



UNODC

United Nations Office on Drugs and Crime

Country/Organisation: Mexico - Agora

What are the primary challenges your country faces in ensuring equal access to justice within your criminal justice system? How do these challenges impact groups in vulnerable situation in your society? Please provide a thorough and detailed response.

In Mexico, access to justice remains a significant challenge, exacerbated by a range of factors such as limited resources, institutional inefficiency, excessive bureaucracy, and high costs associated with judicial processes. The 2023 Research Report on the Abuses of the Abbreviated Procedure highlights the primary barriers to accessing justice, including distrust in judicial institutions due to corruption and discrimination, slow judicial processes, and inadequate professional training for judicial agents. Economic and social inequalities further exacerbate the situation, limiting access to legal defense and perpetuating inequity within the system. High costs associated with court proceedings, including attorney fees, are particularly prohibitive for vulnerable populations. Additionally, the lack of policies promoting indigenous languages in the judiciary violates the rights of non-Spanish speakers, and gender-based barriers disproportionately affect women and gender minorities, who face systemic discrimination.

Reports from civil society emphasize the critical issues of corruption, impunity, and institutional incapacity in the Mexican justice system. Public trust in justice institutions has significantly declined, with a steady drop in confidence levels over the last decade. This declining trust, coupled with widespread perceptions of corruption, discourages crime reporting and undermines access to justice. The impunity rate in Mexico is alarmingly high, with 96.3% of cases remaining unresolved in 2022. States like Hidalgo and Jalisco exhibit some of the highest impunity rates, reflecting the immense challenge of ensuring justice.

Public defenders, a vital resource for those unable to afford private legal representation, are severely understaffed and overburdened. In 2022, only 40% of prosecuted individuals had access to a public defender, with even lower percentages in states like Jalisco, Tamaulipas, and Mexico City. This shortage of defenders directly impacts the right to an adequate defense. The procedural backlog is another pressing issue; in 2022, 87.9% of complaints resulted in investigation, but only

a small fraction of crimes reported are processed through the criminal justice system, highlighting the inefficiencies and delays that plague the system.

People who use drugs in Mexico disproportionately face these challenges. They encounter structural inequalities, as the justice system tends to penalize low-income and minority individuals more harshly, especially in the context of punitive drug policies. The criminalization of drug use, such as marijuana possession, leads to the incarceration of many young people and marginalized individuals, perpetuating social exclusion. Stigma and discrimination further limit their access to justice, as drug users are often treated as criminals rather than patients needing health services. This stigma complicates their reintegration into society and access to essential services, including legal advocacy.

Moreover, vulnerable groups, including drug users, often lack the resources to secure adequate legal defense, resulting in harsher sentences and fewer alternatives to incarceration, such as treatment programs. The current legal framework, rooted in a prohibitionist approach, exacerbates prison overcrowding and restricts access to justice for those incarcerated for minor drug offenses, violating their human rights.

Addressing these challenges requires adopting a public health approach, decriminalizing certain substances, providing education based on scientific evidence, and respecting indigenous cultural practices related to drug use. Strengthening social programs to offer education and employment opportunities is also crucial in reducing the allure of drug use and illicit activities. In summary, the distrust in institutions, coupled with systemic corruption and impunity, severely undermines the pursuit of justice for marginalized and vulnerable groups in Mexico.

Can you provide examples of initiatives or policies that have been successful in addressing access to justice issues in your country? What key lessons have been learned from these initiatives or policies? Please provide a thorough and detailed response.

International cooperation has introduced successful initiatives to improve access to justice in Mexico, notably through the United Nations Development Program (UNDP). The "Catalog of

Initiatives 2023" highlights projects aimed at strengthening institutional capacity and promoting inclusive public policies, which have benefited vulnerable groups.

Key Lessons Learned:

Inter-institutional collaboration: Successful initiatives result from partnerships between local governments, international organizations, and civil society, demonstrating the importance of strategic alliances.

Inclusive approach: Gender and human rights perspectives are essential for addressing the needs of vulnerable groups.

Institutional strengthening: Investment in training and modernization improves the justice system's efficiency and ensures equitable access.

For more details, refer to the UNDP Catalogue of Initiatives in Mexico.

Therapeutic Justice Program (PJT): Mexico's Therapeutic Justice Program (PJT) offers an alternative to incarceration for drug-related offenses, focusing on treatment and rehabilitation. Inspired by U.S. "drug courts," it was introduced in 2009 and expanded to various states. The program aims to reduce recidivism and prison congestion through judicial oversight and specialized treatment.

Best Practices:

Judges recognize participants' achievements and involve family and community in the rehabilitation process, providing emotional and psychological support.

A system of incentives and disciplinary measures ensures compliance with treatment conditions.

Challenges and Criticisms: Despite its intentions, the PJT faces significant limitations:

Exclusion of vulnerable groups: Requirements such as maintaining legal employment exclude marginalized individuals, reinforcing social exclusion.

Lack of holistic approach: The focus on clinical-judicial treatment neglects social integration, education, and employment, limiting the program's effectiveness.

Punitive tendencies: The program may criminalize participants instead of offering a therapeutic approach, leading to expulsion and resumption of criminal proceedings for non-compliance.

Gender insensitivity: The model does not adequately address the needs of women, particularly mothers, and places a disproportionate burden on women in supporting male participants.

Public Policy Considerations: The PJT lies at an intersection between social policies, health approaches, and alternatives to incarceration but does not fully achieve any of these goals. To improve outcomes, the program needs to shift toward a more inclusive, public health-focused perspective. This involves offering voluntary, quality treatment accessible without criminal charges and integrating the program with broader health, labor, education, and housing policies. Reconsidering drug policy, including decriminalization and cannabis regulation, could ease the burden on the justice system and allow PJT to focus on cases requiring judicial intervention.

In conclusion, while the PJT incorporates practices aimed at improving access to justice, its design and execution present challenges that limit its effectiveness. A more inclusive, human rights-focused approach is necessary to address the structural causes of drug use and crime, ensuring fair access to justice for all.

What are the best practices currently being implemented in your criminal justice system to enhance access to legal aid and fair trials? How do these best practices improve outcomes for individuals involved in the criminal justice system? Please provide a thorough and detailed response.

In Mexico's criminal justice system, various innovative reforms and practices are being implemented to improve access to legal aid and ensure fairer trials. These efforts aim to address existing shortcomings and provide more equitable and accessible justice, particularly for vulnerable populations.

Specialized Courts: Mexico has established specialized courts focusing on issues such as gender-based violence and the rights of indigenous communities. These courts are designed to handle cases more effectively and justly, considering the unique circumstances involved. According to the United Nations Development Programme (UNDP), these courts have significantly enhanced access to fair trials for vulnerable groups by providing human rights and gender perspective training for judges and court staff. This approach has contributed to reducing discrimination and improving the quality of judicial decisions.

Free Legal Aid: To ensure that low-income individuals have access to quality legal representation, Mexico has strengthened its public defender system. The National Human Rights Commission (CNDH) reports that these reforms have enabled more people to receive adequate defense, thereby reducing disparities in access to justice.

Ongoing Training for Judicial Personnel: Continuous training in human rights, criminal procedure, and digital technologies for judges, prosecutors, and public defenders has been crucial in improving the competence of judicial personnel. Supported by the National Institute of Criminal Sciences (INACIPE), these initiatives aim to ensure that judicial decisions are made fairly and efficiently, leading to faster case resolutions and a more equitable and reliable judicial system.

Challenges in Implementation: Despite these promising reforms, significant challenges remain at the operational level. The centralization of judicial institutions in large cities limits access to justice in remote and rural areas, perpetuating existing inequalities. This concentration of resources and decision-making creates disparities in the availability of legal aid and the quality of judicial processes, exacerbating the structural inequalities faced by many in the country.

In summary, while Mexico has made progress in improving access to justice through specialized courts, free legal aid, and ongoing training for judicial personnel, challenges in implementation—particularly the centralization of resources—continue to hinder equitable access to justice across the nation. Addressing these operational challenges is crucial to ensuring that all citizens, especially those in vulnerable situations, can fully benefit from these reforms.

What factors have been crucial in enabling successful reforms or improvements in your criminal justice system? How can these enabling factors be replicated or adapted in other contexts or regions to ensure equal access to justice for all? Please provide a thorough and detailed response.

Successful reforms in Mexico's criminal justice system, particularly in drug policy, have resulted from a combination of critical factors: raising public awareness, creating an informed critical mass, forming strategic alliances, and implementing strategic litigation. These elements have driven significant progress, though challenges remain. Here's how these factors have been pivotal and could be adapted to promote equal access to justice in other contexts.

Public Awareness:

Organizations like Mexico United Against Crime (MUCD) and #RegulaciónPorLaPaz have played a crucial role in shifting the conversation on drug policy from prohibition to legal regulation. This discursive shift has been essential in reducing stigma and increasing social acceptance of more progressive policies. Adapting this approach in other contexts requires identifying cultural and social barriers to reform and using awareness campaigns, media, educational events, and public figures to educate the public about the benefits of a more equitable justice system.

Creating an Informed Critical Mass:

A critical mass of informed and committed individuals and organizations has been essential in pressuring lawmakers and the judiciary to consider reforms seriously. Civil society has built a network of experts, advocates, and citizens knowledgeable about the criminal justice system's flaws and possible solutions. Replicating this model elsewhere involves forming working groups, think tanks, and activist networks focused on specific justice issues. Broad coalitions that include academics, human rights defenders, and those affected by the system can help ensure reforms are evidence-based and impactful.

Strategic Alliances:

Building strategic alliances across various sectors has been fundamental to achieving reforms. These alliances have enabled coordinated action on multiple fronts, from policy promotion to legal defense in key cases. In other contexts, establishing partnerships between NGOs, academic institutions, local governments, and the private sector can provide resources, enhance legitimacy, and allow for a comprehensive approach to reform.

Strategic Litigation:

Litigation has been a powerful tool in Mexico, particularly in the case of cannabis regulation. Initiatives like SMART, which challenged cannabis prohibition in court, have prompted judicial intervention where legislative and executive branches were hesitant.

The SMART case in Mexico is a landmark legal challenge that played a pivotal role in shifting the country's drug policy, particularly regarding cannabis regulation. In 2013, the organization SMART (Mexican Society for Responsible and Tolerant Self-Consumption) filed a legal complaint against the health authority COFEPRIS after being denied permission to grow and consume cannabis for personal use. SMART argued that the prohibition violated the constitutional right to the "free development of personality," a principle that allows individuals to make personal decisions about their lives without undue government interference.

In 2015, the Supreme Court of Mexico ruled in favor of SMART, declaring that the blanket prohibition on cannabis for personal use was unconstitutional. The Court recognized that adults have the right to decide what they consume, as long as it does not harm others, and that the state should not interfere with this personal choice. This decision underscored the broader principle that personal autonomy is a fundamental right protected by the Mexican Constitution.

The ruling in the SMART case set a significant legal precedent, emphasizing that state restrictions on personal choices must be justified by a compelling public interest and should be the least restrictive means of achieving that interest. It also catalyzed ongoing debates and legislative efforts in Mexico toward more progressive drug policies, including the decriminalization and regulation of cannabis.