

“[C]riminal groups are above the law because they have managed to capture and corrupt the state.”

## Mexico in the Grip of Violence

BEATRIZ MAGALONI AND ZAIRA RAZU

Mexico is experiencing a serious human rights crisis. At first glance, the idea of such a crisis might seem like an anachronism. After all, the country made a transition to genuine democracy in 2000 after Mexican voters ended one of the longest-lasting autocracies in the twentieth century, the seven-decade rule of the Institutional Revolutionary Party (PRI). Elections are held regularly and there is frequent and peaceful alternation of political power at the local, state, and federal levels. Since the mid-1990s, an independent and powerful Supreme Court has gained ample powers of judicial review. The constitution guarantees a list of fundamental rights, in theory, through functioning checks and balances and an equivalent of habeas corpus (*juicio de amparo*) that allows citizens to challenge unconstitutional laws and arbitrary government actions.

In practice, however, formal rights—the rights to life, due process, access to justice, and protection from abuses of power—are of little practical significance for most citizens, particularly those who do not belong to the political and economic elite. These citizens live in constant danger of being assaulted, raped, enslaved, extorted, disappeared, and murdered. These forms of everyday violence are perpetrated not only by drug cartels, criminal gangs, and unorganized bandits, but by the state apparatus itself.

The Mexican state has failed to provide security. To a large extent, the state's failure stems from a dysfunctional set of law enforcement institutions and practices dating back to the authoritarian era. But the problem runs deeper. In many areas of the country, organized crime has bought the

complicity of state authorities; with its shadowy tentacles it has corrupted the criminal justice system, which adamantly denies justice to most victims of violence. The overwhelming majority of crimes go unpunished because law enforcement institutions leave those who move the levers of organized crime (including some within the state) untouched.

At the same time, the criminal justice system uses torture, fabricates evidence, and unjustly incarcerates petty criminals, who are predominantly poor. Indeed, violence in Mexico extends far beyond criminal groups fighting each other. It affects the lives of hundreds of thousands of citizens who are constantly victimized in many spheres of their lives, not least in their interactions with the state.

When Enrique Peña Nieto of the PRI was first elected president in 2012, he responded to this crisis with neglect, as though he could make the violence disappear simply by ignoring it. Mexico was confronting the most serious challenge of its recent history, yet the president chose to give higher priority to economic reforms than to the breakdown of security and violations of human rights. Meanwhile, the political elite has been implicated in overt corruption, and Mexican society as a whole appears powerless to take coordinated action against such an array of abuses.

### ESCALATING THE DRUG WAR

During the presidency of Felipe Calderón homicide rates more than doubled, rising from 9 per 100,000 at the start of his tenure in 2006 to 22 per 100,000 in 2011, according to the National Institute of Statistics (INEGI). Cities such as Ciudad Juárez, Tijuana, Acapulco, Tampico, Nuevo Laredo, Culiacán, Durango, Reynosa, Monterrey, and Guadalajara had some of the highest murder rates in the world. This sharp increase coincided with Calderón's militarized

---

BEATRIZ MAGALONI is an associate professor of political science and a senior fellow at the Freeman Spogli Institute, Stanford University. ZAIRA RAZU is an associate in the Program on Poverty and Governance at Stanford's Center on Democracy, Development, and the Rule of Law.

campaign against the drug cartels. In December 2006, Calderón deployed 6,500 federal troops to his native state of Michoacán. Operations against drug trafficking steadily increased after that, with approximately 45,000 troops involved nationwide by 2011. In nine so-called joint operations, the various armed wings of the federal state—the army, the navy, and the federal police—were deployed to “regain control of territories.”

Calderón’s policies differed significantly from those of his predecessors; notably, he adopted a “beheading strategy,” targeting the leadership of drug-trafficking organizations. In March 2009 the government released a list of Mexico’s 37 most wanted drug lords. By January 2011 the army, navy, and federal police had captured or killed 20 of them, twice the number of kingpins eliminated under the two previous administrations.

The government portrayed these criminals as “enemies of the state,” and authorized the military and the federal police to combat them at all costs. The Calderón administration argued that the ensuing violence was localized and mainly caused by drug-trafficking gangs fighting each other.

Critics of Calderón’s policies, however, have asserted that he was unsuccessful at smashing criminal organizations and that his actions were a direct cause of the sharp escalation of violence in Mexico. In fact, there is robust empirical evidence showing that arrests and killings of drug kingpins boosted the incentives for turf wars among rival cartels, and led to increased intra-cartel executions resulting from leadership battles. More generally, there was a breakdown in discipline in the armed wings of the cartels as their leaders were arrested and killed.

Although some drug cartels got weaker, smaller and less organized criminal groups emerged and multiplied. The hydra effect generated different criminal species. Unorganized bandits no longer focus exclusively on drug smuggling—they prey on citizens through extortion, kidnapping, and human trafficking, among other activities. Contrary to what Calderón believed, violence exploded against the general population, not just among drug gangs.

Although the federal government’s militarized campaign against drug-trafficking organizations was the primary cause of the escalation of violence after 2007, other factors also played a role. First, drug trafficking to the United States has increasingly shifted from Caribbean routes to the US-Mexican border due to changing US and

Colombian antinarcotics strategies. Furthermore, in 2007 Colombian President Álvaro Uribe changed course, abandoning crop eradication in favor of interdiction polices intended to attack the production and distribution chains. According to some estimates, Uribe’s policies led to a 50-percent reduction in potential cocaine production between 2007 and 2009. This translated into unprecedented price increases, which raised incentives for Mexican cartels to fight turf wars.

Second, Mexico’s democratization and federal system created a favorable institutional environment for the proliferation of criminal gangs. During the long years of authoritarian rule, the political system was extremely centralized. By virtue of their small numbers, state officials in the top echelons of power could impose large entry costs on drug-trafficking organizations, whether by demanding bribes or through more coordinated law enforcement. Not surprisingly, there were fewer drug cartels in those days, and they tended to organize more hierarchically.

After Mexico democratized in 2000, criminal gangs had to negotiate with municipal presidents, local police, and governors. In the federal system, with 32 states and more than 2,450 municipalities—each with its own police force—there are far too many officials willing to sell institutional protection, which means that the costs of entry to the narcotics and criminal markets have significantly dropped. As a result, smaller and less organized criminal groups have proliferated.

Traditionally, drug cartels in Mexico were more business-oriented, buying government cooperation through bribes. But violence against mayors has been rapidly increasing since 2003. During the Calderón administration, the federal government became more active in supporting local governments against drug cartels, but partisan politics played a role in determining who got help and who did not. Municipal governments from Calderón’s National Action Party were more often part of the coordinated federal effort to fight criminal groups, while those controlled by the opposition Party of the Democratic Revolution were frequently left out.

## LEGACIES OF ABUSE

Although murder rates have escalated in recent years, it is important to emphasize that Mexico has a long history of violence. In fact, the murder rate in 2009, 18 per 100,000, was the same as it

was in 1994. In the 1990s, the most violent states were located in southern Mexico. What changed in recent years is the form violence takes. Today's violence is predominantly urban, caused by firearms, and strongly linked to drug trafficking and criminal gangs. Lethal violence in the past was mainly rural and often perpetrated with knives or machetes, and it was linked to socioeconomic and land conflicts.

During most of the twentieth century, demands for social justice and land redistribution were contested violently. The 1917 constitution established that peasant communities had a right to redistributed land in the form of *ejidos*, a type of communal landholding. Until land reform was abolished in 1992, peasants actively organized to assert their rights to land, credit, health care, schools, and infrastructure. Violence was common between peasant communities that fought each other over land claims or territorial boundaries. Although land reform was extensive, in many parts of the country landholding elites and local caciques were able to block redistribution. Agrarian elites would hire militias (the infamous *Guardias Blancas*) to confront, repress, and murder peasants who organized to demand land or to press for social justice.

Mexico's criminal justice system has traditionally been used by local elites as an instrument of repression. Agrarian elites and governors controlled the police and courts, which selectively imprisoned peasant leaders and social activists—who were often treated as regular criminals and framed with fabricated evidence, including confessions obtained through torture. The criminal justice system reflects the country's darkest legacy of human rights abuse, which disproportionately affected rural populations in southern Mexico.

During the 1970s, the army was extensively used to repress, torture, disappear, and murder peasants presumed to be involved with rural guerrilla groups and radical social movements. The state of Guerrero—where the Ayotzinapa mass disappearance of 43 students would take place in September 2014—was the most violent battleground in the Dirty War of those years. However, the middle classes were also targeted, as exemplified by the 1968 student massacre in

Mexico City and the persecution of political prisoners. Nonetheless, the overwhelming majority of victims in the Dirty War were peasants, many of them from Guerrero.

## INSTITUTIONALIZED INJUSTICE

In spite of the transition to democracy, law enforcement institutions have not changed significantly since the authoritarian years. The police arrest and interrogate citizens without following due process. Their investigative capabilities are very limited and confessions are still the main source of evidence. Prosecutors have few incentives to gather solid evidence to be used in trials, since judges still consider almost any confession as valid. The police can easily fabricate evidence without much oversight, and judges decide virtually all criminal cases on the basis of the evidence that the police obtain at the moment of the arrest. In practice, judges presume suspects to be guilty. Conviction rates are higher than 90 percent.

In 2008, Congress took steps to start a transition from an inquisitorial model in criminal proceedings to an accusatorial one, in order to create a more transparent and accountable justice system. However, due to

the complexity and comprehensiveness of the reform, this was expected to take as long as eight years. As of September 2015, only 5 percent of police officers had received training to implement the reform and only 60 percent of the population had access to the new justice system.

It was in this institutional context, characterized by a lack of investigative capacity, transparency, and accountability, that Calderón declared a war on drugs in 2006. The war heavily increased the burdens and prerogatives of the law enforcement apparatus. The armed forces got involved in areas traditionally reserved for the police, increasing their share of total arrests from 14 percent before 2007 to 30 percent in 2011.

In light of the failure of judicial reforms to improve due process, the war on drugs has had the consequence of further blurring the already shadowy line between public force and criminal violence. To fight against organized crime, the government's strategy was to rely heavily on the military, which was considered less corrupt and more institutionalized than the police. This gave

---

*Local officials and the police have been infiltrated and protect the criminals rather than the population.*

---

the armed forces an implicit mandate to treat criminal suspects as enemies of the state and to target civilians with dubious accusations of association with drug cartels.

During Calderón's presidency, federal forces detained more than 6,000 people for alleged involvement in drug trafficking. A survey of federal correctional facilities conducted by the Mexico City-based Center for Research and Teaching in Economics in 2012 revealed that authorities frequently exercised some degree of violence against suspects, most likely in seeking to extract a confession. The violence reported by inmates included electric shocks, suffocation, beatings with sticks, sexual violence, burning, and immersion in water.

The data also revealed that torture significantly increased during the Calderón administration, particularly when the army was involved in a detention: 23 percent of those arrested by the military reported suffering some degree of violence during detention before 2007, a proportion that rose to 78 percent under Calderón. According to the data, most victims of torture were accused merely of selling marijuana in the streets.

The army has also been implicated in summary executions. A vivid example is the Tlatlaya massacre in Mexico state, where soldiers killed 22 people on June 30, 2014. The Peña Nieto government depicted this incident as a confrontation between drug traffickers. However, the National Human Rights Commission (CNDH) later concluded that at least 12 of the victims were executed and that soldiers had altered the scene of the crime to make it look like a confrontation. The Mexican government has since pressed charges against seven soldiers for the killing of eight victims. According to human rights organizations, Tlatlaya is only one of many examples in which soldiers have acted on instructions to kill suspected criminals.

## THE TURN TO SELF-DEFENSE

Peña Nieto took office on December 1, 2012, just one year after the homicide rate in Mexico reached the highest level recorded since 1962. By 2012, homicides were already declining at a slow but stable pace. The most recent data from INEGI show that two years into the Peña Nieto admin-

istration, the homicide rate was 16 per 100,000 people, down from 22 in 2011. While the drop was definitely encouraging, it is worth noting that these levels are still significantly higher than the "prewar" rates. And other types of crime—including extortion and forced disappearances—are not decreasing.

Despite the dire security situation, Peña Nieto insisted on keeping his administration focused on structural reforms in education, fiscal, and energy policy—and asked his cabinet and advisers to keep violence out of the spotlight. In vast areas of the country—especially in southern Mexico—citizens have been forced to find their own policing solutions to protect their communities, families, property, and livelihoods from criminal groups and their accomplices in local governments.

Despite his determination to downplay the violence, two serious crises soon exploded in the president's hands. The first was the rise of "self-defense groups" (*autodefensas*) among communities in the state of Michoacán that took up arms to defend their families, properties, and livelihoods against organized crime and the local state's complicity. The crisis revealed how badly the state was failing to provide security. It also made clear how deep the association between criminal gangs and state authorities has become in some places.

There is a heated debate in Mexico over the *autodefensas*. Some scholars and activists claim that they are actually improving security in the communities where they operate. Others say that they are not authentic advocates for communities and in fact represent an additional threat to their security.

*Autodefensas* were initially concentrated in a few rural municipalities in the Tierra Caliente region of Michoacán and in southeastern Guerrero, though they have since spread throughout the region. According to the CNDH's latest report, by 2015 the *autodefensas* were present in 33 municipalities of Michoacán (comprising over 55 percent of the state's territory with 34 percent of its population). They first gained notoriety in the beginning of 2013.

The organizations have varying levels of community support. In some municipalities, communities appoint the *autodefensas*; in others, vigilantes impose their authority of their own

---

*Mexico's criminal justice system has traditionally been used by local elites as an instrument of repression.*

---

volition as they try to expand their territorial influence. Consequently, in some municipalities people voluntarily contribute economic and human resources to the groups, while in others, members of the community accuse them of being just a new criminal organization or a disguised arm of an existing one.

The realities of these organizations are complex. Both Guerrero and Michoacán had long traditions of autonomous (generally indigenous) organizations and, particularly in the case of Guerrero, community police forces dating back to the Dirty War years. Organizing into self-defense groups seems like a natural alternative for many communities that are terrorized by criminal groups. There is no question that the state has utterly failed them. In reality, these territories are ruled by roving bandits who have expanded their activities from drug trafficking to extortion, robbery, kidnapping, murder, prostitution, and human trafficking. In most of these cases, local officials and the police have been infiltrated and protect the criminals rather than the population.

In 2014, Peña Nieto named Alfredo Castillo Cervantes as the public security commissioner of Michoacán. His mission was to persuade the *autodefensas* to disarm. While some of them agreed, allowing state forces to take over security responsibilities for their communities, the comprehensive disarmament envisioned by the government is still not complete.

The Peña Nieto government has attempted to demobilize the *autodefensas* through a combination of co-optation and incarceration. The armed groups that gave up their weapons received legal immunity; those who refused to disarm, because the government offered no real guarantees of security to their families and their communities, were jailed. As a result, hundreds of men (and some women) from the *autodefensas* have been locked up while criminals continue to prey on the population without fear of punishment.

## MASS DISAPPEARANCES

The second major crisis during Peña Nieto's presidency was the mass disappearance of 43 male students from the Ayotzinapa Rural Teachers College in September 2014. The atrocity has revealed how deeply the state is implicated in violence and linked with criminal gangs.

The federal government was quick to blame local authorities, including the mayor, his wife,

and the police. The “historic truth” explained by then–Attorney General Jesús Murillo Karam was that the students had been kidnapped by the local police and delivered to a criminal group, Guerreros Unidos, to be burned in a garage dump in the nearby town of Cocula. It later became clear that the government version was based on the confessions of three allegedly tortured witnesses. Moreover, the attorney general's office came to its conclusions after finding a number of mass graves containing bodies that still remain unidentified.

Peña Nieto's insistence that only the local government was implicated seems to be untenable. According to a report released in September 2015 by the Interdisciplinary Group of Independent Experts (IGIE), there is a strong basis for suspecting that the armed forces were implicated in the atrocity, or at the very least were aware of the events as they unfolded that night.

The Ayotzinapa mass disappearance is only the tip of the iceberg. Thousands have disappeared in Mexico since 2006. According to the most recent figures of the National Registry of Missing People, by the end of October 2015 there were 24,240 unresolved disappearances registered in the country. The victims are predominantly young males between 15 and 39 years old. Most of them went missing in the states of Tamaulipas, Mexico, Nuevo León, and Jalisco. Actual figures might be even higher, since many people do not report their missing relatives or friends. There was an increase in forced disappearances between 2012 and 2014; overall, the rate has been higher under Peña Nieto's administration than Calderón's.

A 2013 report by Human Rights Watch shows a recurring pattern. People are detained in their homes or at security checkpoints, workplaces, or public venues. Detentions are carried out in plain sight by uniformed soldiers or police, but they are not registered and the victim's relatives are told that they never took place. Some victim's relatives claim that agents of the state work with organized crime to disappear people. Frequently, they say, the information that families provide to help find their missing relatives is used by the police to extort money from them.

In many cases, victims' relatives are afraid to bring cases to the police. Authorities often refuse to open an investigation or provide appropriate assistance to the relatives' search effort. They also frequently imply, before investigating a case, that the victims were involved in criminal activities.

This defensive reaction gives further reason to believe that the state is largely responsible for the disappearances crisis, and not only by omission.

## CORRUPTION AND IMPUNITY

According to the CNDH, only one out of every ten crimes is reported in Mexico. This is due to citizens' distrust of the authorities. Furthermore, only one out of 100 reported crimes actually leads to sentencing. In other words, only one out of every 1,000 crimes is punished. Local prosecutors have a monopoly over criminal investigation and prosecution, which means that in the absence of the capacity to investigate or willingness to deliver justice, victims of crime are left without recourse.

But impunity is rampant not only because prosecutors are ineffective. Many local and state officials are either too weak to confront criminal gangs or too eager to work for the local mafia. Gangs across the country have found a favorable institutional environment to coerce and co-opt state and local governments and their law enforcement apparatuses. The adage "*plata o plomo*" (silver or lead) encapsulates this approach to doing business: A drug cartel or criminal group will force the state to cooperate by means of either a bribe or a bullet.

Many public officials choose the bribe. Countless state and local governments and police officers are on the payroll of the gangs. In a national survey conducted in 2011, an average of 35 percent of citizens said they thought the local police were working for the *narcos*, and in some states such as Tamaulipas it was close to 50 percent. The reason criminal groups can extort, rape, pimp, or murder with impunity is that local governments are associated with them.

Although the problem seems to be more prevalent at the subnational level, it is important to emphasize that the federal government is not immune from corruption. The IGIE's Ayotzinapa report has raised suspicions over the involvement of the army and the federal

police in the atrocity, and points to a possible link to the trafficking of heroin from Guerrero to Chicago. Apparently the disappeared students had inadvertently commandeered a bus in which heroin was hidden, triggering the violent reaction by Guerreros Unidos and its accomplices within the state.

Such criminal groups are above the law because they have managed to capture and corrupt the state. The resulting phenomenon might best be described as a mafia state. This is the root cause of violence and impunity in Mexico.

This grim big picture persists despite the occasional victory, such as the recapture on January 9, 2016, of Joaquín "El Chapo" Guzmán, one of Mexico's most powerful drug cartel leaders, who had escaped from a high-security federal prison through a tunnel six months earlier. The government insists the arrest proves that Mexican institutions are solid and capable of delivering security for citizens. But it lacks the legitimacy to make such a claim credible.

While the recapture of Guzmán is an important accomplishment, his arrest leaves many doubts. There has been scant accountability for his escape, and his accomplices in the high echelons of power have not been identified. Contrary to the administration's claims, it is not clear that the arrest resulted from good coordination among federal law enforcement agencies. The military personnel who valiantly fought El Chapo's men appear to deserve most of the credit.

In reality, it is impossible to know the extent to which Mexican law enforcement institutions are trustworthy. Clearer and more consistent actions to win trust are necessary. The rule of law needs to be more effectively enforced to provide justice to the innumerable citizens who are constantly victimized by criminal organizations and their accomplices within the state. The government cannot claim true and lasting success until everyday acts of violence against Mexican citizens, especially those outside the economic and political elite, begin to be effectively addressed. ■