



Drug Trafficking and Organized Crime Connected but Different

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It is a wise decision to approach the traditional topic of the “war on drugs” with an “organized crime” perspective. Both academia and the media struggle to understand and explain the nature of violence and insecurity in Mexico and other Latin American and Caribbean countries using the traditional drug trafficking approach. US President Richard Nixon coined the expression “war on drugs” in 1971; things have changed dramatically since. It is time to change the analysis too.

Transnational organized crime operates through intricate nets of complicity. The activity of criminal organizations related with smuggling drugs, weapons, and even humans, transcends borders. In any case, governments’ responses should contemplate the articulation of international, domestic, and sub-national efforts. It would be naive to think that a single country by itself can dismantle organized crime groups operating in its territory. The fight against organized crime requires a coordinated response. We cannot deploy a disorganized front if we are to succeed in facing organized crime.

In this article I seek to show that the expansion and strengthening of transnational organized crime erodes the rule of law and that the damaging consequences of this situation go beyond high crime rates. Organized crime not only causes the deterioration of social order and individual liberties, but it is also a real threat to democracy

From 2006 to 2012, Felipe Calderón was the president of Mexico. Prior to this, he served as the Mexican secretary of energy and leader of the National Action Party.

and the state itself, as it tends to displace and substitute law enforcement agencies and institutions. At the end of the day, what organized crime does, once it overtakes the government, is extract the rents of society through violence and the threat of it. Once the state has lost control of its own institutions, reality eclipses Hollywood stories of extortion, kidnaping, and killing. The response to this threat must be global through international cooperation mechanisms, and it must definitely involve national and sub national actions.

Drug Trafficking and Organized Crime: Connected but Different

It is important to understand the concepts and differences between “drug trafficking” and “organized crime”: the first concept clearly refers to the smuggling of illegal substances from producing regions in Latin America to the consumer market, mainly in the United States. Organized crime, in contrast, can be defined as the criminal activity that, through violence or threats, seeks to the extract illegal

or legal rents from the community.

Drug trafficking and organized crime are intertwined and correlated. Drug trafficking has been the origin and is still the main source of income for many of the criminal organizations operating in the region. Nonetheless, there are important differences between the two concepts. Actually, the transition from mere drug trafficking to organized crime attempting to control territory, and the cruel violence associated with it, is perhaps the most relevant phenomenon in Mexico and several Central American and Caribbean countries in the last two decades. Specifically, organized crime tends to take over and control law-enforcement institutions. Once organized crime gains control, it is able to extract the rents of the society through kidnapping, extortion, and establishing protection rackets. Moreover, as it takes control of the authority, the more it expands over a national territory, the more it becomes a national security threat. Therefore, organized crime evolves from a public security problem into a national security challenge.

The Origins and Evolution of the Problem

Even when drug trafficking is linked with violence—particularly in its origin—organized crime has a very different nature than does drug trafficking itself. For most of last

but a growing and very profitable one nonetheless.

And here is the problem: drug trafficking and drug retailing are very different types of business, despite the fact that they both are related to drugs. This is the same case of say *La Meseta*, a Colombian company exporting coffee, and Starbucks: both of them work with coffee, but their businesses are completely different. The first one is a family business that became an agro-industrial complex that exports 25,000 coffee sacks per month in bulk. The second one is a franchise with more than 21,000 coffee shops in 65 countries worldwide. It sells millions of cups of coffee every day.

Indeed, drug trafficking, like most exporting activities, is a business more related with the massive transport of merchandise. Logistics is the key issue: how to move some number of tons of coffee (or drugs in this case), how to cross the border and at which point, what officials to deal with, and so on. On the other hand, retailing drugs is more related to individual sales. Specifically, the key issue is control of multiple points of sales: how many cups of coffee (or doses) are sold at each store; at what price; how to provide all those points with fresh coffee (or cocaine); how to collect franchise fees or revenues, in most cases, on a daily basis; and how to protect brand's intellectual

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century, transnational crime focused mainly on drug and human trafficking as well as on smuggling. However, at a certain point between the last decade of the 20th century and the first decade of the 21st century, these organizations evolved. On top of traditional drug trafficking, they started a new and profitable business: retailing drugs in Mexico and other countries in the region. Some analysts argue that this was due to the fact that Colombian traffickers started to pay the transport fees to traffickers not with cash but with drugs. In my opinion, the reason is much simpler: the economy caused the shift. For instance, Mexico became in these two decades a middle class country, with more purchasing power. Consequently, in addition to its traditional role as a drugs transit country, Mexico became a consumer country as well. Indeed, Mexico's per capita income increased from less than US\$2,000 before North American Free Trade Agreement to almost 16,000 purchasing power parity in 2008. With economic stability, low inflation, and modest but positive growth rates for the first time in at least two decades, a young and vibrant society started to gain access to appliances, mobile phones, gadgets, cars, houses and, unfortunately, drugs. It is a modest market still, no doubt,

property and markets.

Additionally, retailing is a more complex activity than trafficking. Just consider the number of people required to transport one ton of cocaine from Mazatlán to Tucson compared to the number of people required to pack, distribute, and sell the same ton but in one-gram bags (this requires one million such bags). Whatever the number of people required in the first case, retailing requires a much larger number of associates. On top on that, retailing requires developing complex networks that strengthen the troops and the might of the criminal organizations.

In order to control multiple sale points, criminals need to control the territory in which they operate. All those bars, strip clubs, convenience stores, street dealers—all of them require close supervision on a daily basis. So, controlling the territory is a *conditio sine qua non* for this new and additional business and that, in turn, requires controlling law enforcement agents. This is the specific distinctive feature of the new reality of crime in the region: the territorial control and the violent dispute over it.

Beyond and Better than Traffic: Extortion

The traditional academic view of organized crime suggests that its activities are primarily aimed at offering goods or services that cannot be obtained legally: smuggling, prostitution, undocumented immigration, illegal substances, stolen goods, piracy, illegal gambling, and so on. Although those are indeed organized crime's original activities, they are complex enough to require a high level of coordination. When criminal organizations reach a sufficient level of sophistication, however, they evolve to a different phase, one that is far more dangerous: extracting the rents of the whole society.

One of the most prestigious researchers on organized crime in America is Thomas Schelling. In his article "What is the Business of Organized Crime?", Schelling notes that, in essence, the core business of organized crime "is extortion, based on the threat of injury, along with efforts to monopolize legitimate business lines, by physical destruction or intimidation of competition." Extortion begins on those who perform illegal activities: sex workers, human traffickers, smugglers, people selling piracy, and illegal taxi drivers. Why? According to Schelling, the victims of organized crime have no means to ask for legal protection from the authorities due to their illegal status. They have no choice but to accept the gangster's claims and pay.

Schelling analyzes organized crime in Boston in the 1960s. He explains that organized crime is able to bribe and control some areas of authority, such as the policeman in that corner in which a sex worker needs to work. But it is unable to control the whole police corporation, (in particular the Boston Police, whose power and efficiency was demonstrated in capturing the people who perpetrated the explosions in the 2013 Boston Marathon). That is the reason why extortion remains on the illegal side of the economy.

However, in the case of Mexico, the chronic weaknesses of law enforcement institutions and the huge corruption practices inherited from the "ancient regime" (based both in the lack of rule of law and practices that creates perverted "values") allowed organized crime to penetrate institutions. Organized crime penetrates not merely a policeman in the corner, but all the way until it takes over full control of the police corporation. In fact, in some cases one of the main conditions that the criminals impose on mayoral candidates is a demand to be appointed future police chief. Of course, there have been many mayors or police chiefs that, with courage, rejected bribes; but many of them were threatened or even killed by criminals. That is what the *ley de plata o plomo* (silver or lead law) means: take the money or get shot. Either corruption or intimidation is the expression of chronic institutional weaknesses and vulnerability.

Once the criminals take control of the police in a specific town, city, or even a state, all citizens, regardless of their legal condition, are defenseless. No one can ask for legal protection because the agents of the law are in the hands of the criminals. That is the situation I found in several places when I took office in 2006.

Thus criminals defeat and take over the legal and legitimate authority, and organized crime could move easily

to the real business: extracting rents from society. They act through extortion in various forms: kidnapping, extortion *stricto sensu*, and establishing protection rackets. Indeed, the criminal organization is now not only prepared to run a business outside the law, but to subjugate and demand, illegally and violently, payments from citizen and companies operating legally. That is, in addition to their original illegal activities, such as drug trafficking (retail or wholesale), organized crime evolves to collective extortion.

Even worse, with the police force under the control of criminals, not only organized crime, but any kind of crime flourishes. If the basic rule of any society is "whom keeps the law will do well, who violates the law will pay," that rule is broken and replaced by another with exactly opposite incentives: "who violates the law will do well, who keeps it will pay." Crime is rewarded with impunity and success, and the honest citizens who comply with the law will do badly because others will abuse them with impunity. In these kind of communities, the state will collapse completely.

Every country faces organized crime. In all of them, there are traces of these criminal operations. Nevertheless, the fundamental difference can be found in the various response capabilities of nations to prevent, resist, or revert the infiltration of organized crime in society and institutions. Basically, organized crime will prevail in weak—mostly poor—governments and societies. Organized criminal groups find easier conditions to operate in communities, provinces, and entire countries where the institutions in charge of enforcing the law are weakened, have low levels of professionalization, and are structurally prone to corruption. This is the case in many Latin American nations as well as in other developing countries.

Low institutional strength could be the reason why violence is rampant in developing countries and not in the United States, where most of the drugs are finally sold. Is it because there is no corruption at all there? Of course not—corruption is widespread! However, the power of criminals can touch some people of some areas, but is unable to take over the whole law enforcement institution. In Mexico, Latin America, or Africa (Somalia is a clear example), institutional weaknesses allow criminals to dominate law enforcement agencies and use them to fight against other groups, leaving thousands of victims. Institutional weakness leads to impunity, and impunity is exacerbated as the size of the problem grows. The vicious circle creates an unbelievable spiral of violence.

In *Transnational Organized Crime versus the Nation-State*, Peter Lupsha uses an analogy to explain the evolution of this type of crime. He says that organized crime evolves through a series of stages. The first is the "predatory" stage, in which criminals are merely involved in gangs without the ability to challenge the state. The second stage is the "parasitic" stage, in which criminals seek to increase their profits and use some of these profits to co-opt or corrupt certain members of the State. Although the criminals manage to infiltrate some institutions, the difference between state and criminal organizations is still clear. The third and

final stage is the “symbiotic” stage, in which organized crime has grown in such a way that the State is unable to control, or even to contain, criminal organizations: In such a stage it is no longer possible to tell the state from organized crime.

When this occurs, criminals establish themselves in posts that allow them to operate, even taking decisions inside the institutions, producing a symbiosis between crime and authority. Meanwhile, citizens find themselves completely defenseless to the illegal exploitation of their assets and goods, losing their security in physical, moral, and economic terms. In some parts of Mexico and other countries in the region, this evolution of organized crime took place in a context in which institutions were not prepared for it.

A complementary but related phenomenon is that of the capture of the state. Garay and Salcedo, quoted by Guillermo Valdes in his extraordinary book *Historia del Narcotráfico en México*, define “The State Capture” as follows:

“A subsequent process, denominated Coopted Reconfiguration of the State, occurs in contexts of advanced and complex corruption, presenting the following characteristics: I) Participation of individuals and social groups through legal or illegal mechanisms; II) Benefits are pursued not only for economic or political gains, but also for social legitimacy; III) Coercion and establishment of political alliances that complement or substitute bribery; IV) Negative effects on different branches of public power and various levels of public administration. These practices are developed with the objective of obtaining long term benefits and make sure that their interests are validated in legal and political terms, in order to gain social legitimacy in the long term”.

Both these explanations refer to situations in which state institutions are weakened in order to serve private rather than public interests. Under those circumstances, the state ceases to work on behalf of the citizens and becomes an instrument of corruption and criminality.

Organized Crime and Violence

Organized crime has a monopolistic behavior. This may be because the power of authority that it wants to subjugate is, by nature, monopolistic as well. In other words, in the business of bribing, the government is the one and only client: it is a monopsony. Or, it could be that the lack of authority over the market prevents competition. Whatever the reason, a monopsony or monopoly implies that there is no place for two groups to operate simultaneously. Their activity becomes exclusive and, unfortunately, cruel and bloody. Potential competitors should be intimidated and eliminated. Hence the absurd level of barbarism that has plagued Mexico, as well as some Latin American and Caribbean countries.

Thus, to understand the violence associated with criminal organizations in the region, it is necessary to consider a central factor that had not developed until this century: the fierce struggle for territory. This was the trigger element of violence between criminal groups and the main cause of the increase in the number of homicides in Mexico. In

an erroneous way, this problem is usually oversimplified as an attribute of the “war on drugs.” This interpretation is, at the least, inaccurate. It is the traditional understanding in the United States. In Mexico, however, the phenomenon of violence and insecurity has a different nature. It is true that violence is associated with drugs, but fighting criminals is not the cause of violence. And certainly, drug trafficking is not the only problem for Mexico, and probably not even the main one.

More than a “war on drugs,” the government I had the honor to lead looked for policies to provide security to Mexican families threatened by criminal organizations. Our aim was to put an end to the “cynical impunity” driving the actions of criminals, to strengthen institutions, and rebuild the social fabric, whose deterioration favors the growth of criminal activities. Some critics point out that I “declared a war on drugs”. This is simply a false statement. There was never such a declaration. The National Security Strategy in my administration was not a conservative crusade against drugs. In fact, during my administration the possession and consumption of personal doses of practically all types of drugs was decriminalized.

The aim of my administration was to protect Mexican families from crime and to transform Mexico into a country in which the rule of law prevails. I am firmly convinced that only nations with legal certainty, strong legal framework, and clear law enforcement could be able to jump from some kind of “steady state” of “developing country” to a real devel-



Former president of Mexico, Felipe Calderón, mounted a large-scale campaign against organized crime and drug trafficking, two issues that still plague the Mexican political and legal landscape.

oped one. And by enforcing the law, of course, the federal government fought against criminals and prosecuted drug trafficking like any other federal crime. But the real problem I found when I took office was organized crime overtaking police corps, attorney general offices, and in some cases the whole government in many municipalities, including state capitals and even some states. In those cases, people were suffering a lot, including kidnappings and extortion at a massive scale. Protecting those families was our main concern.

More than government actions to combat organized crime, what truly created unprecedented violence was the territorial dispute between criminal organizations. There are multiple contributing factors including demographics, social climate, and economics. One of the most important aspects of organized crime is the high availability of assault weapons that have suddenly armed criminal organizations. It has been demonstrated that whenever there is a sudden massive availability of weapons (during and after a civil war, for instance) there is a period of high homicide rates. In 2004, the US Federal Assault Weapons Ban expired. Neither Congress nor the US government did anything to prevent it. The flow of these weapons into Mexico increased significantly, and so did the levels of violence, intensity, and brutality of the fights between criminals for territorial control. In Mexico you can clearly see a turning point in 2005, one year after the ban expired, where killings began spiraling. During my administration over 160,000 weapons were seized, 90 percent of which were acquired in the United States.

Organized Crime Represents One of the Most Important Challenges to Governments and Modern Societies

Organized crime represents a permanent threat to the security of our communities and to the performance of our institutions. The efforts Mexico has made to address this issue have been advanced through an active strategy of cooperation fostered by the government I had the privilege to lead. In this effort to recover Mexican families' security, we decided to implement a comprehensive strategy consisting of three main areas: first, fighting organized crime with the full force of the state; second, overhauling law enforcement institutions and agencies, by establishing a new legal framework (which includes important judicial reform in order to transition from the traditional inquisitorial system to a new adversarial one with oral trials like in the United States) and cleansing police and judicial institutions; and third, restoring the social fabric by providing educational, social, and labor opportunities for young people.

International cooperation mechanisms were a transversal pivot of the National Security Strategy. For example, the Merida Initiative supported the strategy's first axis—fighting criminals—by providing modern equipment and shared intelligence, which has been critical to neutralize almost all top leaders of organized crime, and to dismantle its operational capacities. The initiative also provided support

for the judicial reform, new vetting process in the agencies, and strengthened institutional capacities, which was the second axis.

In terms of money, the Merida Initiative was surprisingly modest: it implied US\$1.4 billion in US transfers for those purposes in over six years. Meanwhile, the Mexican government's budget commitment to enforce the law and fight crime was almost US\$70 billion in the same period. Its importance lies in that the Merida Initiative has been an important instrument to share the responsibility between Mexico and the United States in the fight against organized crime and change the old and useless finger pointing practices. It changed the old "US supervision" vision for an understanding of common responsibility.

Nevertheless, neither drug trafficking nor organized crime can be solved without the United States addressing two critical issues: cutting the flow of money and cutting the flow of weapons to criminal's hands in Mexico. Note that I am not talking about ending drug consumption: that is impossible and after years of evidence, asking for that is naïve. The flow of weapons will continue for one reason: profits. The weapons industry is making a lot of money with this problem and politicians are getting a lot of economic support on both sides of the aisle. I stated the problem in my last intervention in the United Nations General Assembly, on September 2012: "as long as the flow of money that consumers pay does not stop, organized crime will continue compromising the peace, continuing to threaten entire societies and governments... authorities of the consumer countries have the moral obligation to explore every possible alternative to eradicate the stratospheric profits of criminal groups; governments should even explore regulatory or market solutions... for that purpose". It is a US responsibility to cut the flow of criminal money towards Latin American countries. I do not know if it could happen by reducing consumption—which has not happened in 40 years, and probably won't happen—or by improving and enforcing the money laundering preventing mechanism, or by designing new market mechanisms to reduce black market profits, but it is a US moral duty to fix this problem.

So, talking about international cooperation: forget about speeches, papers, and lectures. What is really needed is an end to the flow of money and weapons. US politicians know how to stop them and they know why they are still running.

Finally, whatever the outcome of the current drug legalization process, the critical issue for developing countries is to reinforce their law enforcement agencies and institutions. Only with reliable and strong police corps, attorney general offices, and judges, can the rule of law prevail and countries prosper. Whether legalizing or not legalizing drugs, organized crime will keep trying to extract the rents of society. In any case, fighting organized crime will require three things: facing it with full force of the state; overhauling law enforcement agencies and institutions; and restoring the social fabric. That is exactly the strategy we put in place during my administration. ¶