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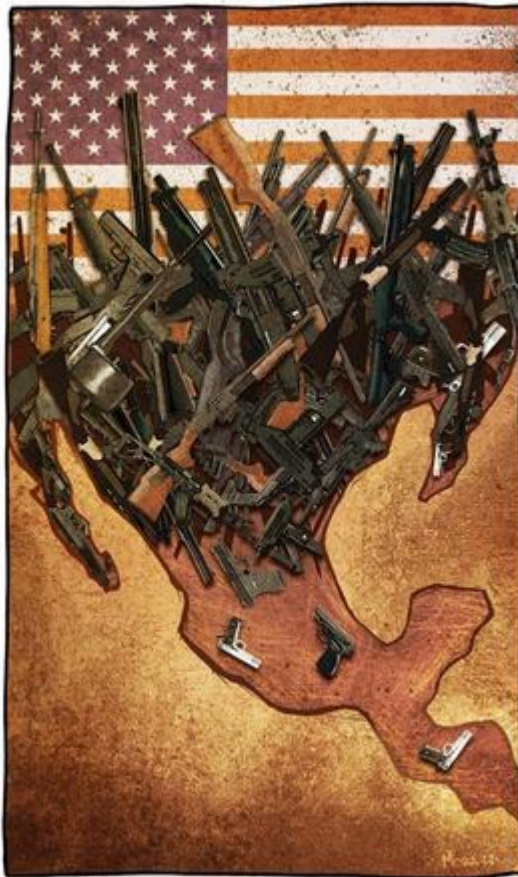
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Ryan Devereaux
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Silver and Lead: Mexico's Historic Lawsuit Against U.S. Arms Companies

To reduce the military presence on the streets, he argued, "criminal gangs and their firepower have to decrease."



Alejandro Celorio Alcántara was not surprised when the answers finally arrived. As senior legal adviser to Mexico's Foreign Ministry, Celorio led a team of lawyers who last

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August filed a landmark lawsuit accusing some of America's best-known arms companies of lethal negligence on a massive scale. Aiming to secure [\\$10 billion](#) in damages for a decade and a half of shootings and murders, this unprecedented litigation was intended to succeed where victims of gun violence north of the border are almost guaranteed failure, so a Federal Court in Massachusetts was asked to hold ten U.S.-based companies accountable for the impact of their products abroad.



Smith & Wesson Corp. handguns are on display at the company's booth during the National Rifle Association's (NRA) annual membership meeting in Indianapolis, Indiana, on April 27, 2019. (Photo: Daniel Acker/Bloomberg/Getty Images)

Returning from lunch on November 22, the date of the defendants' response deadline, the Mexican lawyer-diplomat found that the companies had done exactly what was expected, arguing that a 2005 law that the National Rifle Association (NRA) considers one of its greatest legislative achievements, which grants "broad immunity" to gun companies in gun violence trials, is not limited by borders. It extends everywhere, they argued, including Mexico. The companies' message, according to Celorio's reading, was simple: "We don't care what we do. We don't care that others don't like how we do it. We're going to continue to do that."

The "veil of impunity," as Celorio defined it, was to be expected. What did catch his attention, however, was the possible leak of the policy in what Mexico insists is an apolitical legal challenge. The manufacturers, holdings and distributors charged in the [139-page lawsuit](#) filed by Mexico include Smith & Wesson, Barrett Firearms Manufacturing, Beretta U.S.A., Beretta Holding, Century International Arms, Colt's Manufacturing Company, Glock, Glock GES. M.B.H., Strum, Ruger & Co., Witmer

Public Safety Group and Interstate Arms. In a joint filing urging the court to dismiss the lawsuit, the firms representing the companies — including one of the world's largest law firms, Jones Day, which [represented President Donald Trump](#) in his efforts to overturn the 2020 election — argue that "at its heart, this case involves a clash of national values."

"The reading we make is that they're going to try to politicize this," Celorio told *The Intercept*. "They are already increasing the political cost of the judge ruling in favor of Mexico. They're telling him, 'You're an American. If you let this litigation pass, you don't hold American values in your heart.'"

The story of Mexico's lawsuit against U.S. arms companies, which has been going on for more than two years, unfolds on several levels at once. The litigation itself tests whether the legal protections envisioned in the Legal Arms Trade Protection Act (PLCAA) that President Joe Biden [urged Congress to](#) repeal in its national strategy to prevent gun violence earlier this year extend to foreign countries. If the challenge were successful, it would be a historic blow to U.S. arms manufacturers. With limited exceptions, the PLCAA has provided a near-impermeable shield to the U.S.-based small arms industry. For gun companies, the law represents a vital bulwark against lawsuits that can wipe out the industry. For gun control advocates, who point to cases like the victims of the Aurora Theater massacre in Colorado, who were sentenced to pay [\\$203,000](#) to an ammunition dealer after losing a trial on PLCAA grounds, it is the epitome of a deeply American brand of impunity for arms companies.



A girl joins gun reform advocates holding a press conference outside the U.S. Capitol in Washington, D.C., April 14, 2016. (Photo: Win McNamee/Getty Images) Photo: Win McNamee/Getty Images)

The legal fight also has as its backdrop a dramatic historical moment in the security relationship between the United States and Mexico. The year before and the year after the approval of the PLCAA two key events took place. First, in 2004, Congress allowed the federal ban on assault weapons in the United States to expire. Second, in 2006, the Mexican government announced the deployment of the army to the streets in a "war" against drug trafficking. The Bush administration supported the campaign with a billion-dollar security aid package known as the Merida Initiative, ushering in an era of [unprecedented binational collaboration](#) on the most violent front of the drug war.

With the changes in the law in the north and the declaration of war in the south, the flow of military-grade weaponry entering Mexico, legally and illegally, became an iron river. In the last decade and a half, Mexico has gone through its worst period of violence since its revolution more than a century ago, with more than 400,000 people killed, and paramilitary-type criminal groups that have built arsenals of U.S.-origin weapons capable of inflicting significant damage on government forces. Each year, according to Mexico's complaint, an estimated 500,000 U.S.-made firearms are illegally trafficked across the border into a country with only one legal, military-owned and operated armory, and with some of the strictest gun laws in the Western Hemisphere.

"We have at least 10 million guns in Mexico that shouldn't be here because we don't sell them," Celorio said. Criminal organizations, he added, "have a certain degree of impunity, not because Mexico doesn't want to go after them, but because of their firepower."

Mexican President Andres Manuel Lopez Obrador, popularly known as AMLO, came to office in 2018 promising to undo the militarization of his predecessors. He declared an end to the war on drugs, replacing it with "hugs, not bullets," a set of social initiatives aimed at moving young people away from crime and reducing the military presence on the streets. With violence still at record levels, some critics of Lopez Obrador say the president is naively ignoring a threat to public security that has metastasized, and that he is needlessly abandoning the gains made through years of joint security initiatives; while others point to the fact that the military's role in public security operations has expanded under the current administration, particularly in the realm of immigration enforcement. The tenuous

binational relationship came to a head in 2020, when U.S. authorities arrested, and [subsequently released](#), Salvador Cienfuegos, a former head of the Mexican military, on drug trafficking charges. In response, an outraged Lopez Obrador [passed a law](#) limiting the U.S. Drug Enforcement Administration's operations in Mexico. Last month, after Mexican Foreign Secretary Marcelo Ebrard announced that the Merida Initiative was "[dead](#)," senior Biden administration officials — including the heads of the Justice, State and Homeland Security departments — [met](#) with their Mexican counterparts to work out a new bilateral security framework.

"Both sides are tailoring their messages to what they want to push and the message they want to project for their own audience," Stephanie Brewer, director of Mexico and Migrants' Rights at the Washington Office on Latin America, told *The Intercept*. The Biden administration, Brewer argues, overwhelmingly addresses the binational relationship through the prism of stopping northward migration. "This is the biggest challenge facing U.S.-Mexico security cooperation and relations in general right now: the disproportionate weight, and also the very counterproductive form and direction, of U.S. immigration policies and, specifically, border policies."

By focusing so much energy on migration, Brewer argues that progress has been resented on other key issues in the binational relationship, such as the steady flow of arms southward. Although the new "[Bicentennial Framework for Safety, Public Health and Safe Communities](#)" between the two countries touches on the issue of arms trafficking, Brewer said "there is no revolutionary change in approach." Given the enormous power of the gun lobby in the United States and the protections the law affords to arms companies, Brewer doubts that the Mexican government's legal challenge will not provoke an official change either. "The lawsuit against guns is a very powerful action and I think really relevant," he said. "But its ultimate impact could be symbolic rather than legal."



Marcelo Ebrard Casaubón, Secretary of Foreign Affairs of Mexico, during a meeting with the press in the East Lobby of the Conference Building of the United Nations Headquarters in New York, June 20, 2019. (Photo: Albin Lohr-Jones/Pacific Press/LightRocket/Getty Images)

Mexico's lawsuit is careful to make clear that its targets are private entities engaged in allegedly negligent business practices, not the U.S. government or the legitimacy of the Second Amendment. "It's a case of civil liability law," Celorio said. However, it's no secret that the litigation is one piece in a broader effort to rethink the country's relationship with Washington on violence and security. On November 22, the same day that the arms companies submitted their responses, Ebrard [appeared](#) before the UN Security Council to present a proposal for an international strategy to combat the trafficking of small arms. The chancellor explicitly linked the proposal to the lawsuit.

"The Mexican government would never try, or try, or give a signal that we want a change in U.S. domestic law. "But we are dying. We can't wait until that happens. That is why we are resorting to other actions."

From El Paso to Black Thursday

The genesis of Mexico's lawsuit came on Aug. 3, 2019, when a gunman walked into a Walmart occupied by back-to-school shoppers in El Paso, Texas, killing 23 people and injuring 23 others.

Eight of the victims were Mexican nationals. Many of the others were Mexican-Americans. The youngest victim was two years old. The oldest was eighty-two years old.

Since the early twentieth century, when vigilantes and border law enforcement officers lynched and murdered them by the [hundreds](#), people of Mexican descent in the Texas borderlands had not suffered such a bloody and targeted terrorist attack. Authorities said the alleged shooter, Patrick Wood Crusius, 21, bought his GP WASR-10 semi-automatic rifle and 1,000 rounds of ammunition online, and then drove all night from his home in Allen, Texas, with an explicit plan to murder Mexicans and repel the "Hispanic invasion of Texas."

Facing 90 federal charges, including 45 for hate crimes, Crusius pleaded not guilty in the case. The trial date [has not been set](#).

Celorio was in Mexico City when the news broke, after returning from a five-year mission at the Mexican embassy in Washington, D.C., where he was head of the Hispanic and Immigration Affairs section. Within AMLO's government, career officials worried that El Paso could be the beginning of something even worse. "August 2019 reminds us of where we were in terms of white supremacy and white nationalism," Celorio said. "We were thinking there were going to be imitators because he basically called on others to take their own weapons and stop the invasion."

Ebrard tasked Celorio with finding a way to hold the gunman accountable and prevent further bloodshed. He encouraged his legal adviser to be "inventive," in Celorio's words, and "brave." Celorio traveled to El Paso and spent days meeting with prosecutors, reviewing video of the killings and talking to survivors. He contacted Jonathan Lowy, chief counsel and vice president of legal affairs at Brady Legal, the litigation arm of the Brady Campaign, the nation's largest gun control organization. Celorio also spoke with Steve Shadowen, a Texas-based civil rights attorney whom he had met through litigation involving Border Patrol agents who fatally shot Mexicans at the border. Both Lowy and Shadowen are now co-advisors in the lawsuit against U.S. arms companies.

Together, the lawyers discussed what Mexico hoped to address in El Paso. For Celorio, part of the motivation lay in "the fact that someone inspired by white nationalism" could so easily acquire the means to make his murderous fantasies come true. Early ideas for a legal response included suing Crusius, Walmart or the city of El Paso. The problem, Celorio explained, was legal capacity. "The government of Mexico was not there," he said. "You can sue on behalf of all Mexicans, but it's difficult."

Two and a half months after the El Paso attack, events in the Mexican state of Sinaloa prompted the government to broaden its focus on the issue of weapons.

On October 17, 2019, Mexican security forces, apparently operating under [heavy pressure from the Trump administration](#), arrested Ovidio Guzman Lopez, son of famed Joaquin "El Chapo" Loera Guzman, in Culiacan, the capital of Sinaloa, for extradition to the United States on drug trafficking charges.

What happened next [would go](#) down in local memory as "Black [Thursday](#)". Hundreds of gunmen, some of them lured by social media appeals to paid volunteers and then equipped with weapons, mobilized a blinding counteroffensive. They entered the capital in armored vehicles with .50-caliber machine guns. They cut off entry and exit points from the city, organized a successful jailbreak, burned vehicles and houses, and then surrounded a housing complex for the families of Mexican soldiers, taking hostage the wives and children inside as they demanded Guzman's release. [Videos of the siege](#) showed parents hiding behind cars with their young children as gunfire rang out, and civilians evacuated businesses and took refuge in restaurant kitchens. Several weapons made by the companies that would become defendants in the Mexico firearms possession trial [were spotted](#) at the scene, including Colt's AR-15 platforms, Beretta and Glock pistols, and Barrett's M82 series anti-material sniper rifle, a gigantic weapon designed to disable and destroy long-range battlefield equipment. At the end of the day, the Mexican military announced that it was ending operations in the city, and Guzman was free. Fourteen people had died. The citizens of Culiacán had to [pick up the pieces](#) after the traumatic experience.



This AFPTV screenshot shows gunmen in four-by-four pickup trucks fighting an intense battle against Mexican security forces in the city of Culiacan, capital of Sinaloa state, home of jailed drug lord Joaquin "El Chapo" Guzman, Oct. 17, 2019 (STR/AFP photo via Getty Images)

The binational implications of Black Thursday were stark: A criminal network whose financial power comes from U.S. clients used U.S.-made weapons to terrorize a state capital and thwart a U.S.-based extradition effort. Soon there were other events that set the tone. Less than three weeks later, on November 4, 2019, a three-vehicle convoy [was ambushed](#) on a desert highway in the Mexican state of Sonora. The attackers disabled the vehicles with a deluge of gunfire and then set them on fire. The victims who died, three women and six children, were members of a Mormon community that has lived in the area for years. All of them had dual U.S. and Mexican citizenship, which turned the massacre into a kind of grim reversal of the El Paso attack, with Americans gunned down now on Mexican soil. Eight months later, the spectacle of extraordinary violence landed at the very door of the country's most powerful officials. At dawn on June 26, 2020, some 50 gunmen carrying assault rifles, .50-caliber sniper rifles and grenade launchers attacked Mexico City Police Chief [Omar Garcia Harfuch](#) as he drove through the capital. Harfuch's vehicle was shot more than 400 times. His two bodyguards died. Harfuch was shot three times, but survived.

Taken together, the events in Sinaloa, Sonora, and Mexico City made Celorio and his colleagues realize something: The phenomenon Mexico hoped to address was greater than El Paso. "The common factor in all of them was firepower," he said. What happened in Texas reflected what Mexico has lived through for years, with the key difference that in Mexico the weapons that fuel violence are the illegal product of a massive and illicit cross-border trade.



Handling Barrett Firearms Manufacturing .50-caliber sniper rifles on the show floor during the National Rifle Association's (NRA) annual meeting in Louisville, Kentucky, on May 20, 2016. (Photo: Luke Sharrett/Bloomberg/Getty Images)

Blind on purpose

With Ebrard's support, Celorio began to coordinate a legal strategy that would attack the flow at its source. His team investigated the contours of Mexico's gun violence and illicit arms trade. They found that between 70% and 90% of all guns recovered at crime scenes in the country are American-made, with firearms produced by six manufacturers — Smith & Wesson, Beretta, Century Arms, Colt, Glock and Ruger — appearing most frequently. While previous government estimates put the number of illegally trafficked firearms in Mexico annually at around 200,000, the complaint Mexico filed in August alleged that, each year, "between 342,000 and 597,000" of the companies' weapons are trafficked in the country.

The legal team looked at what drug war trackers have long known, that in an illicit industry that generates about \$250 million annually, Barrett's powerful .50-caliber sniper rifles stand out as a tactical asset and status symbol. In 2016, the government said, gunmen in Michoacan state used a Barrett to shoot down a helicopter of the state attorney general, killing the pilot and three officers on board. "Barrett knows that its distributors sell these military weapons to traffickers, often wholesale, to arm cartels that use them to combat the Mexican military and police trying to stop the drug trade," the government alleged.

According to the complaint, Mexican soldiers recovered 227 .50-caliber rifles from the company between 2010 and 2018.

However, Barrett was not alone in appealing to organized crime. With its patent on the hugely popular AR-15, Colt's guns appeared at more crime scenes than those of any other manufacturer, Mexico told the court, with more than 2,000 guns recovered between 2006 and 2018. "Colt doesn't even try to hide his complicity with the criminal market in Mexico," the government complained, pointing to three .38-caliber handguns — "el Jefe," "el Grito" and the "Emiliano Zapata 1911" — as explicitly marketed to Mexican buyers. A Zapata pistol, named after the Mexican revolutionary and inscribed with the phrase "It's better to die standing than to live on your knees," was used to assassinate Mexican investigative journalist Miroslava Breach Velducea in 2017, adding another name to the grim account that makes Mexico the most dangerous country in the world for journalists.

Mexico has made its case for historic damages, detailing how the expiration of the assault weapons ban in 2004 in the U.S. altered life for the worse. Before that expiration, from 1999 to 2004, murders in the country were on the decline, according to the lawsuit. Once the ban expired, the defendants increased their production and distribution of military-grade weapons. "Arms traffickers in the border state now sell twice as many weapons as traffickers in other areas of the country," the complaint says. According to the government, in the years immediately following the expiration, illegal gun ownership *per capita* in Mexico increased tenfold and the homicide rate increased by 45%: "No other nation, apart from Mexico, experienced a similar increase in homicides during this period." In 2003, there were fewer than 2,500 homicides committed with a weapon in Mexico. In 2019 there were more than 23,000.

"The magnitude of these deaths is so broad that, starting in 2005, it significantly affected the life expectancy of all Mexicans," the government said, noting that while life expectancy in the country increased by approximately six months from 2000 to 2005, "it decreased by about the same amount from 2005 to 2010." Currently, Mexico is the third country with the most gun-related deaths in the world, and although the country has less than half the U.S. population, a Mexican is more likely to be killed with a U.S.-made gun than a U.S. citizen. Murder is the leading cause of death among Mexican teens and young adults, according to the complaint, and last year more than 40% of Mexicans under the age of 18 reported seeing or hearing gunshots frequently in their daily lives. Citing the Institute for Economics and Peace, an international think tank, the government said the

financial impact of the violence, in 2019 alone, was \$238 billion, more than 20% of Mexico's GDP.

At the center of Mexico's lawsuit is the argument that gun companies could make any number of changes to their business practices to help curb violence — examples the government cited include "limiting multiple gun sales," "mandatory background checks for secondary gun sales." "curbs on straw buyers" (individuals who are paid to buy guns for a third buyer) and "restrictions on sales of assault weapons" – but who, for the sake of making money, deliberately chose not to. As part of its legal challenge, Mexico is seeking internal records detailing what steps gun manufacturers are currently taking to limit the flow of their products into criminal hands. If successful, the release of such information could offer a rare window into the gun industry's mechanisms for tracking products appearing at crime scenes; Thanks to the 2003 Tiahrt Amendment, another achievement of NRA lobbyists, those records have been protected from public review for nearly two decades.

As for the PLCAA, Mexico argues that the law is not a problem in the case. The Supreme Court "has repeatedly held that when conduct in one nation causes harm in another, the 'default rule for liability cases' is that 'the local law of the state where the harm occurred determines the rights and responsibilities of the parties,'" the government alleged in its lawsuit. When "U.S.-based companies cause harm abroad to foreign sovereigns, the U.S. Constitution and statutes allow those sovereigns to sue for 'violations of their own laws and invoke federal diversity jurisdiction as a basis for proceeding in U.S. courts.'" In other words, that since the damages occurred in Mexico, Mexican law applies. Mexico argued that the PLCAA is further irrelevant by the fact that the legislation was clearly passed to address the alleged damage on U.S. soil: "All aspects of the PLCAA confirm that the U.S. Congress enacted that law with U.S. domestic interests in mind."

While the U.S. is free to chart its own path to balance "the financial interests of the gun industry and the rights of victims within its jurisdiction," the Mexican government argued, Mexico has the right to do the same: "Just as defendants cannot dump toxic waste or other contaminants to poison Mexicans across the border, nor can they send their weapons of war into the hands of the cartels, causing repeated and serious damage, and then claim immunity from liability." It is not acceptable for companies "to live on another planet where they are sheltered from the news of their corrupt traffickers, the trafficking of their weapons to Mexico and the devastating damage suffered by the government and its

people," the complaint said. "They simply choose to act as if they are blind — willingly blind — to those facts."

By increasing production of military-style assault weapons and high-capacity magazines, marketing them to criminals, and using distribution networks known to power their armories, arms manufacturers have made a deliberate choice to "maintain their supply chain to the cartels," Mexico argued. The companies "have rejected calls for reforms because, from the perspective of their results, their distribution systems are a great success," the government alleged. "Their supply of weapons to the criminal market in Mexico is a feature, not a mistake."



A banner with "Ban assault weapons now!" is displayed near a voter registration table in a protest against President Trump's visit, following a mass shooting that left at least 22 people dead in El Paso, Texas, on Aug. 7, 2019. (Photo: Mario Tama/Getty Images)

Pandora's Box

A month after Mexico filed the lawsuit, Steve Shadowen, the Texas co-founder, was confident. "This case is rock solid," Shadowen told *The Intercept* in September.

While outside legal analysts have described Mexico's lawsuit as a remote possibility, Shadowen, an expert in liability law, believes the defendants are wrong in the scope of the PLCAA. "Yes, the United States has a statute, okay, but Mexico doesn't. Instead, you have the right to civil liability," he said. "We are going to show that Mexico's civil liability law

says that Mexico should be able to recover here. This statute of the PLCAA is, in general, atypical in the world and certainly does not reflect the social policy or law of Mexico."

The veteran lawyer predicted that his team would have to "fight thoroughly with the defendants" over the legislation. The 58-page joint motion to dismiss that the gun companies filed last month indicates he was right.

"Unable to control cartel violence within its own borders," Mexico is trying to shift blame, the companies argued. "The Mexican government wants the firearms, all the firearms, to leave Mexico," they said. "Taking the necessary steps – to begin with, improving border security, rooting out corruption and adequately funding the police and military – would require time, resources and the political will to take responsibility for a massive social problem." Instead of taking responsibility, Mexico is trying to circumvent an ongoing diplomatic dispute by appealing to the courts, the companies said. "In trying to bankrupt American gun manufacturers, this tactic not only threatens U.S. constitutional freedoms, but also the careful balance of firearms regulations established by Congress and state legislatures," they argued. "This Court doesn't need to go with the flow."

To prove its case, Mexico relied on an "attenuated chain" of events, the companies said, ranging from production by gun manufacturers, to wholesalers, to individual gun stores, to straw buyers, to cartels, to violence on the streets, to damage suffered by the government. The defendants argued that the Mexican government did not and could not prove all of those steps, but that, even if it could, the defendants would still be protected from liability. "In 2005 Congress enacted the Protection of the Legal Arms Trade Act to prohibit precisely the type of claims raised in this case," they said. And even if companies knew that some weapons were going to be sold to dealers who in turn would sell them to criminals, they would still be protected: "After all, car companies know that their cars will be used for reckless driving, knife companies know that their knives will be used to hurt other people, and beer companies know that minors drink, but none of this knowledge makes those companies liable for the resulting damages."

Mexico's "true hope," the companies alleged, "appears to be convincing the Court that the PLCAA does not apply at all to protect U.S. firearms companies against foreign plaintiffs." The claim has "no merit," they said: "By its clear terms, the PLCAA applies to all claims brought in U.S. courts against U.S. defendants for conduct in this country, regardless of where the alleged damages occurred." If Mexico prevails, the companies

argue, it would open the Pandora's box of legal challenges, opening a "huge hole" in the protections for which the PLCAA was designed.

“La historia de la ley de armas de fuego en los Estados Unidos es una historia de legislación y regulación continuamente calibrada para proteger los derechos constitucionales de los estadounidenses y al mismo tiempo proteger a la gente de un producto potencialmente peligroso; el Tribunal no debe permitir que esa evolución gradual sea puesta al revés por una demanda presentada por una potencia extranjera”, dijeron. “En virtud de los principios fundamentales del derecho internacional, una nación extranjera no puede utilizar su propia ley para traspasar las fronteras e imponer una responsabilidad basada en una conducta en otro país que era legal cuando se produjo allí. Al tratar de hacerlo, México está tratando de imponer sus propias políticas de control de armas a las empresas de armas de fuego de EE.UU., haciendo caso omiso de las decisiones tomadas por las legislaturas nacionales e integradas en las constituciones federales y de muchos estados”.



Wayne LaPierre, executive director of the National Rifle Association (NRA), left, speaks during the NRA's annual membership meeting in Indianapolis, Indiana, April 27, 2019. (Photo: Daniel Acker/Bloomberg/Getty Images)

Political animals

The immunity of the arms company Mexico is grappling with can be traced back to a man with deep ties to the border. Born in 1913 and raised in Laredo, Texas, Harlon Carter

followed his father in the U.S. Border Patrol, becoming chief and overseeing "Operation Wetback," one of the largest deportation operations in U.S. history. A lifelong gunslinger, Carter joined the NRA's board of directors in 1951. At that time, the NRA's primary mission was to train shooters and support hunting and shooting. Carter would change all that.

In 1965 Carter was named president of the NRA. Ten years later, after landing a lifetime seat on the organization's executive board, he became the NRA's top lobbyist. By then, there had been a contentious split between members who supported the group's original mission and those who believed it should focus on unlimited access to weapons and opposition to militant control of them. Carter was an ardent supporter of the latter. "We can win with a simple concept," he wrote in a letter to NRA management. "No compromise. No gun legislation."

In 1977 Carter and his supporters launched their move by taking control of the NRA at a dramatic annual meeting in Ohio. The militancy of the former head of the Border Patrol became the spirit of the NRA. It wasn't until 1981 that his personal relationship with firearms was fully illuminated when the *New York Times* reported that the NRA pioneer had been convicted of the murder of a Mexican boy 50 years earlier. The victim was Ramon Casiano, 15. In 1931 a 17-year-old Carter confronted Casiano and his friends as he was riding with a shotgun. Carter's mother suspected the boys might have information about the theft of the family's car. Carter ordered them to accompany him for questioning. The boys refused. Cassian took out a razor. Carter asked Casiano if he thought he wouldn't shoot. Casiano said he wasn't going to do it. But Carter pulled the trigger. Although he claimed self-defense, Carter was convicted of murder and sentenced to three years. The case was overturned two years later, after a court ruled that the jury had received inadequate instructions.

Carter died in 1991, but his legacy endured. That same year, Wayne LaPierre took over as executive vice president of the NRA. LaPierre was firmly in Carter's camp during the NRA's leadership coup in 1977 and later took on his former job as head of the organization's lobbyists. Two days after Carter's passing, LaPierre praised his predecessor as "our fiercest champion and warrior." The PLCAA was arguably LaPierre's greatest tribute to Carter's legacy, a landmark piece of legislation fruited by years of intense lobbying. LaPierre, then the NRA's executive director, told the *New York Times* it was the gun lobby's most important victory in nearly 50 years.

In the mid-2000s, with the rise of violence in Mexico, LaPierre developed a shocking phrase to deflect criticism that U.S. gun policy might have some bearing on violence, especially when those criticisms suggested reinstating the assault weapons ban: "Our rights are not what's wrong."

Arturo Sarukhán was then Mexico's ambassador to the United States, under then-President Felipe Calderón. "When I arrived as ambassador, I sent Wayne LaPierre a letter saying, 'Look, I'm not here to question the Second Amendment. That is a sovereign decision of the American people. It's in the Constitution, in its amendments, but what I'm convinced of is that the Second Amendment was not written to allow Americans to buy piercing ammunition to hunt deer or to illicitly traffic weapons across an international border. So why don't we talk?'" recalled Sarukhan in an interview with *The Intercept*. LaPierre never responded. "We called this office three times to follow up on the letter," Sarukhan said. "They didn't even pick up our phone."

In 2012, a paper published by researchers from New York University and the University of Massachusetts Amherst concluded that the expiration of the assault weapons ban contributed to a "substantial increase in homicides" in Mexican border communities. The following year, the University of San Diego's Cross-Border Institute estimated that, without arms trafficking to Mexico, approximately 47% of federally licensed firearms dealers would "cease to exist." For Sarukhan, the relationship between weapons, violence and money was evident. "The sunset clause of the assault weapons ban coincides with the exponential growth of assault and semi-automatic weapons seizures in Mexico," he said. "There is a direct correlation." Doing something about it, then and now, was something else. "We all know that there will be no short-term ban on assault weapons in Washington," Sarukhan said. The former Mexican ambassador is likely right. Although Biden renewed his calls for a ban on assault weapons in the spring, the prospect of Congress passing meaningful gun control legislation is considered unlikely.

Sarukhan is a staunch critic of the AMLO government's security policies. "Lopez Obrador's 'hugs and bullets' are creating more homicides than Calderon's militarization of the war on drugs," he said. Sarukhan argues that by moving away from U.S. involvement in shared problems, Mexico only hurts itself. However, setting aside his criticism of the administration's broader stance, Sarukhan supports the government's demand. As an ambassador, he said, he pursued a similar project, albeit focused on armories and not

manufacturers, but he ran out of time before the change of administrations. "I think the Mexican government is right to do this," he said. "It's a warning cannon shot."

Although the national debate over guns tends to focus on issues within U.S. borders, a report submitted to Congress in February revealed major loopholes in the government's system for stemming the flow of weapons southward. The Government Accountability Office informed lawmakers that the top U.S. federal agencies charged with stopping illicit cross-border trafficking — the Bureau of Alcohol, Tobacco, Firearms and Explosives, or ATF; Immigration and Customs Enforcement Homeland Security Investigations; and the State Department — do not communicate with each other or monitor the effectiveness of their efforts.

"None of the agencies have fully developed performance measures for their efforts to disrupt firearms trafficking to Mexico and therefore have limited capacity to assess progress," the report said.

Keith Heinzerling was familiar with U.S. efforts to stem the flow of weapons south, having twice served as ATF attaché in Mexico before retiring in 2016. While he refuted some of the descriptions of the impact U.S. gun policy has had on the country — Heinzerling believes the expiration of the assault weapons ban had little to do with violence, for example, and suspects that Mexico's lawsuit is little more than "smoke and mirrors." the retired ATF agent acknowledged that there are significant problems that prevent the interdiction of weapons to the south.

In Mexico, U.S. federal agents lack the broad powers they enjoy in the U.S. and are consequently encouraged to work very closely with ostensibly investigated partners. "When you work side by side, you fear that there will be corruption issues and that the information will go in the wrong direction," Heinzerling told *The Intercept*. As an example, he pointed to the case of Genaro García Luna, the former head of Mexican public security, once considered Washington's greatest ally in the war on drugs, who now faces federal charges of drug trafficking in New York.



Cache of weapons seized in Phoenix on January 25, 2011, that were to be smuggled into Mexico. (Photo: Matt York/AP)

However, some of the biggest problems are not at the border, Heinzerling argued, but in Washington. In a move straight out of Harlon Carter's playbook, the NRA has waged a decades-long campaign to undermine the ATF, which LaPierre once referred to as "government thugs in rubber boots." As a byproduct of those efforts, the agency has not had a confirmed director since 2013. Biden's pick to lead the organization, David Chipman, an ATF veteran with 25 years of experience who worked as a policy adviser for gun control groups, faced heated Republican pushback at a Senate hearing earlier this year, in which Iowa Sen. Charles Grassley equated his appointment to putting "*antifa*" by the Portland Police Department." According to Heinzerling, the absence of leadership has had a devastating impact on morale that carries over to important missions such as cross-border arms trafficking.

"The NRA is a political animal," he said. "All the people at ATF want to do the right thing, believe me, but we can't even get a director confirmed because it's all politics. It's crazy."

The endless arms race

Ieva Jusionyte, an associate professor of international security and anthropology at Brown University, has spent years studying arms trafficking to Mexico on the ground, spending

her days with Mexican buyers of illegal U.S.-made weapons, observing the Mexican government's gun buyback programs, and interviewing grassroots members of Mexican organized crime for an upcoming book.

Attempts to understand the U.S. and Mexico strictly as two separate countries with their own separate laws obscure the ways in which those laws inform conditions on the ground, he argued. "This is a regional political economy of violence in which different laws on both sides create opportunities for various criminal activities that increase that violence," Jusionyte told *The Intercept*. The increase in violence, he added, creates economic opportunities for U.S. arms companies. "Insecurity in Latin America — in Central America, in Mexico — is a big market for U.S. arms manufacturers because they equip both sides," Jusionyte said. "They sell weapons to the police and security forces and then allow their weapons to illegally supply those organized crime groups that the security forces then fight. So it's a big win for gun manufacturers."

Jusionyte's observation points to one of the great ironies of Mexico's lawsuit: While one branch of the Mexican government is allegedly trying to bankrupt the U.S. arms industry, another feeds it millions of dollars a year.

Over the past decade and a half, the Mexican military has become one of the largest government buyers of U.S.-made weapons in the world. Between 2015 and 2017 alone, legal exports of U.S. weapons and ammunition to Mexico soared to nearly \$123 million, more than a dozen times that between 2002 and 2004, making the Mexican military the largest Latin American buyer by far of U.S.-made weapons. As sales have soared, some U.S. lawmakers have become increasingly concerned about repeated evidence that U.S.-made weapons reach Mexican security forces with an abominable human rights record. Dozens of Colt rifles, for example, were sent to the municipal police of the city of Iguala, both before and after police were implicated in the disappearance of 43 university students in 2014, one of the most infamous crimes in Mexico's history.

It remains to be seen what effect Mexico's demand could have on multibillion-dollar trades between the military and U.S. arms companies. Three of the companies currently sued by Mexico — Colt, Glock and Barrett — have sold weapons to the Mexican military in the past. So far, Celorio said, his office has received "no reaction" from his military colleagues.

Despite its stated commitment to Mexico's demilitarization, AMLO's administration is currently presiding over the largest deployment of troops to the streets in recent history. The military's continued reliance on public security, and in particular on US-backed migration crackdowns, has drawn strong criticism from human rights defenders. Celorio is in tune with the criticism. To reduce the military presence on the streets, he argued, "criminal gangs and their firepower have to decrease."

"There is a spiral of violence that is increasing due to illicit arms trafficking," Celorio said. "We always talk about the wholesale of weapons, about large shipments, and how Saudi Arabia should not divert its weapons to Yemen," he said. But what about what happens in Laredo's stores?"

Celorio said those who may doubt the sincerity of Mexico's current efforts are mistaken. "We're doing this for real," he said. Litigation, he argued, is proof of a Mexico that is changing. "It is a Mexico that believes in itself, that says: 'We are not more, we are not less than any other country, but in equal rights, we are Mexico, and if we have to defend ourselves, we will do it,'" he said. "That is a Mexico that is transforming."

Ryan Devereaux

Original: [Silver and Lead: Inside Mexico's Historic Lawsuit Targeting U.S. Gun Companies](#)

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