.113	0.113	0.091	0.091	0.091

Notes: Placebo tests shift the reform date by 12, 18, and 24 months. The dependent variables are binary indicators for torture and for the presence of objects (guns and drugs). All models include judicial district and year fixed effects, and control for individual-level characteristics as well as whether the prisoner is accused or convicted for a federal or state crime. Standard errors (in parentheses) are clustered at the judicial district level. \*\*\* p < 0.001, \*\* p < 0.01, \* p < 0.05, + p < 0.1.

**Table 5**  
Effects of the reform on judicial oversight.

VARIABLES	(1)	(2)	(3)
	Judge	Defense Attorney	Prosecutor
Reform	0.334*** (0.035)	0.127*** (0.016)	0.136*** (0.018)
Constant	1.066*** (0.014)	0.107 (0.086)	1.062*** (0.048)
Observations	27,648	27,879	27,462
R-squared	0.362	0.138	0.129

Notes: The dependent variables are dummies for presence of judge, defense attorney, and prosecutors at trial. Models use judicial district and year fixed effects. All models control for individual-level characteristics and whether the prisoner is convicted for a federal or state crime. Standard errors (in parentheses) are clustered by judicial district. \*\*\*: p < 0.001, \*\*: p < 0.01, \*: p < 0.05, +: p < 0.1.

process protections in the courtroom after the reform. In the [Online Appendix](#) we present placebo tests analogous to those in [Table 4](#). None of the coefficients for the placebos that artificially shift the reform dates 12, 18, and 24 months prior the actual reform date are statistically significant.

#### 5.4. Composition of crime convictions

In this section we assess how the reform impacted the observed trends of in [Fig. 2](#). It is important to recognize two key data limitations to test Hypotheses 4 and 5. First, the ENPOL asks about the crimes for which prisoners were convicted, not the offenses of those held in preventive detention. Second, to exploit variation in reform timing, as argued above, the analysis must be restricted to states that implemented the reform geographically rather than by type of crime. This restriction reduces the number of available observations.

With these caveats in mind, we now turn to our DiD analysis. Our empirical strategy builds on the models described earlier with the addition of a control for sentence length, which we use as a proxy for the seriousness of the crime.

[Table 6](#) presents the results. Consistent with Hypothesis 4, there is a statistically significant increase in drug trafficking convictions following the implementation of the reform. Contrary to Hypothesis 5, however, we do not find evidence that the reform is causally associated with a decrease in homicide convictions. One possible explanation is that prosecutors and police may be strategically reclassifying cases—arresting homicide suspects but convicting them for drug trafficking—since it is easier to fabricate evidence by planting drugs or weapons than to secure a homicide conviction. Another possibility is that the reform altered institutional incentives, leading law enforcement to prioritize drug-related cases over homicides. In either case, the evidence

**Table 6**  
Crime composition.

VARIABLES	(1)	(2)
	Drug Trafficking	Homicide
Reform	0.020** (0.010)	0.019 (0.016)
Constant	0.067*** (0.017)	0.314 (0.365)
Observations	29,831	29,831
R-squared	0.150	0.181

Notes: The dependent variables are dummies for crimes prisoners were convicted for. Standard errors (in parentheses) are clustered by judicial district. All models have judicial district and year fixed effects. They also control for individual-level characteristics, whether the prisoner was convicted for a federal or state crime, and the length of sentence. \*\*\*: p < 0.001, \*\*: p < 0.01, \*: p < 0.05, +: p < 0.1.

suggests that the reform increased drug trafficking convictions without directly reducing homicide convictions.

The magnitude of the reform’s effect on drug trafficking convictions is modest but meaningful. Before the reform, the mean conviction rate for drug trafficking was 0.22. The estimated coefficient of -0.02 indicates a reduction of approximately two percentage points, bringing the conviction rate down to 0.20. This change represents about a 9 percent decrease relative to the pre-reform mean. Although not a large effect in absolute terms, the decline suggests that the reform may have had a measurable impact on the outcomes for drug trafficking cases.<sup>3</sup>

Overall, our individual-level DiD models yield three main findings. First, the reform reduced the use of confession-based evidence obtained through torture but increased reliance on firearms and drugs, which we interpret as evidence fabrication. Second, these behavioral changes by police and prosecutors were accompanied by—and likely driven by—heightened judicial oversight. Third, consistent with the rise in fabricated evidence, we observe a systematic increase in drug trafficking convictions following the reform. The next section provides additional support for our claim that these effects are causal.

#### 6. Causal panel analysis

This section tests for causal effects based on [Chiu et al. \(2023\)](#) Our empirical analysis follows their methodological recommendations from recent advances in causal panel analysis. The authors demonstrate that while TWFE models have been widely used in political science to

<sup>3</sup> In the Online Appendix we present placebo tests analogous to those presented in [Table 4](#) to bolster our findings that the effects of the reform are causal.

establish causality, recent methodological discussions highlight their limitations under heterogeneous treatment effects (HTE) and violations of the parallel trends (PT) assumption. This is particularly relevant in our context, as criminal justice reforms can have differential impacts between judicial districts depending on local institutional capacity, crime patterns, and implementation fidelity.

We employ the Fixed Effects Counterfactual (FEct) estimator developed by Xu (2017) and refined by Liu et al. (2024). This imputation-based method addresses the limitations of traditional TWFE models. The imputation estimator first fits a parametric model for the potential outcome under control using only control observations  $\{(i, t): D_{i,t} = 0\}$ :

$$Y_{i,t}(0) = X'_{i,t}\beta + \alpha_i + \xi_t + \varepsilon_{i,t}$$

The FEct approach proceeds in three steps:

1. Fitting a TWFE parametric model using only control observations.
2. Imputing  $Y_{i,t}(0)$  for all treated observations  $\{(i, t): D_{i,t} = 1\}$  using the estimated parameters from step 1.
3. Estimate treatment effects for each treated observation  $(i, t)$ :

$$\hat{\tau}_{i,t} = Y_{i,t} - \hat{Y}_{i,t}(0) \tag{4}$$

where  $Y_{i,t} = Y_{i,t}(1)$  is the observed outcome under treatment and  $\hat{Y}_{i,t}(0)$  is the imputed counterfactual outcome.

To implement this method, we transform the data to the judicial district level in order to create a panel structure. Because the ENPOL was not designed to be representative at this level, this procedure generates missing observations, as shown in the Online Appendix where we report treatment status across judicial district-years.

We construct a panel at the judicial district-year level by aggregating data from the individual-level prisoner survey into our main outcome variables. These measures capture the number of prisoners in each year of the judicial district reporting the relevant outcomes. All models also control for the total number of arrested prisoners in a judicial district for each year, as well as the number of accused or convicted of federal crimes.

Finally, given our district-level sample, we employ a cluster-

bootstrap procedure to account for within-district correlation over time, following the recommendation that clustering should be performed at the level of treatment assignment.

Fig. 3 reports the ATT estimates with bootstrapped standard errors for each dependent variable. The results provide strong evidence that our previous findings are causal. Consistent with the substitution hypothesis, we observe a decline in torture accompanied by an increase in object-based evidence (drugs and weapons). Judicial oversight also rises sharply following the reform: the presence of judges in trials increases substantially, while the participation of defense lawyers and prosecutors rises more modestly. Finally, in line with the hypothesis of evidence fabrication, we document an increase in drug trafficking convictions, whereas no significant change is observed in homicide convictions.

### 6.1. Parallel trends

We construct event-study plots to visually assess the plausibility of the parallel trends assumption necessary for causal identification by examining pre-treatment dynamics. The event-study specification takes the form:

$$Y_{i,t} = \alpha_i + \xi_t + X'_{i,t}\beta + \sum_{l=-a}^{l=0} \tau_l \cdot \mathbf{1}\{K_{i,t} = l\} + \tau_{b+} \cdot \mathbf{1}\{K_{i,t} > b\} \cdot D_{i,t} + \varepsilon_{i,t} \tag{5}$$

where  $K_{i,t} = (t - E_{i,t} + 1)$  represents the number of periods since (or until) district  $i$ 's reform implementation at time  $t$ , and  $E_{i,t}$  is the event time. The coefficients  $\tau_l$  capture dynamic treatment effects  $l$  periods relative to reform implementation. If parallel trends hold, then pre-treatment dynamic estimates ( $\tau_l$  for  $l < 0$ ) should be around zero (Chiu et al., 2023). Results are presented in Figs. 4 below for our main variables of interest. In all cases the parallel trends assumption holds.

## 7. Qualitative findings

In this final section, we use interview material and ethnographic vignettes to reveal the mechanisms behind the interconnected changes revealed by our statistical analyses:

- (1) The increased judicial scrutiny introduced by the reform has

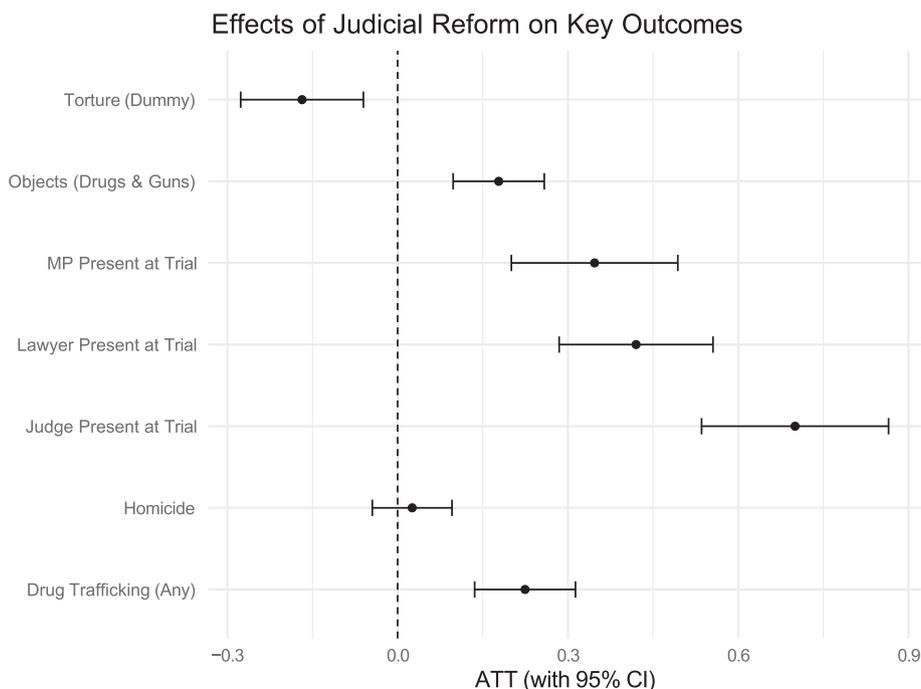


Fig. 3. ATT estimates with the imputation estimator (FEct).

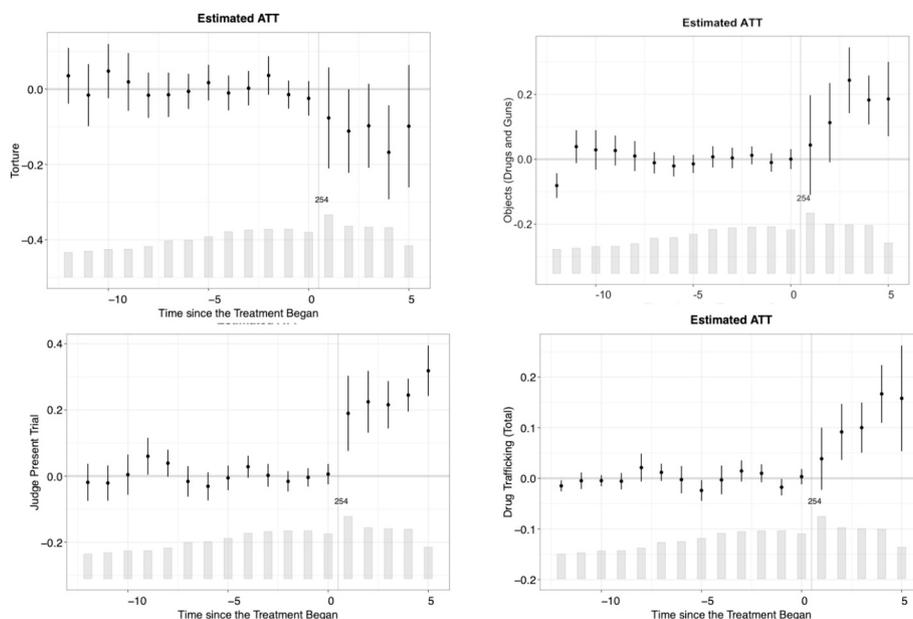


Fig. 4. Event study plots with imputation estimator: torture, objects, judicial oversight, and drug trafficking.

decreased the dependence of police officers and prosecutors on confessions obtained through torture. (2) However, a worsening security crisis has increased social demands for punishment. (3) As a result, police officers and prosecutors have strategically adapted to the new institutional constraints imposed by the reform by planting drugs and weapons, responding to a society anxious about insecurity.

### 7.1. Police officers

Police officers in Guadalajara, Monterrey, and Mexico City described the adversarial reform as a profound disruption to their daily routines. Again and again, they characterized the new system as “garantista”, which can be translated as rights-oriented. In their words, everything now revolved around protecting the rights of suspects, while their own work had been hollowed out.

“Before, when we detained someone, we could bring him to the police station to interrogate him, see what else came out,” a Mexico City officer recalled. “Now we can’t. We arrest and immediately we have to take him to the prosecutor. Nothing else. We don’t even talk to him. Everything is for their rights, never for the victims.” Another officer added, “With arrests, we used to investigate, we could pressure them, get information. Now we are just transporters. We catch them and deliver them. That’s all.” It is difficult to interpret the phrases “see what else came out” and “pressure them” as not referring euphemistically to some degree of torture.

What troubled many police officers was not only the loss of control, but also the sheer amount of time required to process an arrest under the new rules. They emphasized that what once took a couple of hours, now consumed entire shifts. “If you do everything the new system requires, it’s endless,” one officer in Guadalajara explained. “First the detention, then the paperwork, then more paperwork, then taking them to the prosecutor. Sometimes ten hours pass and you are still with the same guy. Before, in that same time, you could make several arrests. Now you lose a whole day on one.”

Confronted with these new formal requirements, officers described a repertoire of strategies to cope. The simplest was to avoid arrests altogether when the case seemed too minor or too unlikely to hold up. “If it’s something small, you let it go,” a Monterrey officer admitted. “It’s not worth it. Why would you waste ten hours on a drunk or a shoplifter if the prosecutor will let him walk free?” Others downgraded incidents into administrative infractions to avoid the cumbersome process of a formal

arrest.

Yet the most troubling adaptation they described was the fabrication of evidence to satisfy the new requirements of the adversarial system. “Before, we pressured the person. Now we pressure the paperwork,” one officer explained. “The chain of custody has to be perfect. If it’s not, the judge will throw it out. So what do we do? We fix it. Sometimes that means planting what’s missing, sometimes writing what didn’t happen.” Another spoke even more bluntly: “If you don’t have evidence, you plant it. Otherwise, the judge releases them. That’s the truth. The system is so demanding that you need to have everything in order. If it isn’t, you make it look like it is.”

These accounts reveal how reforms intended to protect rights and reduce arbitrary detentions have produced a paradoxical outcome. Officers no longer interrogate suspects directly; instead, they manipulate paperwork and evidence, often with prosecutors’ help, to make their cases viable before judges. In their words, the pressure to comply with stricter procedural standards shifted the locus of abuse from the suspect’s body to the written record. What emerges is a picture of police work not less abusive, but oriented around shortcuts, fabrications, and bureaucratic maneuvering to punish the suspects they see as culprits within a system they perceive as stacked against them.

### 7.2. Prosecutors

Prosecutors also view the criminal justice reform as a key turning point in their role within the criminal justice system. They expressed how the introduction of due process judges diminished their power to control the criminal procedure. In the traditional system, prosecutors were the leading figures in the criminal justice system, and judges mainly approved their accusations with little oversight (Magaloni Kerpel, 2009). Judges were seen to be subordinated to prosecutors, who often had political backing from elected officials.

Many prosecutors trained in the traditional system expressed nostalgia for the days when they had fewer legal limits on their authority. One prosecutor recalled when they could conduct raids without needing warrants from judges before the event and simply fabricate them afterward. Another justified these raids against “subversive groups” because prosecutors had a duty to “protect social order” during the authoritarian regime.

Many younger prosecutors trained in the new criminal justice system viewed the reform as a necessary correction to these authoritarian

abuses of the past.

Despite their opposing views about the reform, both older and younger prosecutors agreed that the reform altered their status within the criminal justice system. The most noticeable change was how prosecutors stopped relying on torture to extract confessions. When talking about the torture or beatings of suspects, prosecutors often emphasized that such practices were now a thing of the past.

This became clear during a conversation with a prosecutor in charge of a booking unit at a criminal investigation agency on the outskirts of Mexico City. It was a Saturday afternoon and the agency was relatively quiet. Prosecutors in the booking unit had just a couple of cases and police officers were not bringing any new detainees to be booked. During lunch in the office canteen with the booking team, we shifted the discussion to the issue of planted evidence, mentioning how in other agencies it was a standard practice for police officers to frame suspects they believed were guilty of other crimes. "Do you think that is just or not?", the lead prosecutor asked. To keep the conversation going without seeming to endorse criminal fabrication, we echoed a more moderate opinion we had heard in similar conversations: the fairness of framing suspects depends on having certainty of their guilt, but with frame-ups, prosecutors rarely had that certainty. The prosecutor replied that "most of the people being framed are guilty." We noted that police and prosecutors generally lack certainty. "One might be innocent, but most are guilty," the prosecutor said. "It's like when detectives beat suspects to get confessions. Is that just or not?" We responded that beating suspects was illegal. "Nevertheless," the prosecutor replied with a Machiavellian ethos, "it might sometimes be necessary."

To exemplify and justify her approval of police abuse, the prosecutor recounted the case of a kidnapping she investigated some years earlier. Detectives had detained a suspect, but did not have enough evidence to charge him or locate the victim, who was still in danger. The 48-hour constitutional hold on detentions was about to expire, and the prosecutor did not know what else to do. A few hours before she had to release the suspect, she allowed two detectives to enter the detention cell with the detainee. They made him confess and forcefully obtained the victim's location. "Obviously, they had to wallop him, but thanks to that, we were able to find the victim alive," the prosecutor said. "Nowadays, no one wants to do that. No one wants to risk taking responsibility. In those moments, you really need to decide whether you want justice or legality."

When we inquired about evidence fabrication, this prosecutor responded with a story about torture. What seemed to connect the two practices was the dilemma that prosecutors often face between what she called "justice or legality." Due to limited investigation capacities, Mexican prosecutors see judicial safeguards as an obstacle to justice. The story about the kidnapping illustrated how some law enforcement agents, constrained by practical limitations such as legal time limits, lack of resources, and training, strongly believe that justice sometimes requires disregarding legality. Torture and evidence fabrication are similar in that both involve ignoring legality to achieve a particular kind of justice beyond the rule of law.

Simultaneously, the prosecutor recognized that the use of torture to extract forced confessions was a thing of the past. "Nowadays," she said, "no one wants to do that." This view was widespread among law enforcement agents who saw torture as a practice of a not so distant authoritarian past. By introducing due process, judges were tasked with certifying the legality of detentions and the collection of evidence, and the criminal justice reform successfully reduced this brutal practice, as we have shown statistically. Nevertheless, the underlying conditions for torture, such as low criminal investigation capacities, persist and still shape the dilemma between what the prosecutor called justice and legality.

For that prosecutor, as for many others, "justice" mainly referred to retributive justice, seen as making offenders "pay" for their crimes (Baron et al., 2025). The prosecutor's willingness to forsake legality in the name of retributive justice was encouraged by societal and

institutional pressures to punish alleged criminals.

## 8. A long-lasting security crisis has intensified punitive demands

The stricter judicial oversight of the criminal justice reform has fostered a shared belief among part of the public, police officers, and prosecutors that the new system is too lenient with criminals. The belief that human rights protect criminals has been documented as a justification for police abuse across Latin America (Taussig, 2005; Willis, 2015; Goldstein, 2020).

During a police community meeting in our fieldwork, about twenty residents from a neighborhood on the outskirts of Mexico City with high crime rates complained about crime to the precinct captain and a district attorney's representative. One of them, a middle-aged woman, explained that a man hid behind a line of trees to rob passersby in a dangerous alleyway near a subway station. The precinct captain told the neighbors that they had arrested this man a few weeks earlier, right after he robbed someone. "I don't know if the judges released him," she said. "The new criminal justice system is... different, more garantista." The Spanish word "garantista" crystallized this critique among police officers and prosecutors, often serving as a justification for abusive practices, including evidence fabrication.

Another neighbor challenged the precinct captain's explanation. "We all know who's robbing," the neighbor said. "We see how you catch them and release them." She seemed to suggest that police officers were taking bribes from suspects to release them. Without taking offense, the precinct captain repeated what seemed like a rehearsed explanation: "The judges let them walk free because the new criminal justice system allows criminals to only pay for damages." She was referring to the restorative justice options introduced by the reform, which let offenders compensate victims financially to avoid prison time. Police officers often saw these options as a source of impunity and an indication of the leniency of the new criminal justice system.

Many prosecutors echoed these criticisms against increased judicial oversight of legal safeguards and more lenient alternatives to incarceration. One prosecutor in charge of the booking unit at a criminal investigation agency known for fabricating many of its cases was very critical of the new criminal justice system and due process judges. In one of our first interactions, he said: "even in the United States, judges accept self-incriminating confessions, I do not see why we cannot accept them here. If the murderer of a woman confesses to his crime, I do not see why we should not present this confession as evidence. They say it's because he has a right against self-incrimination. But that benefits the revolving door."

The "revolving door" is a common metaphor among critics of the reform, expressing how it allows criminals to go "in" and "out" the system without consequences. The prosecutor then illustrated this critique with two cases he investigated the previous year. "There was an eighty-year-old man who was booked eight times for shoplifting, and the judge always let him go because of his age. In another case that appeared on the front page of many tabloids, a teenager was indicted for violent robbery, but the judge reduced his sentence to three months because he was a first-timer. A few weeks after his release, he was shot by police while trying to rob a car from an old lady." The moral of these stories appeared to be that the new criminal justice system was unable to deter future crimes due to the leniency of judges for criminals.

In situations of intense criminal violence, such as in contemporary Mexico, populations tend to favor state retribution and harsh punishments even if it means sacrificing legal protections for suspects' rights (García-Ponce et al., 2023). High levels of impunity in Mexico have led to social protests against brutal crimes like disappearances and femicides (Gallagher, 2023; Muehlmann, 2024), and have also increased support for tough-on-crime policies (Flores-Macías and Zarkin, 2022; Baron et al., 2025).

In our ethnographic fieldwork, we found that prosecutors are

responsive to societal demands for punishment. Their tough-on-crime approach is an ethical stance reinforced by societal preferences and expectations. In the Mexico City State Attorney's Office, prosecutors focus on crimes that could generate social unrest, calling them "relevant cases." High-ranking prosecutors have developed evaluation metrics aimed at seeking harsher punishments across all cases. These mechanisms for prioritization and evaluation pressure prosecutors with limited investigative resources and under stricter judicial oversight to pursue indictments, which can lead to the fabrication of evidence.

Cases with the potential to cause social discontent were classified along the chain of command as "relevant cases." These typically involved crimes that could draw media attention. In an interview, an assistant to the State Attorney responsible for compiling weekly lists of relevant cases explained that "the process to determine relevant cases is very subjective. I tried to systematize it, but there are many types of relevant cases: some are relevant because of their complexity, others because of media coverage, some because they involve drug trafficking or organized crime, and others because they involve members of victim groups. Still, everyone knows which cases are relevant [...] Our goal is to pursue the cases that most concern the public and influence perceptions of insecurity." An assistant to the state attorney explained that the daily security cabinets—when the state attorney and the deputy state attorneys meet to set case priorities—are organized around "relevant cases." The state attorney would ask the highest-ranking officers for updates on these cases to make sure they are given priority. During our fieldwork, we saw how this priority assignment flowed down the chain of command. High-ranking officers would tell their teams to prioritize these cases. Notes on the cases shared on WhatsApp included basic details such as their ID number, the defendant's name, the crime, and whether they were classified as "relevant cases." Sometimes, a secondary cover sheet was stapled to criminal files, explaining the relevance of the case, or a sticky note with "Relevant," "Urgent," or "High Impact," usually all in caps, was attached. Officially, a time-sensitive request for police reports or forensic tests related to a relevant case might feature the word "Urgent" in bold and underlined at the top of the document. These signals of "relevance" fostered a sense of urgency among prosecutors, who felt pressured to resolve cases quickly to prevent social discontent. When police officers booked a suspect related to a "relevant case," prosecutors would act without hesitation, even if it meant fabricating evidence, due to the institutional pressures they faced. Additionally, prosecutors who did not accept or prosecute bookings of "relevant cases" often faced demotion, reassignment, or even termination.

Along with the focus on priorities that creates urgency and fear of sanctions for not pursuing "relevant cases," which led prosecutors to pursue cases involving fabricated evidence, high-ranking authorities establish institutional incentives to increase indictments. The head of one agency where we conducted fieldwork showed us the monthly evaluation signed by the state attorney herself. The evaluation favored more indicted cases and fewer rejected bookings. It aimed to encourage prosecutors to accept and pursue all bookings, even when they involved fabricated evidence.

### 8.1. Systematic evidence fabrication

Our ethnographic fieldwork, supported by statistical analysis, revealed that prosecutors frequently rely on fabricating evidence to pursue indictments in regular criminal cases. Prosecutors openly talked about creating criminal evidence with us because they saw it as part of their daily responsibilities. This strategical adaptation allowed them to avoid increased judicial scrutiny while still achieving the institutionally endorsed goal of securing indictments. Evidence fabrication is an open secret within Mexico's criminal justice system. Police officers, prosecutors, and defense attorneys recognize evidence fabrication as a common practice essential to the functioning of criminal justice.

Once, for example, we asked a district attorney if he could think of

any solutions to the systemic reliance of prosecutors on fabricated evidence. "I don't want to sound like a leftist hippie," he said. "But that's how the system's set up. If the police officers really investigated properly, they could get the criminals for what they actually did. They've just been instructed to take them out of circulation no matter what." Like this district attorney, many other prosecutors saw evidence fabrication as a result of institutional pressures to prosecute and limited investigative capacities.

Another prosecutor shared that she was demoted from working in a booking unit to a "cold case" unit because she refused to accept fabricated evidence. She was very critical of evidence fabrication and saw it as a result of the institutional pressures prosecutors face. When we asked if she believed prosecutors felt pressured to accept fake bookings brought by the police, she recalled a specific case in which officers were pressured by their supervisors to solve a violent robbery. They detained a construction worker leaving a bar and booked him for robbery. The detainee was so drunk he could barely walk. "I told them," the prosecutor said, "If the detainee can run from one side to the criminal agency to the other, I'll take the booking." How could he rob someone if he could barely stand? She grew increasingly upset as she recounted the case. She said she spoke to her supervisor, who instructed her to proceed with the booking despite the inconsistencies. She remembered telling him, "Why am I even here? Am I here to invent crimes? Just tell me so I know." There have always been fake arrests, but not like this. Now, it's just out of control. The city's going to run out of homeless people."

Recently, she was sent to court to prosecute a homeless man caught with 10 g of marijuana. "How could he have bought that much if he didn't even have money for food? Now the prisons are overflowing. The system is bursting because the police department is making arrests just to increase its numbers. It's the misery of human misery when you see it up close. The instruction is 'take all the cases that make no sense and push them through the system.'"

On another occasion, we interviewed a detective and asked if he could think of any alternative to evidence fabrication to prosecute relevant cases. "That is a necessity of the new criminal justice system," he said. "We know that they did something, but we do not have the legal grounds for a detention. A secondary crime is made, and we detain them for that."

As an open secret, criminal fabrication had a whole set of idioms common to the people who knew about it. Fabricated cases were called "secondary" (*secundario*) or "alternative" (*diverso*), while real cases were called "main" (*principal*) or "core" (*de fondo*). False bookings were called "bogus bookings" (*puestas chorizas*). Prosecutors, police officers, and defense attorneys made a subtle conceptual distinction between the two types of fabrication. One that they called "framing-up" (*cuadrar*) involved the invention of a crime from scratch, and the other that they called "framing" (*encuadrar*) involved slightly adjusting some details so the case fulfilled due process standards. A defense attorney explained this subtle difference in an interview: "To frame means to help the facts fit into the Criminal Code. Make it fulfill the legal parameters. When we speak of a robbery, classify the criminal event under articles 224, 222, and 252 of the Criminal Code, considering aggravating factors. That's the juridical frame you are giving it. To frame means to make it according to the law [...] Framing-up is when prosecutors are doing illegal things, when they are not fulfilling the protocols or following the law. That's when they fabricate the frame-up. They plant a knife, a weapon, a gun, a firearm. How can I explain it? Framing-up is a complete fabrication." The development of an entire vocabulary referring to evidence fabrication expresses the systematicity of the practice.

During fieldwork, we observed dozens of bookings involving fabricated evidence. We identified two primary patterns of fabrication, which we can refer to as *modus operandi*, a Latin term that prosecutors use for a distinctive method of committing crimes.

The first *modus* involved planting drugs and accusing suspects of drug dealing. To establish legal grounds for detention, police officers claimed that they were patrolling when they observed an exchange of

drugs and made an immediate arrest. In most cases, the buyer escaped, but police managed to arrest the seller, whom they booked. This method justified the arrest based on the police's duty to arrest when witnessing a crime. In one case, we saw police officers bring a translucent bag of marijuana to a criminal investigation agency, with "POLICIA \$125" written on it in black marker. The police officers probably bought it from drug dealers who labeled it to identify the buyer and price. The prosecutor in charge of the booking indignantly handed the police a bottle of hand sanitizer and told them to erase the writing so he could have it photographed by the forensic team and added to the criminal record.

The second modus involved planting a weapon and accusing suspects of a violent robbery, paying someone to pose as the victim. In a particular agency, we observed the same woman acting as the victim in multiple cases of violent robbery. She never presented ID and used different names each time. Often, following this modus, police officers claimed they witnessed the crime, providing legal grounds for immediate arrest. In many instances, police presented a 5-inch serrated knife from the Brazilian brand Tramontina as the weapon used to threaten the victim. This type of knife is sold in almost any hardware store, making it easy to buy and plant. A defense attorney called this approach "the Tramontina knife modus." A prosecutor, criticizing this approach, once pointed out an inconsistency: many people were detained for violent robbery, but neither victims nor police reported any injuries.

At one of the criminal investigation agencies where we conducted fieldwork, the officer in charge shared the agency's case statistics with us. We noticed a sharp rise in indictments for violent robbery that mirrored a decline in drug-dealing cases. We asked him what caused this trend, assuming that institutional priorities had shifted attention toward robbery. He explained that in recent months, judges had become more lenient with drug dealing and, as a reaction, his agency increased the fabrication of cases for violent robbery. He used air quotes when saying "drug dealing" and "violent robbery".

## 9. Conclusion

This study addresses a core question in the study of institutional reform and the rule of law: why do abusive practices persist despite procedural innovations designed to protect due process? Our analysis of Mexico's transition from inquisitorial to adversarial criminal justice reveals a troubling answer: procedural reforms, when implemented without corresponding investments in state capacity, can generate new forms of abuse.

The Mexican case illuminates three critical dynamics about institutional reform that go beyond this case. First, strategic institutional adaptation occurs when state actors face new constraints but retain the same performance pressures. Police and prosecutors shifted from confession-based practices reliant on torture to systematic evidence fabrication, thereby preserving conviction rates while formally complying with new procedural requirements. The Mexican case reflects both the persistence of professionalized prosecutorial routines and institutional incentives to produce legal cases. This behavioral adaptation differs from that of Venezuela, where stronger protections for suspects led police to bypass the courts altogether, killings or eliminating suspects they could no longer prosecute legally (Hanson and Kronick, 2024). The contrast between Mexico and Venezuela shows that abusive adaptation might depend not just on judicial oversight but on how enforcement institutions work together. In Mexico, this paper has shown that prosecutors play a crucial role in translating and legalizing police practices (even abusive ones, like fabricating evidence) into cases that judges can accept. This creates a kind of institutionalized collusion or fusion across the enforcement chain: police produce the evidence, prosecutors package it, and courts legitimize it. In Venezuela, by contrast, police might default to bypassing the legal system entirely through lethal violence expecting that prosecutors and courts will not work in unison to legalize their practices. We leave for further research understanding this divergence more deeply.

Second, democratic pressures can undermine legal protections when societies demand immediate results from criminal justice systems. Mexico's experience shows how public anxiety about crime and insecurity creates political incentives for law enforcement to prioritize convictions over constitutional safeguards and procedural integrity.

Third, procedural reforms without capacity building create incoherent reforms that enable abuse. Mexico's adversarial system introduced stricter evidentiary standards and judicial oversight, but failed to provide police and prosecutors with the investigative tools needed to meet these standards legitimately. This mismatch between institutional requirements and organizational capabilities created strong incentives for fabrication and manipulation.

The shift from confession-based to object-based evidence that we document statistically, combined with our ethnographic evidence of systematic planting of drugs and weapons, reveals how reforms can simply displace rather than eliminate abusive practices. When convictions increasingly rely on fabricated physical evidence rather than authentic investigation, the justice system fails in its fundamental task of distinguishing guilt from innocence with devastating consequences for the wrongfully convicted individuals and public notions of truth.

Our findings contribute to several scholarly debates. For the literature on democratization and rule of law, we demonstrate that formal institutional changes may be insufficient to transform deeply embedded abusive practices, particularly when underlying capacity constraints remain unaddressed. For scholarship on institutional reform, our work reveals how actors adapt strategically to new rules in ways that preserve their core interests while appearing to comply with new standards. For studies of criminal justice, we show how procedural protections can be hollowed out through systematic evidence manipulation that maintains the appearance of legality.

The Mexican experience offers sobering lessons for justice reform. Reform sequencing matters: introducing procedural constraints before building investigative capacity creates implementation gaps that invite abuse. Political incentives also matter: when public demands for security outcomes are ignored, state actors adapt strategically in ways that undermine reform.

The fabricated justice we document reflects a deeper crisis of state legitimacy: when institutions cannot deliver results lawfully, they generate perverse adaptations that hollow out the rule of law. For scholars and practitioners, this underscores the importance of studying not only police behavior in isolation but also the prosecutorial and judicial actors that translate coercion into legally palatable forms.

As other countries confront similar tensions between security demands and constitutional protections, Mexico's experience offers a cautionary lesson: without investments in state capacity, procedural reforms risk producing new modalities of abuse rather than eliminating old ones.

## CRediT authorship contribution statement

**Beatriz Magaloni:** Writing – review & editing, Writing – original draft, Visualization, Validation, Supervision, Software, Resources, Project administration, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization. **Esteban Salmón:** Conceptualization, Investigation, Writing – original draft, Writing – review & editing, Data curation.

## Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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## Appendix A. Supplementary data

Supplementary data to this article can be found online at <https://doi.org/10.1016/j.worlddev.2025.107222>.

## Data availability

Data will be made available on request.

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