

Article: Mexican Organized Crime: Background, Updates and Implications for Returnees

Mexican Organized Crime: Background, Updates and Implications for Returnees from the U.S.

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Background

As is well known and extensively documented by the U.S. and Mexican governments, the United Nations, the Organization of American States, numerous international human rights monitoring organizations and the international media, Mexico is embroiled in a catastrophic situation with respect to violence spawned by domestic and transnational criminal organizations (TCO). The principal TCOs operating in Mexico include: the Sinaloa, Tijuana, Juarez and Gulf cartels, Los Zetas, Los Caballeros Templarios (Knights Templar), and La Familia Michoacána. In addition to these juggernauts, an increasing number of smaller criminal groups now affect the criminal landscape. According to Mexico's Attorney General, as opposed to the past when there were roughly ten major drug trafficking organizations, there are now as many as 80 now operating throughout the country.^[1]

Along with intra and inter-organizational variables, a contributing factor in the emergence of many of these new criminal groups was former President Calderón's "Kingpin" strategy, under which leaders were targeted for arrest or death. As leaders were taken out their underlings and competitors scrambled to capitalize on the leadership vacuums which increased levels of violence, contributed to the development of splinter groups that are more difficult to monitor and target, and further diminished the government's capacity to contain criminal activity and to protect the public.

It is important to note that beyond their involvement in drug manufacture and distribution, many of these groups have expanded their "criminal portfolios" to include extortion, kidnapping for ransom, arms trafficking, human trafficking, alien smuggling, piracy of copyrighted materials, cybercrime, coerced land and property transfers, and theft of millions of dollars worth of oil from the state owned *Petróleos Mexicanos*.

Outcomes Associated with the War on Organized Criminal Activity

While the Mexican government's campaign against drug traffickers had its origins in the 1990s, President Calderón's escalation of the fight in 2006, along with tensions within and between criminal groups, ushered in an unprecedented wave of violence that continues unabated. It is commonly recognized that since 2006 the death toll associated with drug and crime related violence exceeds 70,000. Generally speaking, the violence breaks out into four main categories: 1) government action against criminal groups, 2) criminal groups' actions against the government, 3) intra and inter-gang violence, and 4) criminal groups targeting the public.^[2]

Insofar as it relates to government officials and members of the public, the victims of the violence fall into six broad categories including those who have been: 1) "caught in the crossfire" during shootouts with rival criminal groups and/or police or military personnel; 2) targeted as a means of demonstrating organized criminal groups' seemingly limitless capacity for audacity and brutality; 3) involved in pro government/anti-crime activities including police officers, prosecutors, judges, appointed officials, political candidates, and elected leaders; 4) subjected to reprisals because they reported crime to police and/or acted as informants against criminal organizations; 5) targeted for extortion, kidnapping, coerced criminal activity and/or land and property seizures; and/or 6) family members of those who have fallen into disfavor with criminal organizations that are victimized as a means of punishing the targeted individual.

Criminal Groups' Political Agendas, Strategies and Tactics

Mexican criminal organizations have blended criminality with tactics generally associated with politically motivated terrorism and warfare including coercion, intimidation, kidnapping, torture and

murder of police officers, military personnel, prosecutors and judges. Since 2006, over 1,200 municipal officials and 31 local mayors have been murdered.^[3] Between January and June 2013 almost 250 public servants were killed.^[4] In addition to outright terror, criminal organizations seek to create a socio-political climate in which they have impunity to expand and operate by manipulating the political system, including bankrolling elections.^[5] The basis for criminal groups' interest in the electoral process is simple: they cannot operate without collusion with government officials at every level. This has become particularly true as TCOs expanded into extortion and kidnapping, where the acquiescence and/or direct involvement of government officials is critical.^[6]

Arguably these strategies of terror and manipulation of the political system have been effective and in many areas organized criminal groups have thoroughly undermined the state's capacity to fulfill basic functions of governance. Speaking of the political implications of TCO activity, a report from the International Crisis Group concluded:

"The brutality of their crimes undermines civilian trust in the government's capacity to protect them, and the corruption of drug money damages belief in key institutions. Cartels challenge the fundamental nature of the state, therefore, not by threatening to capture it, but by damaging and weakening it."^[7]

In February 2012, the Mexican Defense Minister acknowledged that criminal organizations have infiltrated state institutions and that up to forty percent of the country is no longer under effective government control.^[8] Within this "governmental void," organized criminal groups have rendered the state irrelevant in major respects and in many areas TCOs' operational capacities have evolved to the point that they often act as de facto governments. In addition to providing crime-based employment, criminal groups are also known to build social infrastructure, dispense social services and in some instances have replaced the state as an arbiter of disputes and enforcer of everything from traffic laws to codes of moral conduct.^[9] For example, leaders from La Familia Michoacána are known to preside over tribunals in which accused parties are brought before decision makers who impose judgments and sentences. I have interviewed several individuals who reported that they or people they knew had been arrested by police, but rather than being taken to a police station they were turned over to TCO leaders to deal with their alleged wrongdoing.

The Scope and Implications of Official Corruption

Aside from organized criminal groups' seemingly infinite financial resources, sophisticated organizational structures and sheer audacity, the Mexican government's efforts to control them has been seriously constrained by rampant corruption among police, military, and corrections officials, prosecutors, judges, and elected leaders.

Thousands of police officers, including high ranking officials, have been dismissed from their positions due to corruption. All 190 police officers in the town of Acambaro, Guanajuato were placed under investigation over alleged ties to TCOs while in the nearby town of Tarandacuao, 23 officers, including the chief of police, were arrested for activities that ranged from tipping off criminal groups when law enforcement was in the area all the way up to murder.^[10] The entire Veracruz police force—800 officers and 300 administrative personnel—were fired in an effort to purge the department of corruption by starting over.^[11] The list of examples of police corruption is nearly endless, and many are so flagrant as to be almost surreal. I've interviewed numerous individuals that have described scenes in which uniformed officers carried out abductions with no regard to the presence of witnesses; arrested and turned extortion victims over to drug traffickers, then stood guard over cartel-led tribunals in which the victims were tried, sentenced and tortured; and forced residents out of their homes and off their land, only to have members of criminal groups then occupy the property.

Although thousands of corrupt officers have been fired, perhaps tens of thousands more remain in their positions and newly corrupted officers are continually coming onto the scene. And the government's vetting processes, while an important step, are not necessarily proving effective. As of November 2012, eighty percent of the 50,000 officers that had failed confidence tests were still in

their positions.^[12] To some degree this can be attributed to corruption itself and a lack of political will, but it also reflects the untenable nature of the situation: if the government were to dismiss en masse all officers known to be corrupt it would effectively drive many of those officers into the waiting embrace of criminal groups that are ready to employ them.

Corruption is also rampant within the prison system. Corrections officials and guards are known to have facilitated, or at least been complicit in a number of gang-on-gang massacres and frequent mass escapes.^[13] In one case authorities released prisoners who then went out and conducted assassinations using firearms provided by the prison staff.^[14] Much of the crisis in the prison system is driven by overcrowding, the fact that officials are routinely subjected to violence and are poorly paid; the combination has proven to be a recipe for disaster.

A major element in the government's attempt to address corruption is *Operación Limpieza* (Operation Cleanup) but thus far the outcomes have been disappointing. For example, in 2012 police arrested four retired and active military officials with connections to the Beltrán Leyva Organization—three generals and a lieutenant. The government later announced that charges were dropped against all four when cases against them unraveled; in all, charges against ten of the thirteen officers arrested under the much-ballyhooed anti-corruption initiative have been dropped.^[15] The inability of the government to prosecute corruption cases has led to allegations and counter-allegations. One on hand, claims that the Calderón administration abused its authority, relied on dubious witnesses and targeted political opponents; on the other, suggestions that the current government is making accommodations for the type widespread corruption that occurred for decades under the *Partido Institucional Revolucionario*, President Peña Nieto's party.^[16] In the end, despite whatever efforts are underway, it is clear that the Mexican government is largely hamstrung in its ability to contain rampant corruption and its effects.

Mexican Government Involvement in Human Rights Abuses

According to a recent report by Human Rights Watch (HRW), Mexican government officials have been involved in dozens of cases of abduction, torture, and extrajudicial execution involving known and suspected drug traffickers and other criminals.^[17] Some of these violations occur as part of misdirected crackdowns on organized criminal groups, while others occur at the hands of corrupt officials advancing their own criminal agendas.

According to HRW investigators, in the best case scenario, the Mexican government engages in a "willful blindness" as it relates to persecution and torture of individuals perceived—either correctly or incorrectly—to be involved in drug and other organized criminal activity. In the worse case scenario, the government is not only complicit in such abuses, but takes an active role in perpetuating them. In either event, HRW investigators determined that almost none of the cases have been properly investigated and of those that have been investigated virtually none have resulted in convictions.

Researchers at the Trans-Border Institute and Amnesty International also confirmed the involvement of government officials in hundreds of human rights violations and the virtual guarantees of impunity enjoyed by abusers.^[18],^[19] Reports of government officials' involvement in human rights abuses are also corroborated by the U.S. State Department.^[20]

The Mexican government has been implementing human rights training to police and other personnel for several years, many of which were and are funded by, and in conjunction with, the U.S. government. Government efforts to improve its human rights record continue but current research regarding the involvement of police, immigration and military personnel and prosecutors in human rights abuses clearly demonstrates that those efforts are not addressing the problem, and that targeted individuals are still at extremely high risk of egregious physical harm and death.

Government Willingness and Ability to Control Crime and to Protect the Public

The combination of TCOs': 1) financial resources, 2) countrywide geographic reach, 3) connections with corrupt government officials and 4) intelligence networks that rival, and in some cases exceed

that of the Mexican government results in a situation in which despite the skill, commitment and good intentions of many state officials, the government simply lacks the ability and willingness control crime and to protect the public. This is particularly true insofar as it relates to individuals and families that either have been, or are likely to be, targeted for reasons that make them uniquely vulnerable.

The public's frustration over the inability and unwillingness of the government to control organized criminal groups has grown to the point that vigilante groups are developing in various parts of the country.^[21] The formation of these groups—which are now present in at least 13 states—is troubling because in addition to arresting and prosecuting alleged criminals without the checks and balances of a recognized legal system, they are often at odds with police and government officials, and some may themselves be involved in criminal activity.^[22] In an escalating tit-for-tat pattern, members of vigilante groups have abducted police officials and put them on trial, while for their part police are arresting vigilante group members, accusing them of having linkages to criminal groups. Complicating the situation further, there is no consensus within the government as to how to deal with the emergence of vigilante groups; some elected officials have called for them to be granted legal status, whereas others believe the government should crackdown on them and members charged criminally.

Update on Mexican Government Strategies

President Enrique Peña Nieto was inaugurated in December 2012, replacing outgoing President Calderón. An exhaustive discussion of the new administration's policy changes is beyond the scope of this article, but at this point there seem to be two conflicting storylines playing out: On one hand a continuation of President Calderón's police-military strategy, which analysts have characterized as one of more continuity than change; on the other a scaling back of government efforts to aggressively go after TCOs in order to facilitate a return to what has been called a more "peaceful underworld."^[23]

With respect to continuation of the police-military strategy, the same numbers of police and troops are deployed to the same areas of the country as under President Calderón. President Peña Nieto has argued that his plan differs from that of his predecessor in that he has abandoned the "Kingpin" strategy, under which TCO leaders were targeted for arrest or killing because the approach is credited with creating more problems in terms of violence and diffusion of criminal activity than it solved.^[24] In its place, the president has stated that he will focus on reducing extortion, kidnapping and murder, although he has yet to outline a strategy for achieving this worthy, if not lofty, goal.^[25]

There are other differences as well. Unlike President Calderón, whose administration emphasized heavy media coverage of the effort to combat organized crime according to a highly placed official of the Mexican government and others with whom I have spoken, the Peña Nieto government is changing the narrative and emphasizing coverage of issues such as the economy, development, etc.^[26] Some view this as an effort to stop saturating the public with bad news; others assert that it is a means of avoiding the reality that the situation is not improving under the new administration.

The president has also proposed changes in the policing structure. First, he has promoted development of a militarily trained National [Gendarmerie](#) but questions about its structure and how it would differ from the current police apparatus remain unanswered, as well as the timelines for its development. A particularly troublesome aspect of the proposed gendarmerie is that its ranks would be populated with officers who lose their jobs as a result of President Peña Nieto's decision to demote the Federal police due to high levels of corruption and abuses.^[27] According to one of Mexico's most recognized security analysts, irrespective of the various scenarios under which the gendarmerie might be created and configured, in the end it would be the same people doing the same things they already do with the same resources and equipment.^[28] At this point it remains unclear whether plans to develop the gendarmerie will move forward or not.

Another policing initiative involves development of a new Federal Police force of 30,000 officers, each of which would be required to possess a college degree and undergo a vetting process. Salaries would be higher in hopes that officers would be less prone to corruption but higher salaries do not address the *plata o plomo* (bribes or bullets) strategies that criminal groups use to intimidate,

terrorize and corrupt officers, and the official previously cited acknowledged that this represents a tremendous obstacle. The government estimates it will take ten years to build this new force, so even if successful it clearly does not offer any benefits in the short or medium-term.

President Peña Nieto has also implemented an organizational restructuring of the country's intelligence and security agencies but analysts question the substance, viability and likelihood that this restructuring will result in positive outcomes. Organizational reshuffling is a regular feature of Mexican politics that occurs as part of the transition from one administration to another and it is far too early to determine if a reorganizing of intelligence and security structures will have any effect on the government's ability and/or willingness to combat crime and violence. Additionally, analysts are concerned about the fact that several of the proposed reforms are caught up in a web of bureaucratic, legal and inter-personal obstacles, and that many of these new organizational structures are either non-functional or non-existent.^[29]

The president has also begun to publicly tout an emphasis on "prevention" but the funding for these programs was assigned during the Calderón administration and observers report that it is hard to differentiate between which are the old programs and which are the new.^[30]

Insofar as it relates to a backing down from the fight it is too early to say definitively, but according to data gathered by Mexico's *Centro de Investigación y Docencia Económicas*, (Center for Economic Research and Teaching) during President Calderón's term (December 2006-December 2012) there were an average of 6,567 drug-related prosecutions per month; since President Peña Nieto took office drug prosecutions hit their lowest levels in 15 years.^[31] These figures should not be interpreted as signaling a return to the "good old bad days" in which criminal groups were given a wide berth to operate in exchange for keeping levels of violence low, but they may suggest President Peña Nieto's intention to take a less aggressive stance than did President Calderón. It is critical to point out that giving criminal groups a certain degree of room to operate in exchange for this more "peaceful underworld" it is not likely to have the same effect as in the past as there are simply too many "moving parts," the situation is now too complex and no longer lends itself to this kind of solution.^[32]

Changes in the Security Situation

In terms of rates of violence, since President Peña Nieto's inauguration in December 2012, the government's National System of Public Security reports a total of 12,595 murders.^[33] While still an atrocious number, this represents an overall decrease of thirteen percent between January and August 2013 as compared to the same period in 2012.^[34] This is clearly favorable news but it does not present a comprehensive picture because although the death toll has been reduced in some areas it has risen in others, suggesting more of a shifting in criminal patterns as opposed to an overall calming in the situation. Raw figures also fail to explain the factors behind the decrease, and do not provide a basis for predicting future trends. President Peña Nieto attributes the reduction in killings to enhanced coordination between intelligence agencies and more effective law enforcement; others attribute the reductions to an inevitable leveling off process and the resolution of bloody battles between TCOs for control of trafficking corridors, conditions that are by definition, temporary in nature.

Migration and Reintegration: Implications for Returnees from the U.S.

The Mexican population has always been attuned to the issue of migration, both who leaves for the U.S. and who returns. Due to exposure to protracted violence in recent years however the public in affected areas is far more hyper-vigilant, distrustful and fearful than in the past. This erosion of trust and social capital is such that neighbors may no longer trust neighbors and the population is much more guarded with respect to strangers.^[35] The combination of hyper-vigilance and erosion of trust oftentimes makes it impossible for an individual to return to a previous neighborhood or small everyone knowing they're back, or to re-locate to a new area without being recognized as a stranger and identified as a recent arrival from the U.S. And while the recognizability of returnees from the U.S. has not been studied empirically within the context of the current social climate, it is widely

recognized in Mexico; ask the average Mexican and they will nod their head in the affirmative.

These factors have significant implications for Mexicans returning to the country in terms criminal victimization, especially long-term residents of the U.S. Long-term U.S. residents are immediately recognizable due to a combination of their: 1) accented and/or diluted Spanish, 2) lack of familiarity with current social dynamics and the nuances of local culture and politics, 3) social attitudes, 4) physical mannerisms, and 5) modes of dress. Because they so recognizable they are at high risk for extortion and/or kidnapping for ransom, the logic being that have been in the U.S. for extended periods and are perceived as having immediately available cash resources as well as family-social networks in this country that can be leveraged for large sums of money.

The risks associated with extortion are extreme. I have interviewed many Mexicans that report that either they or their returning family members were targeted for extortion shortly after arriving the country—oftentimes for of thousands of dollars, amounts that in most instances could not conceivably be paid. Further, the overwhelming majority of these people I've spoken to believed that seeking police assistance was not only futile because the government has no capacity or willingness to investigate or prosecute these matters but also dangerous, as officers are frequently involved in the extortion schemes. This is not to say that all officers are indifferent to the needs of the population or corrupt. A number of people I've interviewed sought police assistance and in a professional and caring manner, the officers advised them that they were unable to be of assistance, and that pursuing the matter was simply too dangerous for the complainant and for them as officers. The end result is that many extortion victims feel they have no meaningful recourse other than to pay or flee, and if they do seek police assistance it will significantly increase the danger to them and their families.

Kidnapping also represents an extreme danger and while it is impossible to ascertain with certainty its actual frequency, it is staggering. Mexican government statistics indicated there were 1,239 reported kidnappings between July and December 2011.^[36] This figure undoubtedly represented a significant under-reporting, however, as in the same article the *Consejo para la Ley y los Derechos Humanos*—CLDH (Council for Law and Human Rights) cited a total figure of 17,889 during 2011. And the problem may be getting worse. According to the National Observatory of Citizen Security, Justice and Legality (ONSJL) the number of reported kidnappings in the first half of 2013 was the highest since 1997, a 200 percent increase over the same period in 2012.^[37] Because victims and their families are afraid to report kidnappings ONSJL analysts believe the actual number of abductions may be ten to fifteen times higher. The ONSJL also reports that of instances in which the kidnappings are reported, thirty percent of the victims are murdered.^[38]

There have been no attempts to determine empirically what percentage of kidnappings involve returnees from the U.S., in part because the methodological challenges with a study of this type are almost insurmountable, and in part because the government has no capacity to track the post-deportation experiences of returning Mexicans and as a result has no data. Despite the absence of empirical data there is anecdotal information that suggests returnees are being targeted. First, according to a Mexican government official I interviewed, Mexicans returning from the U.S. disappear with alarming frequency;^[39] and second, increases in the number of kidnappings over the past several years correspond with an increase in the number of returns from the U.S. This logical correlation has been confirmed through numerous interviews I've conducted with Mexicans that report their family members have been abducted upon return to Mexico, and that in many of these cases the kidnappers have contacted the victim's family in the U.S., demanding ransom. For example, I recently spoke with a Mexican national living legally in the U.S. whose family member was deported and kidnapped almost immediately upon return. The kidnappers contacted the victim's family in the U.S. and demanded many thousands in ransom and directed the family to pay within a short period of time, which they did. When the kidnappers saw the family's ability to gather the money so quickly they doubled the demand and continued to hold the victim captive. In this instance the victim was released and not tortured but that is not always the case. I've interviewed several people who advised that once the ransom was paid the victim released but had been tortured while being held captive. In other cases the victim disappeared and family never heard from them again, even though the ransom was paid.

A particular concern involves Mexican government officials' direct involvement in kidnapping. According to the CLDH, government officials are believed to be involved in 70-80 percent of the cases.^[40] Immigration officials are also involved. In one case, immigration officers abducted 120 migrants and turned them over to members of the Gulf Cartel.^[41] Long-term residents of the U.S. may also be subjected to demands that they participate in compelled criminal activity, including transporting drug into the U.S. and/or cash from the U.S. back into Mexico. Coerced activity may also include human and weapons trafficking. Thousands of people in Mexico are abducted annually and forced into service by TCOs.^[42] I have interviewed numerous individuals who reported being kidnapped and coerced into criminal activity back and forth across the U.S. border; the cost of refusing is almost certain torture and death.

Internal Relocation as a Strategy for Repatriation

Clearly there are areas of Mexico less affected by crime related violence than others, which on the surface would suggest that opportunities exist for safer relocation. For a number of reasons however in many cases relocation options may be few and depending on specific facts even non-existent.

The first factor is the increasing presence of criminal groups in previously un-affected communities. As noted earlier, the Mexican government acknowledges the presence of roughly 80 drug trafficking organizations that are now operating around the country. The problem when considering relocation options is this: Where is safe? How does one know where to relocate? And what is the cost of getting it wrong? It is reasonable to conclude that with organized crime and corruption becoming more versus less widespread the likelihood of getting lucky and making the correct choice has diminished. And for individuals that have been targeted by the more sophisticated criminal groups with highly developed intelligence capabilities and access to governmental and non-governmental data through their connections to corrupt officials, there may be nowhere they can go and be out of reach if those groups are committed to locating them.

Social norms around family also affect the viability of internal relocation. Unlike the U.S. population, a significant portion of which is willing and able to move away from their family-social network in order to pursue employment or other quality of life changes, this tends not to be true of the Mexican population. In speaking with the Mexican government official mentioned previously, he said that distancing oneself from family is something that Mexicans typically don't do, and in many cases can't quite imagine. As he stated, "Many of us are born and die in the same houses, we just don't move away."

This has profound impacts in terms of internal relocation because for many Mexicans the idea of moving to another part of the country in which he or she has no family is simply not possible from a practical (i.e., economic) standpoint nor something they can even grasp conceptually. This cultural-psychological-emotional draw to family is so strong that returning Mexicans typically settle in the area where they or their family come from, even if they no longer have family in those regions of the country. I've spoken to Mexican youth raised in the U.S. who told me that if returned they would settle where their family is from—whether they have family there or not—because as opposed to going somewhere they felt no connection whatsoever, returning to the family's community provided some type of psychological-emotional foundation.

The cultural-psychological-emotional draw to family also affects long-term U.S. residents' ability to secure employment in Mexico in order to attend to their basic needs and to support their families. Nearly half of the Mexican population is at or below the poverty level.^[43] Due to the combination of Mexico's dire economic situation and the population's hyper-vigilance with respect to potential danger and corresponding distrust of strangers, an individual's ability to secure employment is tied directly to their family and social network. For persons returning to Mexico from the U.S. who lack a high level professional credential and/or an intact family-social network, it may be unrealistic to conclude that they will be successful in securing employment and in some cases even housing. The difficulty is compounded further by the social prejudice against *pochos*—a derogatory term for Mexicans who have been in the U.S., or who have lost touch with their cultural identity as a result of living outside their community for an extended period.

Conclusion

A number of factors affect Mexicans in removal proceedings including the: 1) scope of the organized crime problem and the violence associated with it, 2) inability and in certain respects the unwillingness of the Mexican government to control the crime and violence and to protect the public, 3) immediate recognizability of many returnees from the U.S. and their likelihood of victimization, and 4) shortcomings associated with internal relocation as a strategy for safe repatriation. Together, this combination sets the stage what would often be predictable physical harm, torture and death to the individual if returned, and underscore the importance of immigration professionals properly contextualizing the facts of any particular case.

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