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Center on Democracy, Development and the Rule of Law

**FABRICATED JUSTICE:
HOW DUE PROCESS REFORM
ENABLES EVIDENCE
MANIPULATION**

POLICY BRIEF

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EXECUTIVE SUMMARY

As societies grapple with insecurity and rising crime rates, governments often face the temptation to pursue rapid solutions that address public demands for justice, sacrificing long-term effectiveness, and basic compliance with the rule of law and democratic standards. Militarizing policing and implementing limited criminal justice reforms that are not properly backed by institutional capacity-building measures are two of the most observed of these responses. However, evidence from Mexico demonstrates that such approaches not only fail to deliver sustainable outcomes, but also exacerbate human rights abuses and distort justice systems.

The militarization of policing, a typical autocratic practice that survives in poor quality democracies even after transitions, introduces a wartime mentality, treats civilians as enemies, and undermines democratic principles. Furthermore, reforms without the parallel development of investigative and procedural capacity risk introducing extra-judicial fabrications of justice. Building on the findings by PovGov Director Beatriz **Magaloni & Rodriguez (2020)** and the recent paper “Fabricated Justice: How Due Process Reform Enables Evidence Manipulation” **Magaloni & Salmón (2026)**, this policy brief argues that sustainable capacity building, rather than militarization, is essential to achieving criminal justice systems that are geared to meet the public's legitimate demands for the provision of justice.

INTRODUCTION

High levels of crime and widespread perception of insecurity are some of the biggest threats to democratic stability and economic development in Latin America.¹ Victimization and perceived insecurity might decrease support for democracy and trust in government institutions, reduce social tolerance and trust among neighbors, and increase backing for authoritarian measures, such as coups d'état and militarization, as solutions to national issues.²

The problem is real. Latin America and the Caribbean stand out as the most violent region in the world.³ In 2023, the region's homicide rate of 18 per 100,000 inhabitants is three times the global average of 5.6, making it a stark outlier in terms of lethal violence.⁴ Alarming, half of all homicides in the Americas are linked to organized crime, compared to just 24% globally, highlighting the deep entrenchment of criminal networks in the region.⁵

The prevalence of crime significantly impacts daily life and public behavior. In 2022, thirty percent of households in Latin America reported experiencing a crime within the previous year, while 51% of the population did not feel safe, more than double the global average of 20%.⁶

¹Perez-Vincent, Santiago M., David Puebla, Nathalie Alvarado, Luis Fernando Mejía, Ximena Cadena, Sebastián Higuera, y José David Niño. (2024).

²Blanco, Luisa. (2011).

³Perez-Vincent, Santiago M., David Puebla, Nathalie Alvarado, Luis Fernando Mejía, Ximena Cadena, Sebastián Higuera, y José David Niño. (2024).

⁴UNODC. (2023).

⁵Inter-American Development Bank. (2024).

⁶Idem

These figures highlight the severe and pervasive threat that crime and violence pose to Latin America and the Caribbean, fueling widespread public frustration and a growing sense of urgency for decisive action. Faced with persistent violence and impunity, many are willing to accept more punitive measures and expanded state authority if it promises immediate and effective results.⁷

In response to public demands for safety, governments in the region have frequently turned to *mano dura* policies in the form of militarized strategies, deploying armed forces to support local police and adopting heavy-handed tactics to confront organized crime.⁸

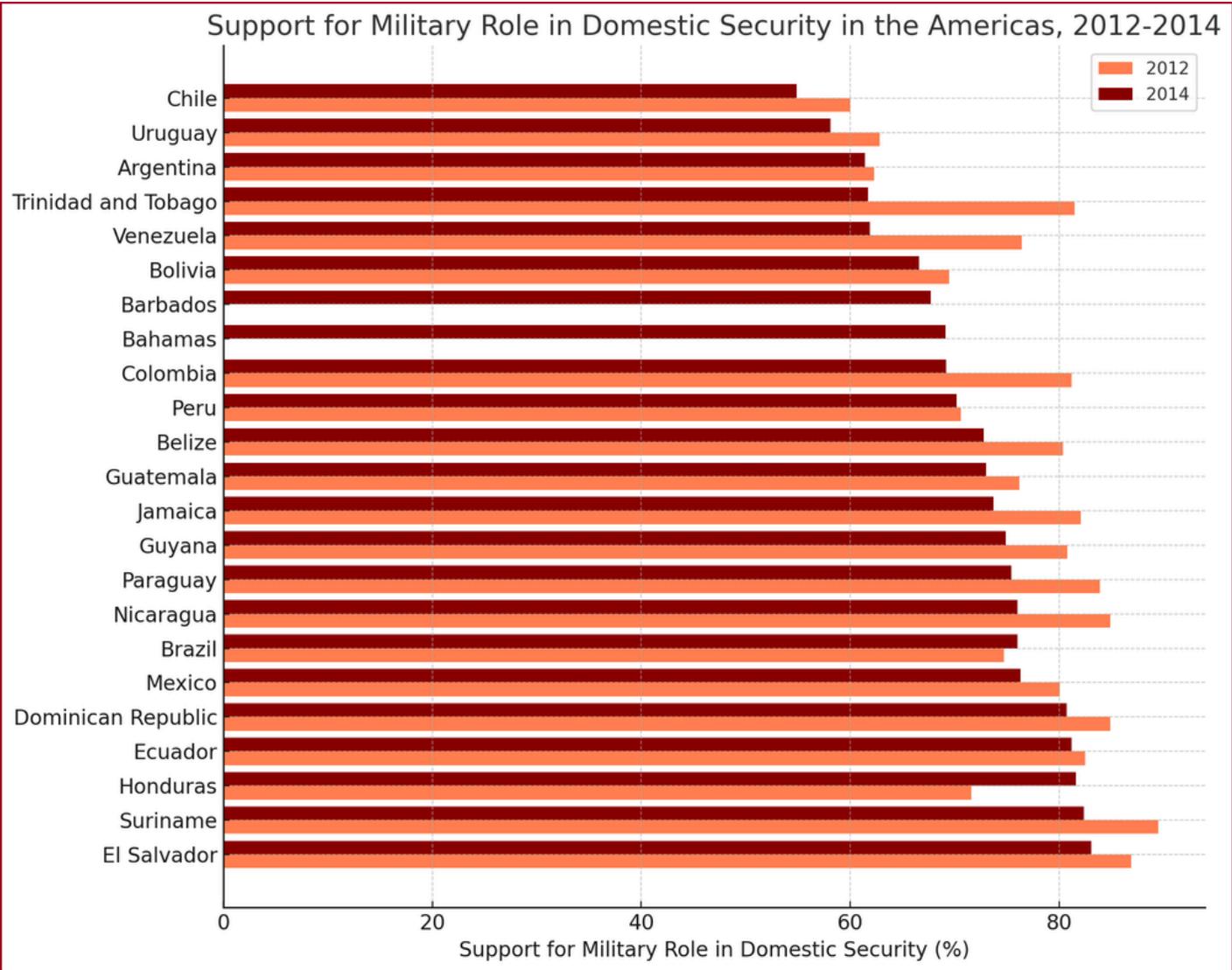
Public support for this type of intervention is astonishing. In 2014, 71.71% of Latin Americans supported militarization as a response to crime and 55.3% preferred a punitive approach to curve its steady increase.⁹ However, these measures, while seemingly expedient, have deepened systemic distortions and perpetuated human rights abuses, including torture, extrajudicial killings, and coerced confessions.

7 Singer, A. J., Chouhy, C., Lehmann, P. S., Stevens, J. N., & Gertz, M. (2020).

8 Cutrona, S., Dammert, L., and Rosen, J. (2025).

9 Zechmeister, E. J. (2014).

The figure below presents public support for the military’s involvement in domestic security across selected countries in the Americas for 2012 and 2014. Overall, support for militarization remains high throughout the region, with most countries showing only modest declines over the two-year period. This enduring public backing can create strong incentives for elected officials to expand the military’s role in internal security, as a way to signal responsiveness to citizen concerns—particularly around crime and insecurity.



LAPOP LAB. AMERICASBAROMETER 2014

Another strategy observed in the region to contain crime has been embarking on ambitious reforms to overhaul criminal justice systems. These reforms aim to replace inquisitorial legal frameworks, characterized by reliance on confessions and limited judicial oversight—with systems rooted in due process, judicial independence, and adversarial trials.

While these efforts represent a significant step forward, reforms have often failed to invest sufficiently in building the investigative and procedural capacities of police and prosecutors, leaving the criminal justice system ill-equipped to handle rising crime.

The core dilemma presented in this brief is the following: public demands for safety, combined with judicial reforms that limit the use of confessions but are not accompanied by investments in institutional capacity, can result in a shift toward other extra-judicial methods of evidence gathering—effectively circumventing the very legal safeguards those reforms were meant to establish.

Based on the findings of **Magaloni & Rodriguez (2020)** and the newest evidence provided in **Magaloni & Salmón (2026)**,¹⁰ this brief examines the evidence from Mexico, a critical case study, and offers recommendations to avoid the pitfalls of militarization and justice reform without strengthening institutional capacity.

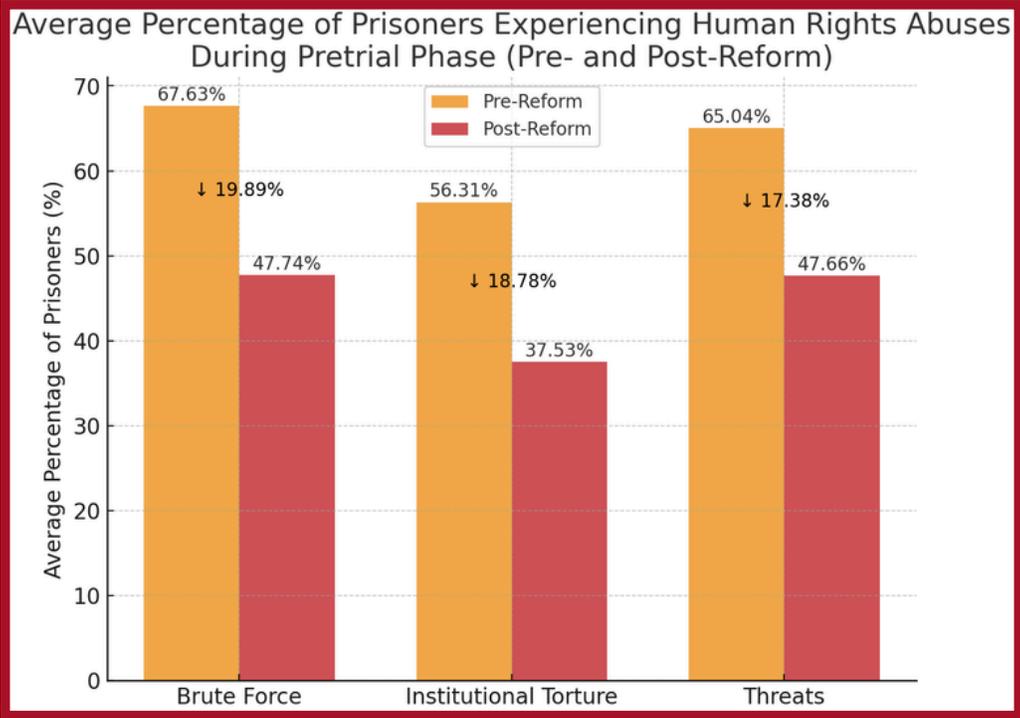
¹⁰ See our full video explainer on “Fabricated Justice” on YouTube: <https://www.youtube.com/watch?v=OCbJ4YogOuE&t=5s>

MILITARIZATION, FORCED CONFESSIONS, AND FABRICATED EVIDENCE: THE RESULTS OF INCOMPLETE REFORM

The challenges of reforming criminal justice systems in the region are starkly illustrated by Mexico's experience. For decades, the country's criminal justice system in practice relied on confessions, often obtained through torture, as the primary basis for convictions. This practice, deeply embedded in the colonial legacies of the inquisitorial tradition, not only violated human rights but also failed to deliver justice for victims.

As analyzed in **Magaloni & Rodriguez (2020)**, in 2008, Mexico initiated a landmark criminal justice reform to transition to an adversarial system. The reform introduced oral trials, enhanced procedural protections, and restricted the admissibility of confessions obtained without legal counsel. However, its implementation coincided with a dramatic escalation in violence due to the government's militarized approach to combating drug cartels. Joint operations between the military and police increased instances of institutionalized torture and brutality, particularly against individuals accused of organized crime. **Magaloni & Rodriguez (2020)** show that nearly 70% of detainees arrested in this period reported being tortured.

The authors provide causal evidence that the reform was successful in reducing certain human rights abuses during the pretrial phase. Specifically, it led to a 19.89% decrease in incidents of brute force, an 18.77% reduction in institutionalized torture, and a 17.37% drop in threats. However, it did not tackle the persistent inability of police and prosecutors to investigate crimes effectively and gather reliable evidence admissible in court.



MAGALONI AND RODRIGUEZ (2020)

In a newly published paper titled “Fabricated Justice”, **Magaloni & Salmón (2026)** provide causal evidence of how authorities shifted from extracting confessions through torture to fabricating evidence, such as planting drugs or weapons, to secure convictions. This reliance on fabricated evidence undermined the credibility of the justice system and perpetuated wrongful convictions, leaving actual perpetrators unpunished.

This shift was particularly evident in regions where crime investigations remained weak, highlighting how reforms that fail to address institutional capacity gaps can lead to alternative forms of injustice.

The experience of Mexico highlights the dangers of pursuing reforms without investing in capacity building. Police and prosecutors, under pressure to deliver results, default to coercive and unethical practices when lacking the tools and training to investigate crimes properly. Meanwhile, militarization exacerbates these issues by fostering a war mentality and eroding the distinction between policing and warfare.

RECOMMENDATIONS

To achieve meaningful and sustainable criminal justice reform, governments must prioritize capacity building and resist the allure of militarized solutions. Investments in training, infrastructure, and institutional oversight are essential to creating a system that is both effective and consistent with democratic principles. Reforms should focus on developing the following areas:



01 — Strengthening Investigative Capacity



02 — Enhancing Judicial Oversight



03 — Improving Police Recruitment and Training Processes

01. STRENGTHENING INVESTIGATIVE CAPACITY

Police forces must be equipped with the skills, tools, and resources needed to conduct thorough and impartial investigations. This includes forensic training, access to modern technology, and the development of protocols to ensure the integrity of evidence. Cases such as Chile's Investigation Police professionalization initiatives demonstrate how proper training and forensic investment can significantly improve investigative outcomes.

Historically, Chile's police force has enjoyed one of the strongest reputations in the region. This public trust has often been attributed to perceptions of fair treatment and respect for human rights. Despite increased scrutiny in recent years, particularly following widespread criticism of the police's handling of mass demonstrations, public trust in *Carabineros de Chile* and *Policía de Investigaciones de Chile (PDI)* remains high.¹¹

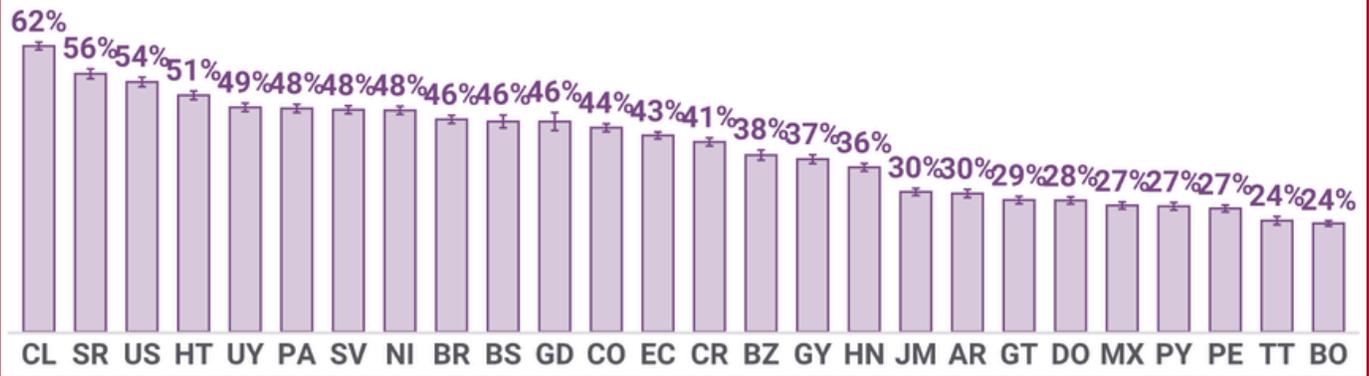
A shift toward professionalizing police forces can yield notable improvements in investigative practices. Developing forensic laboratories, implementing digital case management systems, and improved coordination between police and judicial authorities could lead to significant improvements of the justice system. As a result, case resolution rates have increased, and wrongful convictions due to fabricated evidence have decreased.

¹¹ Dammert, Lucía, Felipe Elorrieta, and Erik Alda. (2021).

Trust in National Police

■ % in selected category (range: 5 to 7)

— 95% confidence interval



LAPOP LAB, AMERICASBEROMETER DATA PLAYGROUND.

A dual-track approach is therefore urgently needed: combining robust forensic infrastructure — including accredited laboratories, digital case management systems, and standardized training programs — with consistent judicial oversight across all phases of the criminal process. Only by doing so can Latin American countries break cycles of impunity and abuse, and move toward a more effective, legitimate, and rights-respecting criminal justice system.

Programs like ICITAP (International Criminal Investigative Training Assistance Program), which focus on forensic accreditation, training, and improving the quality of evidence used in court, point to a possible path for enhancing investigative capacity in Latin America. Expanding similar initiatives across the region could help strengthen the ability of justice systems to process and prosecute complex cases, particularly those involving transnational crime.

02. ENHANCING JUDICIAL OVERSIGHT

Independent and empowered judges play a critical role in upholding due process and curbing abuses. Judicial capacity must be bolstered to ensure that courts can effectively monitor and sanction misconduct by law enforcement. Mexico's judicial reform, while imperfect, has shown the importance of strengthening the judiciary's ability to reject evidence obtained through coercion.¹²

Judicial oversight improves both the quality and efficiency of policing by shifting law enforcement focus away from low-impact, discretionary arrests and toward more serious, high-impact crimes. Evidence from Colombia's phased introduction of a new criminal procedure code—transferring arrest authorization from prosecutors to judges—shows that judicial oversight led to a 40–60% drop in overall arrests, with particularly sharp declines in minor offenses like vandalism and drug possession. Crucially, arrests for serious crimes like homicide did not decrease, and the proportion of arrests resulting in convictions increased.¹³

This suggests that oversight helps police departments prioritize actions that are more likely to reduce crime and uphold legal standards, without triggering police backlash or a spike in violence. Judicial oversight, therefore, enhances the legitimacy and productivity of policing by discouraging unnecessary or abusive practices and reinforcing due process.

¹² Magaloni, Beatriz & Rodriguez, Luis. (2020).

¹³ Kronick, D., Idrobo, Nicolás., Slough, Tara. (2024).

CASE: COLOMBIA'S REFORM



DIRECCIÓN DE INVESTIGACIÓN CRIMINAL E INTERPOL (CIJIN), COLOMBIA NATIONAL POLICE. PHOTO CREDIT: CAMILA DIAZ

Recent evidence from Colombia demonstrates that procedural reforms incorporating judicial scrutiny —such as requiring judges rather than prosecutors to authorize arrests and evaluate evidence— have significantly improved the quality of law enforcement actions. In Colombia, the staged implementation of judicial oversight between 2005 and 2008 led to a sharp reduction in arrests for minor offenses (up to 90% for vandalism) without affecting arrest rates for serious crimes like homicide or causing a backlash from police.¹⁴ This shows that well-designed reforms can reduce abuse while maintaining security outcomes.

¹⁴ Kronick, D., Idrobo, Nicolás., Slough, Tara. (2024).

In the early 2000s, Colombia was emerging from a period of severe internal conflict and institutional fragility. Although its National Police force had undergone significant professionalization since the mid-1990s — including efforts to reduce corruption and improve training — it still carried the legacy of a militarized and often discretionary approach to law enforcement.

In 2004, the Colombian Congress enacted Ley 906, a sweeping reform of the criminal procedure code. Crucially, the reform transferred key arrest oversight powers from prosecutors to judges, thereby imposing judicial scrutiny on both warrant and warrantless arrests.

Outcomes: Fewer but Better Arrests

The reform had an immediate and profound impact on policing behavior:

- Sharp Decline in Arrests: Overall arrest rates fell by approximately 40–60% within months of the code’s implementation. The largest declines were in low-severity discretionary arrests, such as those for vandalism (down 90%) and minor drug offenses (down 60%). In contrast, homicide arrests remained stable, suggesting that police selectively reduced lower-value enforcement rather than withdrawing from crime control altogether.
- Improved Arrest Quality: The reform led to a measurable increase in arrest quality, as proxied by the nature and mode of arrests. The share of arrests with warrants increased, reflecting greater pre-arrest investigation and legal substantiation.¹⁵

Furthermore, arrests were increasingly focused on higher-severity crimes, indicated by a positive correlation between minimum sentence length and likelihood of arrest post-reform. Conviction-to-arrest ratios also improved under the new code for serious crimes, particularly in drug and homicide cases, suggesting better case preparation and legal validity.

Crime Impact and Institutional Considerations

Fears that enhanced oversight would lead to a rise in crime or police disengagement were not substantiated by the evidence. Homicide rates — measured using both police and vital statistics — showed no significant increase following the reform.

Victimization surveys and vehicle theft data offered only imprecise or suggestive results, with no conclusive indication of a broader crime wave.

Colombia's reform demonstrates that judicial oversight can be a powerful tool for recalibrating police behavior. By increasing the procedural cost of low-quality arrests, the system encouraged officers to prioritize enforcement actions likely to lead to convictions and greater public safety impact.

03. IMPROVING POLICE RECRUITMENT AND TRAINING PROCESSES

Reforming recruitment standards to prioritize education, ethics, and community engagement is crucial. Countries like Uruguay and Costa Rica have implemented higher educational requirements and professionalized police training, leading to lower corruption rates and higher citizen trust.

Costa Rica's police academies emphasize human rights training, conflict resolution skills, and community-oriented policing. New recruits undergo rigorous screening processes to ensure that they align with democratic policing values. This approach has contributed to the country's stable security environment and high levels of public trust in law enforcement.

Similarly, Uruguay reformed its police recruitment process by introducing psychological evaluations, ethics assessments, and mandatory field training. These measures ensured that new officers were well-prepared for the challenges of modern policing and capable of upholding the rule of law.

The success of these initiatives highlights the need for comprehensive recruitment and training reforms to build professional and ethical police forces.

In Rajasthan, India, a randomized control trial testing various police reforms found that even modest performance-based incentives could significantly improve police behavior.¹⁶ One of the most effective interventions involved sending “decoy” complainants to police stations — an incentive scheme that created the perception of external monitoring. This approach led to a higher likelihood of case registration and increased politeness from officers during interactions, both critical for protecting citizen rights and improving trust in the justice system. Additionally, training programs focused on “soft skills” such as respectful communication and procedural justice also improved police conduct and victim satisfaction. These findings highlight that when performance incentives are tied to professional, rights-respecting outcomes, they can meaningfully improve frontline policing in low-capacity environments.

In Uruguay, police training played a central role in transforming the institution into one of the most trusted in Latin America. Starting in the early 2000s, reforms shifted the police force away from a militarized, hierarchical model toward one rooted in community-oriented values. Central to this shift was the establishment of a new training academy and a revised curriculum that emphasized human rights, democratic policing, conflict resolution, and service to the public. This professionalization effort, combined with better salaries and career incentives, helped foster a culture of legality and accountability.¹⁷ As a result, Uruguayan police officers developed stronger ties with communities, exercised greater restraint in the use of force, and gained widespread public legitimacy—demonstrating that values-based training, when institutionalized, can significantly improve police behavior.

¹⁶ Banerjee, Abhijit, Raghavendra Chattopadhyay, Esther Duflo, Daniel Keniston and Nina Singh. (2021).

¹⁷ Mary Fran T. Malone, Lucía Dammert, and Orlando J. Pérez. (2023)

CONCLUSIONS

The lessons extracted by **Magaloni & Rodriguez (2020)** and **Magaloni & Salmón (2026)** from the Mexican case underscore the dangers of militarization as a tool to address increases in violence or crime and the importance of capacity building in criminal justice reform.

The evidence is clear: when governments respond to insecurity with militarization or incomplete reforms, they do not solve the problem but just kick the can down the road. Restricting abusive practices without building investigative capacity only helps to shift from torture to the systematic fabrication of evidence.

This dynamic reveals that there are no shortcuts to effective justice systems. Policies that prioritize speed over capacity may produce short-term political gains, but they ultimately undermine legitimacy and distort incentives within law enforcement.

Building better institutions is much more than enacting a new law. Sustainable security depends on the ability of the state to investigate, process, and adjudicate cases within a framework that is both effective and consistent with democratic principles. Without this foundation, any reform risks reinforcing the very problems it seeks to address or create worse ones.

Governments must invest in the slow, complex work of building institutional capacity which includes professionalizing police forces, strengthening judicial oversight, and improving investigative systems. Only then can countries break cycles of impunity and abuse, and move toward a justice system that delivers both security and legitimacy.

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