



The Guide to Corporate Crisis Management

Second Edition

Editors

Sergio J Galvis, Robert J Giuffra Jr and Werner F Ahlers

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Publisher's Note

Latin Lawyer is delighted to publish *The Guide to Corporate Crisis Management*.

Edited by Sergio J Galvis, Robert J Giuffra Jr and Werner F Ahlers of Sullivan & Cromwell LLP, and containing the knowledge and experience of over 40 leading practitioners from a variety of disciplines, it provides guidance that will benefit all practitioners when an unexpected crisis hits.

Corruption investigations, expropriation, industrial accidents: corporate crises take many forms, but each can be equally dangerous for companies in Latin America. Covering the impact of political instability, the role of communications in crisis response, approaches to bribery investigations and game plans in response to financial stress, this book is designed to assist key corporate decision-makers and their advisers in effectively planning for and managing corporate crises in the region.

We are delighted to have worked with so many leading firms and individuals to produce *The Guide to Corporate Crisis Management*. If you find it useful, you may also like the other books in the Latin Lawyer series, including our *Guide to Infrastructure and Energy Investment* and jurisdictional references.

My thanks to the editors for their vision and energy in pursuing this project and to my colleagues in production for achieving such a polished work.

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Part I

Navigating Political Risks

2

Dealing with the Challenges of Political Violence and Crime in Latin America

Jack Devine and Amanda Mattingly¹

No stranger to political violence

Latin America as a region is no stranger to political violence, and recent headlines of anti-government protests out of Chile or Nicaragua are all too familiar. The violence related to the military coups, dictatorships, human rights violations and disappearances of the 20th century have given way to the drug cartels, organised crime, political protests, kidnappings and homicides of the 21st century in a region where democracy has only recently emerged as the prevailing political system. It has been 30 years since military leader Augusto Pinochet was ousted from power in Chile via referendum, and 20 years since Vicente Fox was elected as the first Mexican president not from the dominant political party, the Institutional Revolutionary Party (PRI). In this time, the region has sought to establish and strengthen democratic institutions including free and fair elections, separation of powers and the rule of law.

In many ways, the countries of the region have been successful in these efforts, with more people empowered to vote, run for office and feel that they have a say in their local and national governments than before. Looking simply at the number of elections and referendums in the region in the last 20 to 30 years, Latin America could be considered one of the most democratic regions in the world, despite outlier states like Cuba and Venezuela today. Recall that, in Quebec City at the Summit of the Americas in 2001, leaders of the region collectively ‘affirmed their shared commitment to democracy’ and vowed to sign and enforce the Inter-American Democratic Charter through the OAS.² This was an ambitious and landmark consensus for a region where most countries had only recently been ruled by military dictatorships.

¹ Jack Devine is president and founding partner and Amanda Mattingly is a managing director at The Arkin Group LLC.

² <http://www.oas.org/en/democratic-charter>.

However, despite the democratic advances in Latin America, the level of political violence has not decreased and there has not been a natural correlation between security and democracy. Democracy has not meant a decline in poverty nor has it meant more economic opportunity for all. Rapid urbanisation and stubborn inequality throughout the region have contributed to a decline in security, and governments have been unable (or unwilling, in some countries) to fulfil basic social services or protections for its citizenry, let alone the overarching promise of democracy, peace and prosperity for all people. Democratic institutions remain weak in many countries. Democratically elected governments have not always governed democratically. Instead, political violence erupting in the streets, gang-related organised crime, drug-cartel turf wars, an increasing rate of homicides and kidnappings, and, in some cases, a return to authoritarian tendencies have been the result in Latin America.

Human rights groups report that there is a murder in Latin America every 15 minutes.³ According to these groups, like the Open Society Foundations, Latin America accounts for approximately one third of all homicides in the world even though the region is home to just 8 per cent of the world's population.⁴ According to data compiled by the Igarapé Institute, the countries of Brazil, Colombia, Mexico and Venezuela account for a quarter of all murders globally. The UN Office of Drugs and Crime (UNODC) reports that the majority of violent crimes and homicides in Latin America occur in highly concentrated urban areas – in some cities, on just 2 per cent of the streets – with homicides linked to both criminal activity and political violence.⁵ Statistics from the Igarapé Institute and UN Office on Drugs and Crime indicate that a third of all Latin Americans reported being victims of violent crime and 85 per cent of the victims are male.⁶

The economic cost of insecurity in Latin America is both direct and indirect. A 2017 study conducted by the Inter-American Development Bank (IDB) estimated that the direct annual cost of crime and violence in the region is US\$261 billion, which is approximately 3.5 per cent of GDP.⁷ The study looks at the costs associated with crime, including people changing behaviour to avoid crime, businesses and household spending money for protection, firms reducing their investment, productivity losses as a result of political unrest, and government spending on public security, police services, the judiciary and the administration of prisons. Several studies demonstrate the staggering opportunity cost of violence in the region, where political violence, kidnappings, homicides, and crime drain public and private resources that could be used for more productive economic purposes.⁸

3 <https://www.weforum.org/agenda/2017/04/there-s-a-cure-for-latin-america-s-murder-epidemic-and-it-doesn-t-involve-more-police-or-prisons/>.

4 <https://www.opensocietyfoundations.org/voices/new-campaign-against-latin-america-s-epidemic-homicide>.

5 https://www.unodc.org/documents/data-and-analysis/statistics/GSH2013/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.

6 https://www.washingtonpost.com/news/worldviews/wp/2018/04/25/latin-america-is-the-worlds-most-violent-region-a-new-report-investigates-why/?utm_term=.15cd137dof7a&noredirect=on.

7 <https://www.iadb.org/en/news/news-releases/2017-02-03/how-much-does-crime-cost-latin-america-and-caribbean-per-cent2C11714.html>.

8 <https://publications.iadb.org/bitstream/handle/11319/8133/The-Costs-of-Crime-and-Violence-New-Evidence-and-Insights-in-Latin-America-and-the-Caribbean.pdf?sequence=7>.

At the same time, the cost of doing business in parts of Latin America is higher, given that businesses accrue more risk operating in countries or cities where the levels of insecurity are highest. Companies must invest more to protect their operations and personnel, increasing spending on everything from security cameras, guards and gates to background checks, government and law enforcement liaisons, and crisis management plans. In worst-case scenarios, CEOs have been targeted, workers kidnapped or killed, factories infiltrated, supply chains choked off, small businesses ransacked and whole operations forced to close, costing companies millions of dollars in losses as a result of political violence and crime in Latin America. Political violence has damaged the business environment in Latin America. However, successful businesses seek to manage the risks, even amid the increasing levels of violence and crime, and take proactive steps to safeguard their investments and assets in the region.

In this chapter, we explore these security threats, seen in Chile, Nicaragua, Mexico, Brazil and Venezuela, and give recommendations for companies operating in Latin America.

Cacerolazos and carabineros in Chile

Street demonstrations left 18 dead and hundreds injured in Chile in October 2019. The Chilean government under centre-right President Sebastián Piñera issued a state of emergency and instituted a military curfew as anti-government political protests – initially prompted by a metro fare increase – escalated over issues of social justice and reform. Chileans said that the fare increase was the catalyst for the larger outpouring of mass frustration with the government over low wages, inadequate pensions and the high cost of utilities, education and healthcare.

While fare-dodging students initiated the protests at metro stations, as unrest spread, many lower to upper-middle class Chileans joined in to protest against the government's austerity measures and disproportionate benefits to the wealthy political economic establishment. Just days before the protests began, Piñera had publicly described Chile as an 'oasis' amid the turmoil elsewhere in Latin America, striking a dissonant chord with large swathes of the Chilean population who see the wealthy Piñera as out of touch and oblivious to their daily struggles. The protests led to violence, looting of businesses, vandalism and arson, clashes between protesters and the *carabineros* (militarised police), alleged human rights abuses and *cacerolazos* (pots and pan-beating protests).

After two weeks, President Piñera lifted the state of emergency and curfew. He also proposed reforms including a higher tax rate for the wealthy and reshuffled his cabinet. Piñera's proposed reforms include raising the basic pension and minimum wage, rebalancing disparities in the municipal budgets to provide more support for poorer neighborhoods, a new tax bracket of 40 per cent for those earning more than US\$11,000 a month, and a decrease in salaries for lawmakers. The government's tone changed after the largest protest in recent history on October 25 when 1 million people, 5 per cent of the total Chilean population, marched in the capital of Santiago. The protests are considered the most violent unrest that Chile has witnessed since the end of the Augusto Pinochet dictatorship in 1990. Chilean observers noted that some of the demonstrations, particularly the *cacerolazos*, were reminiscent of the empty-pots protests during the Allende years of the 1970s, while some

of the countermeasure responses by security forces were reminiscent of the Pinochet era that followed.

Abuse of power and unrest in Nicaragua

In Nicaragua, more than 300 were killed and thousands fled and set up refugee camps on the border with Costa Rica after political violence erupted in Nicaragua in April 2018. The crackdown by the Nicaraguan government of President Daniel Ortega began after anti-government protestors took to the streets to denounce the handling of wildfires in a protected area of tropical rainforest in the country. The political violence only worsened following the government's decision to change the country's social security system, which many in the country believed put an additional economic burden on the people.⁹ More than a year later, in September 2019, the Nicaraguan police were still repressing opposition protests against President Ortega, who banned anti-government demonstrations following the April 2018 uprising.

International observers have denounced the political unrest and human rights abuses in Nicaragua, as the government's national police, armed paramilitary groups and thugs supportive of Ortega's government have sought to silence the protestors. The UN High Commissioner for Human Rights Michelle Bachelet reported in September 2019 that the crisis in Nicaragua continues amid human rights abuses against the Nicaraguan opposition and the ongoing imprisonment of more than 100 activists.¹⁰ A year earlier, the UN Security Council held a meeting on Nicaragua in early September 2018 at the behest of Human Rights Watch that called on Nicaragua to end the crackdown and dismantle the armed gangs.¹¹ Meanwhile, the Organization of American States (OAS) called Nicaragua a 'time bomb'.

The situation in Nicaragua is reminiscent of the violence in Central America of the 1980s, when the Sandinistas brought Ortega to power the first time in Nicaragua after the 1979 coup and then fought against US-supported Contras for nearly a decade. As in the 1980s, the violence today has brought back old speculation of Ortega's corruption, abuse of power and ties to drug trafficking. In addition to the bloodshed and displacement of Nicaraguans, the political violence has had a significant negative impact on the Nicaraguan economy, with an especially grim outlook for the tourism sector, which had been fuelling growth and development in the country in recent years.¹² Multinational corporations and small business owners alike have suffered as a result of the political violence in Nicaragua. Protesters have looted corner markets and the major north-south highway has been blocked off intermittently, bringing commerce to a standstill.

9 https://www.washingtonpost.com/world/the_americas/they-fled-violence-in-nicaragua-by-the-thousands-what-awaits-them-in-costa-rica/2018/09/01/51d3f7ee-a62c-11e8-ad6f-080770dcddc2_story.html?hpid=hp_hp-top-table-main-nicaragua%3Ahomepage%2Fstory&utm_term=.a3f5169d8463.

10 <https://news.un.org/en/story/2019/09/1046012>.

11 <https://www.cnn.com/2018/09/05/us/nikki-haley-un-security-council-nicaragua/index.html>.

12 <https://www.bloomberg.com/news/articles/2018-08-17/nicaragua-economic-growth-hit-hard-as-cash-flees-banking-sector>.

Corruption and cartels in Mexico

Mexico's murder rate is at a record high in 2019, on course to surpass the previous record high of 29,111 murders in 2018, according to data released by Mexico's national public security office in July 2019. This is sobering news following already grim statistics from the previous two years.¹³ For example, the 2018 Mexico Peace Index had reported that, in 2017, Mexico saw its highest homicide rate on record, estimating that the total economic impact of violence reached US\$249 billion, equivalent to 21 per cent of GDP. Further, political violence in Mexico increased sharply ahead of the 1 July 2018 election, which saw left-wing populist Andrés Manuel López Obrador win the presidency with an overwhelming 53 per cent of the vote.¹⁴ Indeed, López Obrador's win could be attributed to the growing insecurity and violence in the nation, and a growing weariness of the population to tolerate it. Mexicans clearly voted for change, tired of the same old way of dealing with corruption and cartels. However, after nearly a year in office, López Obrador has been unable to reverse the violent trends and make a difference to the security situation in Mexico.

The crackdown on the drug cartels and organised crime that began during the administration of former President Felipe Calderón left tens of thousands dead, and the inadequate efforts of his successor, President Enrique Peña Nieto, were not enough to diminish the threat of violence. The disappearance of 43 students in Guerrero in 2014, and the incomplete investigation that failed to bring the perpetrators to justice, became a symbol for the many Mexicans lost during the drug war.¹⁵ International rights groups have called on López Obrador's government to properly investigate the disappearances, possible involvement by the federal police and the military, and complicity of government officials. In August 2018, Amnesty International called on López Obrador 'to prioritize the human rights agenda in government decisions' to protect the rights of the people, including human rights defenders and journalists seeking to cover the violence in Mexico.¹⁶ But so far, López Obrador's security strategy has been severely lacking.

Until Mexico addresses the issues of inadequate policing, impunity and an overwhelmed justice system, they will have a difficult time pursuing the gangs, organised criminal groups and drug cartels. These are the extrajudicial groups behind the violence, political killings (more than 100 politicians were murdered during the last election cycle in Mexico), and kidnappings (according to rights groups in Mexico, a person is abducted every two hours in Mexico).¹⁷ López Obrador will need a new and ambitious security reform agenda to address the rising levels of violence. To be successful, his administration will need a comprehensive

13 https://www.reuters.com/article/us-mexico-violence/murders-in-mexico-surge-to-record-in-first-half-of-2019-idUSKCN1UGoQS?utm_source=Email+Newsletter&utm_campaign=a96f17712c-EMAIL_CAMPAIGN_2019_07_26_06_36&utm_medium=email&utm_term=0_39f3d13add-a96f17712c-182503579.

14 <https://www.wsj.com/articles/mexicans-head-to-polls-to-elect-president-1530454699>.

15 <https://www.nytimes.com/2018/09/03/world/americas/mexico-missing-students.html>.

16 <https://www.amnesty.org/en/latest/news/2018/08/mexico-amnistia-internacional-entrega-recomendaciones-a-presidente-electo-sobre-la-situacion-de-derechos-humanos/>.

17 <https://www.reuters.com/article/us-mexico-election/another-political-murder-rocks-mexico-in-last-weeks-of-presidential-race-idUSKBN1JBo3K>.

national plan that goes after the criminal actors but also deals with chronic issues of inequality, corruption in governance and impunity.

Gangs and murder in Brazil

Mexico is not alone with a high murder rate – Brazil has also struggled with high levels of violence in the past few years. Fortunately, however, 2019 data indicates that the murder rate fell 13 per cent between 2017 and 2018, with the first months of 2019 set to decline further.¹⁸ The declining murder rate is good news for Brazil, considering that the Brazilian Forum of Public Security had showed a murder rate of 30.8 per 100,000 people in 2017, higher than Mexico's 26 per 100,000,¹⁹ and a cost to the nation of approximately US\$75 billion each year.²⁰ As in Mexico, the direct and indirect costs of crime cut into the growth and development of the country, even as poor economic conditions have given rise to increased criminal activity and its associated violence. As in Mexico and elsewhere in Latin America, it is the organised criminal groups, gangs and drug trade that fuel the violent crime in Brazil, particularly in urban areas, where the majority of victims are poor black men.

Growing violent crime in Brazil has had an impact on Brazil's politics, which faced a pivotal presidential election of its own in October 2018. Increasing levels of violence and insecurity hit home with voters when the then right-wing candidate and current President Jair Bolsonaro was violently attacked and suffered multiple stab wounds while campaigning for the presidency in September 2018.²¹ Bolsonaro, who won the presidency with 55 per cent of the vote in the second round, ran his campaign on an authoritarian agenda against crime and corruption, claimed responsibility for the declining murder rate since taking office. Political observers believe his more authoritarian style of governance comes in response to Brazilians who were fed up with the violence, corruption, scandals and economic malaise seen during the administrations of Dilma Rousseff and Michel Temer.²²

According to Brazilian national Fernanda Luchine Ishihara, who is an expert in corporate social responsibility, 'systemic corruption at all levels of the Brazilian government, law enforcement and the private sector are the root of the political violence in Brazil.' She believes that it is a 'vicious cycle' in Brazil that leads to the political violence as well as the generalised violence and criminality in Brazil, 'as ordinary Brazilians feel trapped in this unfair system'.²³ The government in Brazil will have to address the systemic corruption that feeds the criminality and go after those who have been operating in the country with impunity, including many elected officials, law enforcement and, in some cases, corporations like Odebrecht. At the same time, they will need to crack down on the criminal organisations, gangs and drug cartels that have exploited the vulnerabilities in the system if they want to see the levels of violent crime continue to decrease.

18 <https://foreignpolicy.com/2019/04/22/brazils-murder-rate-finally-fell-and-by-a-lot>.

19 <http://www.forumseguranca.org.br/publicacoes/anuario-brasileiro-de-seguranca-publica-2018/>.

20 <https://www.bloomberg.com/news/articles/2018-06-11/brazil-s-crime-costs-double-in-two-decades-to-over-75-billion>.

21 <https://www.thetimes.co.uk/article/why-brazils-voters-might-put-a-right-wing-maverick-in-power-5tt7cm78q>.

22 <https://www.businessinsider.com/what-is-the-odebrecht-corruption-scandal-2017-5>.

23 Luchine Ishihara, Fernanda. Personal interview with co-author Amanda Mattingly (11 September 2018).

Chaos and collapse in Venezuela

A combination of poor economic policies, corruption and a wholesale degradation of democratic institutions has led to a political, economic, security and humanitarian crisis in Venezuela. Venezuela has been in a death spiral of violent political protests and economic collapse in the last few years, as ordinary Venezuelans have taken to the streets against the government of President Nicolás Maduro and fled for the borders to Colombia and Brazil, seeking a way out of the devastated country. More than 4 million Venezuelans have now fled the country – a staggering 1 million left in just seven months between November 2018 and June 2019.²⁴

While the Venezuelan government has been unable and unwilling to rescue the country from a tanking economy, hyperinflation and defaults on payments to institutional lenders such as the IDB, ordinary Venezuelans suffer from soaring crime rates, rampant corruption, and endless lines to procure basic goods and services, which are in short supply.²⁵ Statistics are meaningless as well, given the government's inability and unwillingness to collect basic data on the country's decline. Meanwhile, political protests are met with a brutal response from law enforcement, which uses tear gas and rubber bullets against protestors. The last major protests in April 2019 were quickly quelled by Venezuelan military and security forces who remain loyal to Maduro, despite efforts by opposition leader Juan Guaidó to gain their support and push Maduro from power. Many consider Maduro's government and ruling Socialist United Party to be corrupt, operating more like an organised crime group than a political party, but so far, the efforts to bring about change in Venezuela (including US sanctions) have not proven successful.

According to Ambassador Charles Shapiro, who served as US Ambassador to Venezuela from 2002 to 2004, 'Venezuela is a failed state. The economy is in free fall, and government lacks legitimacy. Venezuela exists very precariously at the intersection of bad ideology, incompetence, venality, nepotism, drug trafficking and corruption.'²⁶ Indeed, the high crime rates, kidnappings and homicides in Venezuela are related to the economic free fall as well as the government's corruption. Human Rights Watch and other groups have called for a regional response to help the Venezuelan people, but the country is not likely to emerge from the violent chaos and turmoil until there is a change in government. As Shapiro said, 'Whenever you think things can't get worse in Venezuela, they do. As a result, violence – common criminality and political violence – is likely to increase in the coming year.'

Safeguarding your business in Latin America

High levels of insecurity negatively impact business interests in Latin America – yet, business continues in the region despite the high cost that political violence, homicides and kidnappings inflict on the private sector. Every major economic indicator for growth and development would increase in Latin America if the security situation improved, but even

24 <https://www.unhcr.org/news/press/2019/6/5cfa2a4a4/refugees-migrants-venezuela-top-4-million-unhcr-iom.html>.

25 <https://www.cnn.com/2018/08/20/americas/venezuela-currency/index.html>.

26 Shapiro, Charles. Personal interview with co-author Amanda Mattingly (11 September 2018).

so, there are still willing investors, large multinationals, mega conglomerates, small to medium-sized businesses, and individual entrepreneurs who invest and operate in the region. Despite the high levels of violence and crime in Mexico and Brazil, the two largest economies in Latin America, the major engines of the economy have been largely undeterred over the last 25 years owing, in part, to a diversification of the economies, free market and stable macroeconomic policies of successive governments, as well as global integration through trade and investment. This includes the oil and gas sector, telecommunications, retail, mining, construction, real estate, the auto sector and tourism.

Business cannot wait for the political and policy changes that are needed in many parts of Latin America to improve the security situation. However, businesses can and do manage the risks that come with the operating environment. Corporate entities operating and investing in Latin America require ongoing risk management to deal with the uncertainty of the security situation. Successful companies in the region invest in appropriate systems and protocols so they can mitigate the risks and seize the opportunities. They also turn to specialised firms that can help them navigate the security concerns and prepare for possible downside impacts as a result of the security situation – including anything from violent political protests disrupting supply chains to CEO and top management being targeted for kidnapping and extortion to criminal organisations penetrating the organisation for illegal gain. All of these examples have happened to companies doing business in Latin America, and firms like our own, The Arkin Group, have been called upon to help handle such security breaches and to reduce the possibility of them happening again.

Anyone doing business in Latin America should consider the following steps to safeguard their investments and assets in the region.

Know your partners

Reliable information about business partners is critical to sound business decisions in Latin America. This requires due diligence designed to assess the risks associated with partnerships, mergers and investment opportunities. Companies need targeted due diligence and background research that combines thorough public data and traditional investigative research with well-sourced, on-the-ground information. Individuals and companies operating in Latin America need to know their partners and any potential ‘red flags’, and they need advance information and analysis of the individuals and entities critical to a transaction or investment.

For example, in the early 2000s, a large multinational financial institution was preparing to buy a smaller-sized bank in Central America and came to us for a thorough review of the bank’s senior management in the region before concluding the deal. The due diligence methodology included inquiries with corporate, regulatory and industry sources to determine the good faith of the senior managers. Through this process, the bank learned that a member of the senior management team had business ties to a known criminal in the region and that the same individual had been investigated for alleged involvement in criminal activities. The due diligence process was critical for the firm’s visibility and allowed the financial institution to take appropriate steps before concluding the deal. Had information

about this individual come to light after the deal, it could have had a significant negative impact on the entity's regulatory and reputational standing.

Build internal intelligence systems and capabilities

Because information is so important to mitigate risk, many companies operating and investing in Latin America have come to rely on sophisticated information-gathering programmes. They have developed internal processes to collect external information that could have an impact on their bottom line and to assess critical developments in their industry and operating environments. This could be information like spikes in violence or kidnappings on a certain transshipment point used by the company or it could be developments with criminal organisations extorting other companies in the area. Companies often work with outside providers to help build the internal intelligence systems and capabilities to then use external business intelligence – all of which is designed to improve their decision-making.

For example, we worked with a multinational corporation with worldwide operations, including in Mexico and Colombia, to develop internal intelligence mechanisms to manage incoming competitive and security-related information that impacted their most important operations. The company developed the internal systems and protocols necessary to then analyse information coming from external networks. These external networks were able to provide real-time intelligence about ongoing and emerging security threats to the company's operations. In one of their markets, the company was able to monitor the security risks emanating from violent street protests, create and implement a risk mitigation strategy, and protect their valuable investment there.

Monitor political, economic and security risks

Operating in a volatile environment, where political violence and common criminality are major factors, companies need not just internal systems and protocols for receiving information, but also ongoing intelligence collection and political economic risk monitoring. Understanding the political, economic and security environments in which a business unit, factory, retail store, headquarters, partners or acquisition targets operate is essential to a company's risk mitigation strategy. The most successful companies develop an intelligence-based approach to political economic risk assessments and ongoing monitoring that provides timely information from external networks of on-the-ground sources. Reading *The Economist* is not enough – these companies need proprietary information relevant to their specific corporate business objectives.

For example, we worked with a non-profit service organisation seeking to expand to several different countries around the world, including in Chile, Cuba and Mexico. The organisation required a series of reports analysing each country's political, economic and security situations, as well as the reception the non-profit would likely receive in each country. Part of what made the reporting successful was that the initial reports developed a list of key contacts for the organisation, a road map of governmental bureaucracy and real-time intelligence about the security environment to help make important expansion decisions. Ongoing intelligence monitoring has helped the organisation to mitigate the significant risks to their mission and personnel posed by political violence and organised crime in these countries.

Develop security protocols and emergency response systems

It is equally important that corporate entities develop security and crisis-management protocols when operating in unstable environments. Companies need to develop effective and sustainable security and safety programmes, emergency-response systems and disaster-recovery plans. These plans could be related to threats to a facility, employees and information, or unforeseen crises and location-specific concerns. Protocols for dealing with kidnappings for ransom, express kidnappings, bribery and extortion are especially critical when operating in parts of Latin America where such violence and security breaches happen frequently. Physical security assessments and ongoing security protection for corporate facilities and management – including everything from armoured cars to a vetted security detail, surveillance cameras and safe rooms – can help safeguard against such threats.

For example, we worked with a multinational conglomerate seeking to revamp the security protocols for its Latin American subsidiary. Using on-the-ground intelligence, we developed and executed a strategy for continued production in the unstable area in which they were operating – an area subject to paramilitary and insurgent activity. It was important to identify and remediate weaknesses in their security posture, and create a proactive and ongoing risk assessment capability for the company. In another case, we worked with a mining corporation operating in Mexico in areas of the country largely controlled by the drug cartels. The corporation suspected facilities and some personnel had been penetrated by the organised crime groups and required a thorough review of its physical security posture, security protocols and emergency-response procedures in Mexico to safeguard the company and its workers from the threat.

Facing the challenges

The security challenges facing corporate entities operating in Latin America are significant, particularly in the countries highlighted above – Chile, Nicaragua, Mexico, Brazil and Venezuela – with high levels of political violence and criminality. Political solutions and policy changes will not happen overnight, so businesses need to manage the risks while also taking advantage of the economic opportunities that Latin America presents. Intelligence-based systems for collecting information and monitoring the political, economic and security situation in a market are key, as are security protocols and emergency-response systems. Corporate entities should consider such measures to safeguard against the threats of political violence and criminality as the cost of doing business in Latin America for the foreseeable future.

Appendix 1

About the Authors

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Jack Devine is a founding partner and president of The Arkin Group LLC, which specialises in international crisis management, strategic intelligence, investigative research and business problem-solving. He is a 32-year veteran of the Central Intelligence Agency (CIA). Mr Devine served as both acting director and associate director of the CIA's operations outside the United States from 1993 to 1995. He served as chief of the Latin American Division from 1992 to 1993 and was the principal manager of the CIA's sensitive projects in Latin America. He headed the CIA's Counternarcotics Center from 1990 to 1992 and the CIA's Afghan Task Force from 1985 to 1987, which successfully countered Soviet aggression in the region. In 1987, he was awarded the CIA's Meritorious Officer Award for this accomplishment. He is the recipient of the Agency's Distinguished Intelligence Medal and several meritorious awards.

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Corruption investigations, expropriation, industrial accidents: corporate crises take many forms, but each can be equally dangerous for companies in Latin America.

Published by *Latin Lawyer*, edited by Sergio J Galvis, Robert J Giuffra Jr and Werner F Ahlers of Sullivan & Cromwell LLP, *The Guide to Corporate Crisis Management* is designed to assist key corporate decision-makers and their advisers in effectively planning for and managing corporate crises in the region. More than 40 leading practitioners from a variety of disciplines have contributed their knowledge and insights from their experience.

Covering the impact of political instability, the role of communications in crisis response, approaches to bribery investigations and game plans in response to financial stress, this book provides guidance that will benefit all practitioners when an unexpected crisis hits.

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