# Inside Out:
# The Challenge of Prison-Based Criminal Organizations

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# ACKNOWLEDGEMENTS

## ABOUT THE RECONSTITUTING LOCAL ORDERS PROJECT

Led by Brookings Senior Fellows Vanda Felbab-Brown, Shadi Hamid, and Harold Trinkunas, the Brookings Seminar on Reconstituting Local Orders seeks to better understand how domestic political order breaks down and is reconstituted. It draws out policy implications and recommends more effective action for local governments and the international community. It examines these issues by bringing together top-level experts and policymakers.

The present disorder in the international system is significantly augmented by the breakdown of domestic order across a number of key states. Around the globe, the politics of identity, ideology and religion are producing highly polarized societies and deepening conflicts among non-state actors and between non-state actors and the state. In the Middle East, the Arab Spring disrupted long calcified political systems in ways that are still producing unpredictable effects on the regional order. The collapse of political order in Libya has wide-ranging consequences for governance across the Sahel, intensifying Mali and Nigeria's fragility and highlighting the many deficiencies of their states. Meanwhile, Russia's annexation of Crimea was facilitated by a breakdown of political order in Ukraine, and Russia's aggressive external posture also partially reflects and compensates for its internal weaknesses. But even emerging powers such as India and Brazil face profound and persistent governance problems, including in public safety and the rule of law. Among the topics explored in the Seminar are the construction of institutions and counter-institutions in the Middle East and South Asia; the role of external interveners and local militias in conflict settings; and forms of governance in slums and prisons, such as by criminal groups.

The Seminar is a collaborative research space that serves as a launching pad for cutting edge debate and research around questions of local and transnational order. The core of the analytical and policy-prescriptive exploration focuses on how political and social orders are reconstituted, the resulting impact on regional order and the international system, and what roles the international community should play. Among the products of the Seminar are analytical and policy papers as well as shorter articles and blog posts that examine cross-regional comparisons and identify policy implications and recommendations.

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## Introduction

**C**ontemporary prison gangs present new and confounding challenges for states. In Central America and Brazil—and even in the U.S.—prison gangs have evolved from small predatory groups to sophisticated criminal organizations with the capacity to organize street-level crime, radically alter patterns of criminal violence, and, in the extreme, hold governments hostage to debilitating, orchestrated violence and disruption.

Unlike traditional armed groups though, prison gangs cannot be directly neutralized through repressive force, since most of their leadership is already incarcerated. Indeed, common hardline state responses like aggressive policing, anti-gang sweeps, and enhanced sentencing can inadvertently swell prison gangs' ranks and strengthen their ability to coordinate activity on the street. Breaking up prison-gang leadership has proved particularly counterproductive, often facilitating prison gangs' propagation throughout state-and national-level prison systems. Alternative approaches like gang truces that exploit prison gangs' capacity to organize and pacify criminal markets—and indeed whole peripheral regions—can be very effective at reducing violence. However, they are politically dicey (and hence unstable), and ultimately leave the state partially dependent on prison gangs for the provision of order, both within and beyond the prison walls.

Unfortunately, there is no silver bullet. Indeed, there are three distinct problems for policy-makers to grapple with. First, as the research discussed here shows, many typical responses have unintended and deeply

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counterproductive consequences. In particular, anti-gang crackdowns, which often raise incarceration rates, lengthen sentences, and worsen prison conditions, can actually help prison gangs establish authority outside prison, organize criminal markets, and orchestrate mass violence and protest. In many cases, prison gangs come to play a major role in providing order in peripheral communities, imposing codes of conduct that significantly reduce property crime and violence among residents.

Second, while there is evidence that these mass-incarceration policies helped prison gangs *establish* their authority, both within prison and on the street, it is not clear that simply reducing incarceration rates or improving prison conditions would neutralize that authority. The social orders that prison gangs have built in Central America, Brazil, and even parts of the U.S., rest on real institutions of varying degrees of formality: from shared language and symbols to written constitutions, and even corporate and state-like administrative structures. Like all institutions, these are likely to be "sticky," i.e. resilient to turnover in members and leaders, and adaptable to changing local conditions.[1]

Finally, it is not clear that rolling back, undermining, or neutralizing gang authority—even if it were possible—would produce positive outcomes. States were not good at providing order in prisons or peripheral areas *before* sophisticated prison gangs arose, and there is little reason to believe that they can entirely supplant gang authority in the short or even medium term. Smashing the authority of prison gangs could lead to outbreaks of brutal infighting or a chaotic scramble for power.

As such, this paper recommends a containment approach that strikes a balance between hardline repression and accommodation. Policymakers should aim to: increasingly acknowledge gang presence and power, rather than deny or obfuscate it; set rules of the game that take advantage of gang leaders' ability to pacify criminal markets while demarcating realms where the state can slowly supplant gangs; use repression more strategically to

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[1] John M. Hagedorn, "The Global Impact of Gangs," *Journal of Contemporary Criminal Justice* 21, 2 (2005) 153–169. Hagedorn defines "institutionalized gang" as one that "persists despite changes in leadership (e.g., killed, incarcerated, or "matured out"), has organization complex enough to sustain multiple roles of its members (including roles for women and children), can adapt to changing environments without dissolving (e.g., as a result of police repression), fulfills some needs of its community (economic, security, services), and organizes a distinct outlook of its members (rituals, symbols, and rules)."

enforce these rules, creating incentives for gang leaders to avoid violence and anti-social behavior; and put greater state, civil-society, and international resources into recuperating state authority in non-criminal areas where gangs currently hold sway.

The paper begins with background on contemporary prison gangs, which we might more accurately refer to as prison-based criminal organizations. I then present findings of research into the link between state law-enforcement and carceral policies and prison gangs' capacity to project their power onto the street in three leading cases: California; El Salvador; and São Paulo, Brazil. I follow with a discussion of the uses to which prison gangs use this capacity (organizing criminal activity, providing parallel power in peripheral communities, and orchestrating / curtailing violence) as a bargaining chip. I conclude with analysis and policy recommendations.

## Background

The first thing to note is that the very term "prison gangs" is inadequate. Groups like California's Mexican Mafia, Central America's *maras*, and the *facções criminais* ("criminal factions") of Brazil may have arisen in a context of small, predatory inmate groups, but they have all expanded into large organizations operating in multiple prisons, where they order the day-to-day life of prisoners under their "jurisdiction." Moreover, all of these groups wield significant power *outside* prison, where, at a minimum, they organize and tax street-level criminal activity. All of these groups have affected a restructuring of local criminal markets, generally bringing fragmented and autonomous local gangs and outfits under a centralized authority. More accurate, if clumsier, terms would be "prison-based criminal organizations" or "prison-organized crime."  Regardless of what we call them, however,  it is critical to understand that contemporary, sophisticated prison gangs use the prison system—and their control over life within it—as a key *resource* for organized criminal, and increasingly political, activity.

To understand how incarceration can come to *help* criminal groups, it is useful to distinguish three dimensions of prison-gang growth.[2]  First,

> "Contemporary, sophisticated prison gangs use the prison system—and their control over life within it—as a key *resource* for organized criminal, and increasingly political, activity."

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[2] Benjamin Lessing, "The Danger of Dungeons: Prison Gangs and Incarcerated Militant Groups," in *Small Arms Survey 2010: Gangs, Groups, and Gun,* (Geneva: Small Arms Survey, 2010).

successful gangs *consolidate* power by eliminating or subjugating rivals, taking control of key aspects of prison life (including contraband flows), and winning the capacity to mete out rewards and punishments to other inmates. While the early stages of consolidation may witness brutal struggles for primacy, once a gang has achieved it, violence generally decreases rapidly.[3] The hegemonic gang imposes rules that reduce violence, or make it more predictable, in ways that benefit not only members but unaffiliated inmates and even prison staff. While officials have probably always and everywhere worked with prisoners to maintain internal order, in Latin America, where staff-to-prisoner ratios are often low, many aspects of prison management are routinely and fully outsourced to inmates.[4] When sophisticated gangs develop and take over these functions, it grants gang leadership the capacity to mete out punishments and rewards to any inmate within entire wings or prison units under their control.

One way that state policy can inadvertently aid prison-gang consolidation of power is through the common practice of segregating inmates by gang. While such segregation literally saves lives—and attempts to forcibly desegregate gangs have led to brutal prison massacres—it simultaneously provides gangs with local hegemony within their assigned wings or units. Moreover, incoming prisoners are generally assigned to units based on their gang affiliation, which is often inferred from a prisoner's home neighborhood and/or racial background. This method of segregation has two perverse effects. First, it puts weakly or un-affiliated first-time offenders under gang custody and tutelage.[5] Second, and perhaps more importantly, it brings a broad range of street-level actors—anyone who might be sent to a given gang's wing if incarcerated—under that gang's "coercive jurisdiction." Neutral wings usually exist, but are often seen as less desirable by

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[3] Carlos Amorim, *Comando Vermelho, a História Secreta Do Crime Organizado* (Rio De Janeiro: Editora Record, 1993), 93; Tomás Andino Mencía, "Las Maras En La Sombra," in *Pandillas Juveniles Transnacionales En Centroamérica, México Y Estados Unidos* (Mexico City: ITAM, 2006), 56; Chris Blatchford, *The Black Hand: The Bloody Rise and Redemption of "Boxer" Enriquez, a Mexican Mob Killer* (New York, NY: Harper Collins, 2008), 6.; Fernando Salla, "De Montoro a Lembo: As Políticas Penitenciárias Em São Paulo," *Revista Brasileira De Segurança Pública* 1, no. 1 (2007): 82.

[4] James B. Jacobs, *Stateville: The Penitentiary in Mass Society* (Chicago: University of Chicago Press, 1978); Gresham M. Sykes, *The Society of Captives: A Study of a Maximum Security Prison* (Princeton, NJ: Princeton University Press, 1958).

[5] Author's visit to and interview with the director of Neves Jail, Rio de Janeiro, August 29, 2009; Human Rights Watch, *Real Dungeons: Juvenile Detention in the State of Rio De Janiero*, (New York, NY: Human Rights Watch, 2004), 33; Jerome H. Skolnick et al., "The Social Structure of Street Drug Dealing," *American Journal of Police* 9, no. 1 (1990): 24; USAID, *Central America and Mexico Gang Assessment* (Washington, DC, 2006), 15.

inmates since they often house rapists and other stigmatized and threatened prisoners. Attempts to make neutral wings attractive enough to wean away weakly affiliated members is risky, since it could induce true members to lie their way in, and even take over such wings.

A related issue is prison-gang propagation: the spread of a prison gang to multiple prisons within a penitentiary system. The most common channel of propagation is the transfer of gang members from their "home" unit to other prisons, but it can also occur through prisoner release and re-imprisonment, as well as "mergers" and "franchising" involving initially unaffiliated groups. While the evidence is still anecdotal, propagation very frequently involves the physical presence of at least one prisoner with first-hand experience of consolidated prison-gang control, either by his own gang or another. Perhaps because of the centrality of face-to-face contact, propagation occurs most easily within legal jurisdictions, such as state-level prison systems, where prisoner transfers are common. Propagation across state and national lines is more rare, but clearly occurred in the case of the *maras*, whose leaders were deported in the 1990s from California, where they had lived under the Mexican Mafia's prison-based rule.[6]

If prison gangs only consolidated and propagated within prison systems, they would remain largely a "corrections" issue. It is their ability to *project* power beyond the prison walls that transforms them into a first-order public-security concern. Projection of power amounts to influence over street-level actors, and can take many forms, including: imposition of rules or codes of behavior, definition of turf boundaries, levying of taxes, and issuing orders for specific acts of violence (including individual hits and orchestrated attacks). The ability to project power, I argue below, is fundamentally linked to state policy: prison gangs wield power over people on the street who expect to be incarcerated, and peoples' expectations about future incarceration—especially people with links to gangs—are largely a function of policing and sentencing policies.

> "If prison gangs only consolidated and propagated within prison systems, they would remain largely a 'corrections' issue. It is their ability to *project* power beyond the prison walls that transforms them into a first-order public-security concern."

[6] Al Valdez, "The Origins of Southern California Latino Gangs," in *Maras: Gang Violence and Security in Central America*, ed. Thomas Bruneau, Lucia Dammert, and Elizabeth Skinner (Austin, TX: University of Texas Press, 2011).

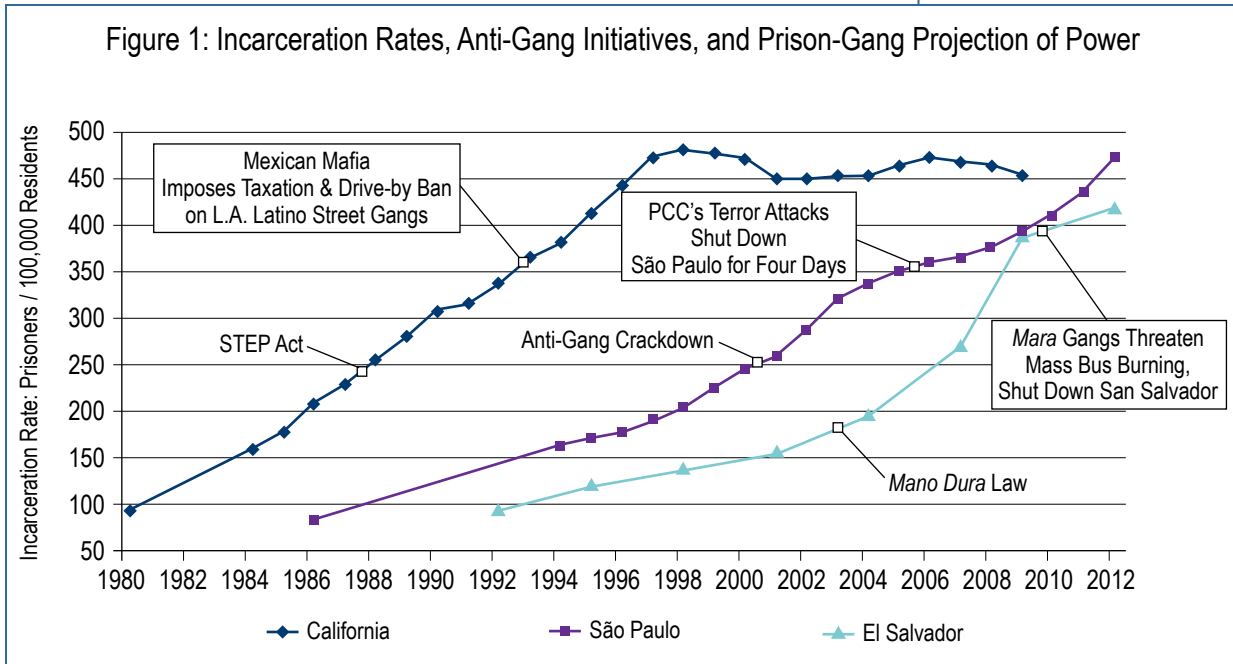## Anti-Gang Crackdowns Can Strengthen Prison-Gang Projection of Power

Why do people on the streets obey the orders of imprisoned gang leaders, many of whom may spend the rest of their lives behind bars? A former drug boss I interviewed in Rio de Janeiro put it simply: "Whatever you do on the outside, on the inside you'll have to answer for it."[7] Packed into this statement are two key assumptions: "You" are likely to return to prison at some point, and when you do, you will be at the mercy of gang leaders. These same assumptions are explicit in the testimony of a gang specialist from the Los Angeles Sheriff's Department: "the Eme [i.e. the Mexican Mafia prison gang] controls the prisons and the [street] gangsters know that eventually they'll end up in prison and be subject to sanctions and retribution if they don't obey the Eme while they're on the street."[8] If projection of power depends on non-incarcerated actors' likelihood of (re-) incarceration, then increased incarceration rates could actually strengthen prison-gang power on the street. To investigate this possibility, I developed a game-theoretic model to test the effects of common policy interventions on prison gangs' capacity to recruit and tax outside actors.[9] The policies are "pro-incarceration" in the sense that they increase the certainty (i.e. likelihood) and / or severity of incarceration. The latter category includes both longer sentences as well as harsher prison conditions, whether deliberate (e.g. solitary confinement) or inadvertent (e.g. due to overcrowding). Increases in certainty generally involve enhanced policing, often together with anti-gang laws that permit police to arrest large numbers of suspected gang members.

A key question is how *targeted* such crackdowns are. If targeted crackdowns perfectly discriminated those who obey gang orders from those who do not, they would create a deterrent to obedience. But real-world "targeting" is usually far from perfect, and if a street-level actor's chances of going to prison are going up whether he follows prison-gang orders or not, he has more, not less, reason to obey. Moreover, as prison conditions worsen with overcrowding, the protection prison gangs offer on the inside

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[7] Author interview, August 17, 2009.
[8] Tony Rafael, *The Mexican Mafia* (New York: Encounter Books, 2007), 326.
[9] Benjamin Lessing, *A Hole at the Center of the State: Prison Gangs and the Limits to Punitive Power*, CDDRL Working Paper No. 143 (2013).

## Figure 1: Incarceration Rates, Anti-Gang Initiatives, and Prison-Gang Projection of Power

**Incarceration Rate: Prisoners / 100,000 Residents**

- Mexican Mafia Imposes Taxation & Drive-by Ban on L.A. Latino Street Gangs
- STEP Act
- PCC's Terror Attacks Shut Down São Paulo for Four Days
- Anti-Gang Crackdown
- *Mara* Gangs Threaten Mass Bus Burning, Shut Down San Salvador
- *Mano Dura* Law

Legend: ◆ California   ■ São Paulo   ▲ El Salvador

becomes even more valuable. Thus the model predicts that pro-incarceration policies will strengthen prison gangs on the street when:

- Prison gangs are sufficiently consolidated to effectively reward compliance and punish defection within prison; and

- Additional arrests are insufficiently targeted at street-level actors who comply with prison-gang edicts vs. those who do not;

- Especially if those policies inadvertently worsen prison conditions, perhaps through overcrowding.

Empirical evidence that mass incarceration policies can promote prison-gang projection comes from three leading cases of prison-gang growth and projection in the Western Hemisphere—California, El Salvador, and São Paulo—which all followed strikingly similar trajectories (Figure 1). In particular, the conditions listed above were present in all three cases: incarceration rates were rising, prison conditions were worsening, crackdowns were poorly targeted, and gangs had already consolidated power within prison.

In California, the 1988 STEP (Street Terrorism Enforcement and Protection) Act criminalized gang membership and enhanced sentences for gang-related crimes, vastly increasing police discretion and reinforcing

an already strong rise in the incarceration rate. The Mexican Mafia prison gang, also known as the Eme, had long controlled prison wings by that point, but in 1992, it definitively established control over LA's Latino street gangs with its so-called "Eme edict." The edict imposed turf delimitations and taxes, and outlawed drive-by shootings, which were drawing too much police attention. Since then, the Eme has used this power to coordinate violent turf wars against black gangs in LA and rival Latino gangs in northern California (now coordinated by their own respective prison gangs).

El Salvador's Mano Dura and Super Mano Dura policies were harsh anti-gang initiatives that criminalized gang membership and granted police wide discretion in detaining suspected members. These laws drove incarceration rates sharply upward, but largely failed to distinguish street-gang members from non-members.[10] Scholars agree that this period led to a significant increase in the organization and hierarchy of the MS-13 and M-18 *mara* gangs.[11] Their power on the *street*, however, only became fully clear in 2010, when imprisoned leaders of the main groups joined forces to induce—via threats of mass violence against city buses by street-level affiliates—a transportation strike that shut down the capital for three days, demanding improved prison conditions and the veto of an anti-gang law.[12]

Finally, in São Paulo, the generally hardline policies of a sequence of governors led to a massive expansion of the carceral system. This process intensified in the wake of the 2001 "mega-rebellion," in which 21 prisons, all under the control of the Primeiro Comando da Capital (PCC), rebelled simultaneously. While this event clearly signaled the extent to which the PCC had consolidated its control and propagated throughout the São Paulo state prison system, few observers realized that the organization had been building up power in the streets. Then, in May 2006, the PCC launched a synchronized wave of attacks. First, simultaneous riots broke out in some 90 prisons. Then, after many police had been deployed to prison sites, street-level collaborators launched hundreds of attacks on civilian, police,

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[10] Sara L. Van Hofwegen, "Unjust and Ineffective: A Critical Look at California's STEP Act," *Southern California Interdisciplinary Law Journal* 18 (2009).

[11] José Miguel Cruz, "The Transformation of Street Gangs in Central America," *ReVista*, Winter (2012); Wim Savenije, *Maras Y Barras: Pandillas Y Violencia Juvenil En Los Barrios Marginales De Centroamérica* (San Salvador: Facultad Latinoamericana De Ciencias Sociales, Programa El Salvador, 2009).

[12] Sonja Wolf, "Mara Salvatrucha: The Most Dangerous Street Gang in the Americas?" *Latin American Politics and Society* 54, no. 1 (2012): 86.

and urban-infrastructure targets. The capital was brought to a standstill for days, until authorities met with PCC leaders and made key concessions, at which point the attacks abruptly stopped.

More rigorous testing of this model is difficult, since we cannot directly measure prison gangs' capacity to project power; we can only be sure of such capacity when we see it used. Moreover, many officials practice "gang denial," downplaying the power and even existence of gangs until events force a public recognition of their power.[13] Thus we cannot interpret the absence of evidence of prison-gang projection as evidence that prison gangs are unable to project.

That said, some critical comparative evidence comes from Nicaragua, which shares several factors often blamed for the rise of the *maras*: a history of civil war, easy availability of firearms, widespread poverty and unemployment, and a long-standing presence of neighborhood gangs.[14] Yet the *maras* made no inroads into Nicaragua, its native gangs never developed into prison-based criminal organizations, and its homicide rate remains far lower than its northern neighbors.[15] While the relative lack of returning *mara* deportees from the U.S. certainly played a role, there were equally dramatic differences in anti-gang policies. Nicaraguan officials, many of them former insurgents, pioneered a preventive approach that directed repression only at the more serious organized crime outfits, while bringing vulnerable youth into community programs.[16] This suggests that repression was also better targeted, and as a result, incarceration rates remained relatively low.

If Nicaragua's innovative policy approaches indeed made it more resilient to prison-gang growth, the question arises whether similar policies could weaken or eliminate prison gangs in places like El Salvador or even Brazil. This is certainly an interesting avenue for future research. However, there

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[13] George W. Knox, *The Problem of Gangs and Security Threat Groups (STG's) in American Prisons and Jails Today*, (Peotone, IL: National Gang Crime Research Center, 2012).

[14] José Luis Rocha and Dennis Rodgers, *Gangs of Nicaragua* (Managua: Impresiones Helios, 2008).

[15] José Miguel Cruz, "Government Responses and the Dark Side of Gang Suppression in Central America," in *Maras: Gang Violence and Security in Central America*, ed. Thomas Bruneau, Lucia Dammert, and Elizabeth Skinner (Austin, TX: University of Texas Press, 2011); Deborah Yashar, *Violence: The Illicit, the Complicit, and Competition in Contemporary Latin America*, (presentation at UC Berekely May 14, 2012).

[16] José Luis Rocha, "Un Debate Con Muchas Voces: Pandillas Y Estado En Nicaragua," *Temas* 64 (2010): 33; Cruz, "Government Responses and Gang Suppression."

are theoretical reasons to doubt that reducing incarceration rates alone, or even in conjunction with policies for getting youth out of gangs, would significantly reduce prison-gang power. The mechanism hypothesized here may not be easily reversible, because once a gang has established authority over a given territory or population, the actors involved may continue to follow its rules even when its direct coercive power diminishes. This is particularly true of gangs that impose social orders that are perceived as "fair" by their subjects. For example, in an ongoing study of the PCC's operations in São Paulo state, Lessing and Denyer-Willis (2016) find that the organization rarely punishes its members harshly or arbitrarily for mistakes, relying instead on transparent rules, trial by jury, and mild suspensions that nonetheless, through extensive record-keeping, create a permanent "stain." Such a system—which as I discuss below probably contributed to a massive drop in homicides—may well seem fair and just to its "subjects," and hence not require inordinate amounts of coercive power to maintain.

## Prison Gangs Use Projection of Power To Do Dangerous Things

If prison gangs used projection of power only to tax street gangs, then increased incarceration might merely raise prison gangs' relative criminal income. However, contemporary prison gangs use projection of power in ways that are problematic for states, even if they sometimes *reduce* crime rates. This section details three sorts of uses, drawing on the case of Rio's Comando Vermelho (CV) as well as the examples above to illustrate.

### *Organization of local criminal activity*
Local illicit markets, especially urban retail drug markets, tend to be fragmented and unstable. Street gangs and small operators rarely establish thoroughgoing control beyond small pieces of home turf, despite significant investments in arms and soldiers.[17]

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[17] In some cities, deliberate efforts have been made to push retail drug trafficking toward a delivery basis, which de-territorializes the market and seems to lead to less violence; John M. Hagedorn, "Neighborhoods, Markets, and Gang Drug Organization," *Journal of Research in Crime and Delinquency* 31, no. 3 (1994); Jerome H. Skolnick et al., "Social Structure Street Drug Dealing"; Steven D. Levitt and Sudhir Alladi Venkatesh, "An Economic Analysis of a Drug-Selling Gang's Finances," *The Quarterly Journal of Economics* 115, no. 3 (2000).

Yet as Lessing (2008, 2010) and Skarbek (2011) have both argued, there are potential efficiency gains, and hence an economic surplus to be extracted, for any group capable of providing criminal governance. In the 1980s, Rio de Janeiro's Comando Vermelho (CV) used a code of mutual-aid among its members to systematically oust or subdue incumbent drug retailers from a majority of the city's favelas, and then hold that territory despite decades of extreme police repression.[18] Comparing four Brazilian cities, Lessing (2008) finds Rio's local monopolies on drug retailing unique, and plausibly due to the CV's prison-based governance structure.

Like the CV, California's Eme and São Paulo's PCC have both used their coercive power to organize street-level drug markets. Yet whereas the Eme's power is limited to areas dominated by southern Californian Latino gangs, the PCC operates throughout the entire urban periphery of São Paulo as wholesaler, tax collector, and arbiter of disputes among myriad small-scale retailers.[19] It has imposed a violence-limiting "*lei do crime*" ("criminal code of conduct") through an astonishing system of trials, via cell-phone conferencing, before a jury of jailed PCC elders.[20]

In El Salvador (as well as Guatemala and Honduras) the *maras* organized extortion rackets, perhaps because retail drug markets were quite small in these countries. Leaders introduced hierarchies, stricter and savvier codes of behavior (e.g. prohibiting gang tattoos), and a system of prison-coordinated and -taxed extortion of businesses and public transportation known as *la renta* (the rent).[21]

*Mara* leaders explicitly attribute this shift in structure and behavior to increased incarceration under anti-gang measures:

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[18] Carlos Amorim, *Comando Vermelho*; William Da Silva Lima, *Quatrocentos Contra Um: Uma História Do Comando Vermelho* (Labortexto Editorial, 2001).

[19] Interview, former São Paulo Special DA for Organized Crime, September 1, 2009; David Skarbek, "Governance and Prison Gangs," *American Political Science Review* 105, no. 04 (2011); Gabriel De Santis Feltran, "Crime E Castigo Na Cidade: Os Repertórios Da Justiça E a Questão Do Homicídio Nas Periferias De São Paulo," *Caderno CRH* 23, no. 58 (2010); Daniel Veloso Hirata, *Sobreviver Na Adversidade: Entre O Mercado E a Vida.*, PhD diss., Universidade De São Paulo, 2010.

[20] Vera Da Silva Telles and Daniel Veloso Hirata, "Ilegalismos E Jogos De Poder Em São Paulo," *Tempo Social* 22, no. 2 (2009): 53; Andre Caramante, "'Tribunal Do Crime' é Negócio, Diz Promotor," *Folha de S. Paulo*, October 4, 2008; Gabriel De Santis Feltran, "Crime E Castigo Na Cidade."

[21] Juan J. Fogelbach, "Gangs, Violence, and Victims in El Salvador, Guatemala, and Honduras," *San Diego International Law Journal* 12, no. 1 (2010): 439; Jeannette Aguilar and Marlon Carranza, *Las Maras Y Pandillas Como Actores Ilegales De La Región*, Informe Estado De La Región (San Jose: Programa Estado De La Nación, 2008), 23.

"Before [the Mano Dura mass-incarceration policy] began it was different. We hadn't gotten to seeing things collectively. The system has united us… like it or not, we cannot look at things individually, because they haven't treated us individually, nor have they pursued or locked us up individually."[22]

*Parallel Power*

Prison-gang authority can extend to entire peripheral regions and populations, providing order, justice, and other public goods, and effectively supplanting state authority. In Rio de Janeiro, an entire generation of favela residents has been born and raised under the armed dominion of prison-coordinated drug syndicates, while the state's presence was largely limited to intermittent, corrupt, and highly lethal police invasions.[23] As a founding CV member explained, "We catechize the favela residents and show them that the government cannot help them or see their side of things. So we give food, medicine, clothes, textbooks…. We pay for doctors, funerals… We even resolve domestic disputes; there can't be trouble or else the police will enter."[24]

Southern California's Eme has made minor efforts to influence larger peripheral populations, coordinating offensives by affiliated Sureño street gangs against black residents in Los Angeles and Norteños governed by the Eme rival La Nuestra Familia in central California.[25] *Maras*, by contrast, play a dominant role in neighborhoods throughout El Salvador, as well as Guatemala and Honduras.[26]

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[22] José Miguel Cruz, "Central American Maras: From Youth Street Gangs to Transnational Protection Rackets," *Global Crime* 11, no. 4 (2010): 393.

[23] Enrique Desmond Arias, "The Dynamics of Criminal Governance: Networks and Social Order in Rio De Janeiro," *Journal of Latin American Studies* 38, no. 02 (2006); Luke Dowdney, *Children of the Drug Trade: A Case Study of Children in Organised Armed Violence in Rio De Janeiro* (Rio De Janeiro: 7Letras, 2003); Elizabeth Leeds, "Cocaine and Parallel Polities in the Brazilian Urban Periphery: Constraints on Local-Level Democratization," *Latin American Research Review* 31, no. 3 (1996).

[24] Carlos Amorim, *Comando Vermelho*, 162.

[25] Brentin Mock, "L.A. Blackout," *Southern Poverty Law Center Intelligence Report*, Winter ed., vol. 124, (Southern Poverty Law Center, 2006); United States of America v. Rios et Al (District Court, Central District of California February, 2011); Julia Reynolds and George Sánchez, "Norte-Sur: California's War in the Fields," *El Andar*, Winter 2003.

[26] Joanna Mateo, "Street Gangs of Honduras," in *Maras: Gang Violence and Security in Central America*, ed. Thomas Bruneau, Lucia Dammert, and Elizabeth Skinner (Austin, TX: University of Texas Press, 2011); Elin Cecilie Ranum, "Street Gangs of Guatemala," in *Maras: Gang Violence and Security in Central America*, ed. Thomas Bruneau, Lucia Dammert, and Elizabeth Skinner (Austin, TX: University of Texas Press, 2011).

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> "In Rio de Janeiro, an entire generation of favela residents has been born and raised under the armed dominion of prison-coordinated drug syndicates, while the state's presence was largely limited to intermittent, corrupt, and highly lethal police invasions."

The PCC has relentlessly expanded its presence throughout São Paulo's urban periphery since 2000, and its dispute-resolution and order-provision services now extend to a broad population poorly served by state institutions.[27] As one detective noted: "[T]he PCC is now judging small-claims cases, even domestic disputes. It's clogging up our wiretaps, which capture fewer and fewer [serious crimes]."[28]

### Orchestrated Protest and Violence as a Bargaining Chip

These tactics are the most obviously debilitating to states, and can work both inside and outside prison. The CV—whose founding members watched while the leftist militants they were housed with successfully protested their way to amnesty—regularly organized hunger strikes and petitions, often coercing the larger inmate population into adherence.[29] The CV has also instigated prison riots, often in multiple prisons simultaneously, as a means of pressuring or punishing officials.[30] On the outside, the CV has frequently induced its foot soldiers in favelas to carry out city-wide shutdowns of businesses, burn buses, and attack public buildings and police stations, usually to pressure officials to slacken carceral policies.[31]

São Paulo's PCC has extended and perfected these tactics. The 2006 PCC attacks, more than just a destructive affront to state authority, were an effective political cudgel: they not only forced concessions in carceral policy, but helped defeat PCC antagonist Gerardo Alckmin (then-governor of São Paulo and architect of its mass incarceration policies) in his 2006 bid to unseat President Lula da Silva. When I asked what the PCC gained from their attacks, São Paulo's former DA for Organized Crime told me, "power, in the political arena. Now they must always be taken into consideration; everyone is afraid."[32] A similar sentiment was expressed by Salvadoran observers in 2015, when *maras* once again used orchestrated attacks on buses and threats to foment a four-day transportation strike that affected over

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[27] Ciro Biderman, Renato Sergio De Lima, and João Manoel Pinho De Mello, *Pax Monopolista and Crime: The Case of the Emergence of the Primeiro Comando Da Capital in São Paulo*, January 10, 2015; Gabriel De Santis Feltran, "Crime E Castigo Na Cidade."

[28] "Escuta: PCC Faz Papel De Polícia E Justiça Em SP," *Redação Terra*, February 17, 2008.

[29] Interview, former Director of Rio de Janeiro State's penitentiary system, July 8, 2009; William Da Silva Lima, *Quatrocentos Contra Um*.

[30] Interviews, former imprisoned CV and Terceiro Comando leaders, August 2009.

[31] R. Ben Penglase, "The Shutdown of Rio De Janeiro. The Poetics of Drug Trafficker Violence," *Anthropology Today* 21, no. 5 (2005).

[32] Interview, September 1, 2009.

"The prison gangs' capacity to both orchestrate mass violence *and* attenuate homicide and other violent crimes gives them enormous leverage over state officials."

one million residents[33]: "if the gangs decide to do it again, nothing suggests that the State is able to prevent it."[34]

But the threat of violence is only one side of the coin. The PCC's imposition of its "criminal code of conduct" on the underworld—indeed, on much of the urban periphery—is widely thought to have contributed to an outsized drop in homicide in São Paulo. Between 1999 and 2007, homicide rates fell from 44 to 15 per 100,000, a 66 percent reduction that was the largest of any Brazilian state and well above the nationwide variation of -3.7 percent. The transformation is epochal: São Paulo city is now the least violent state capital in Brazil. And though there is an active academic debate as to precisely how much the PCC contributed to this drop relative to demographic and other factors, there is both econometric and ethnographic evidence that it played a significant role.[35] In any case, wiretap recordings reveal that the PCC leadership takes credit for the homicide drop, and thus likely sees it as a bargaining chip to use against the state. It is indeed hard to imagine officials not worrying that anti-PCC actions could lead to an outbreak of violence.

Likewise, El Salvador's *maras* followed their 2010 show of force with a March 2012 prison-brokered truce that produced a stunning 60 percent drop in the national homicide rate—testifying to imprisoned leaders' control over street-level behavior (Figure 2). Though the government initially denied any role in the truce, top *mara* leaders were returned from isolation to low-security prisons and allowed cell phones, among other concessions.[36] Once the homicide drop became undeniable, the government began to take credit, inviting security ministers from Guatemala and Honduras to discuss exporting the Salvadoran 'experiment.'[37] Yet the truce always elicited vocal opposition from multiple sectors, often motivated by the fear that negotiating with the *maras* would further empower them.

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[33] Nelson Rauda Zablah and Gabriel Labrador, "Pandillas logran sostener pulso con el gobierno por el transporte público." *El Faro*, July 29, 2015.

[34] Roberto Valencia, "Diez repuestas que ayudan a comprender por qué las maras colapsaron el transporte público." *El Faro*, July 31, 2015.

[35] Ciro Biderman, Renato Sergio De Lima, and João Manoel Pinho De Mello, *Pax Monopolista and Crime*; Gabriel De Santis Feltran, "Governo Que Produz Crime, Crime Que Produz Governo: O Dispositivo De Gestão Do Homicídio Em São Paulo (1992-2011)," *Revista Brasileira De Segurança Pública* 6, no. 2 (2012).

[36] "Central America's Gangs: A Meeting of the Maras," *The Economist*, May 12, 2012.

[37] Tania Membreño, "Ministros De Seguridad C.A. Analizan Tregua De Pandillas," *La Prensa Grafica*, May 24, 2012.

Figure 2: El Salvador's *Mara* Truce and its Unravelling
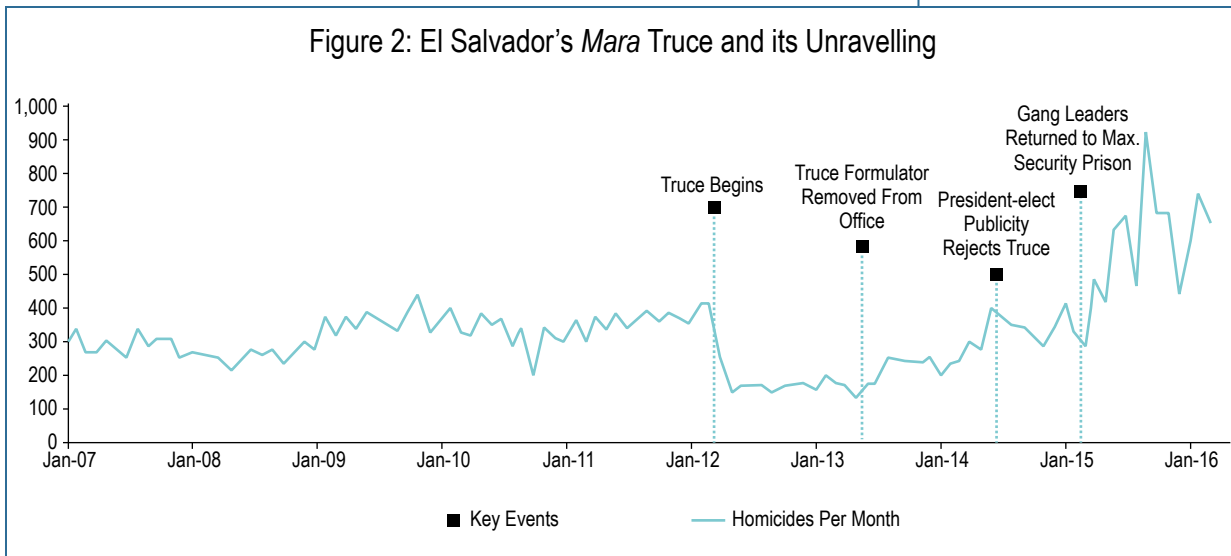
Between 2013 and 2014, the truce slowly unraveled. One key reason was the removal from government, by Supreme Court decree, of the truce's formulator in 2013. But more systemic factors also played a role, in particular the inability of both the gangs and the government to "deepen" the truce with further mutual concessions.[38] For gang-leaders, ordering the rank and file to stop killing was relatively low-cost, but stopping extortion (street-members' primary source of revenue) would have stretched leaders' authority to the breaking point. Similarly, officials could offer imprisoned leaders low-security facilities, family visits, and other benefits through immediate executive actions, but job programs to replace extortion income and changes in policing practices would have required legislative approval, in a context of sharp public disapproval of such concessions. During this "unraveling" period, *maras* announced several attempts to strike new truces, warning of the potential violence if no truce were struck. Accordingly, since El Salvador's new president definitively ruled out the truce in 2015, transferring many *mara* leaders to solitary confinement where they could no longer communicate with the rank and file, violence has skyrocketed. Nonetheless, the *maras* have continued to make overtures of new truces, which have been ephemeral, but may have contributed to short-term reductions in homicides. Conversely, as noted above, in 2015 they instigated another transportation strike through orchestrated bus-burnings.

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[38] Charles M. Katz and Luis E. Amaya, *The Gang Truce as a Form of Violence Intervention* (San Salvador: FUNDE, 2015).

In sum, prison gangs' capacity to both orchestrate mass violence *and* attenuate homicide and other violent crimes gives them enormous leverage over state officials.

## Policy Implications

Local orders in peripheral communities often depend centrally on criminal groups; the unique challenge of prison-based groups is that the state's go-to response against criminal groups—mass incarceration—can significantly strengthen gang power on the streets. Indeed, few if any street gangs ever achieved the kind of region-wide social control wielded by São Paulo's PCC or the Salvadoran *maras*. The ultimate goal of policy, I would argue, is to move from a local order that is based on gang power to one that flows from healthy citizen-state relations. Transforming gang-ruled communities into war zones is unlikely to achieve this goal, but so too is abandoning these areas to criminal groups. What can be done?

A few policy recommendations are easy to identify: increased information-sharing between prison administrations and law-enforcement; more transparency about how prisons are actually run so that policymakers and researchers can better measure prison-gang influence; and administrative reforms that remove incentives for officials to deny the presence or power wielded by prison gangs.

However, none of these recommendations address the deeper, more complex problem that the rise of prison-based criminal organizations raises for public policy. I discuss these three core challenges below, and offer some thoughts on where this leaves governments.

1. **Policies can have serious unintended consequences**. The history of prison gangs is awash with stories of policies having counterproductive effects. Perhaps the clearest cases include the original formation and consolidation of prison gangs—an unintended consequence of growing prison populations and, probably, insufficient oversight. Other examples include:

   - Propagation of prison gangs via the transfer of gang leaders to different units;

   - The deportation of Central American gang leaders from California in the 1990s; and

"Local orders in peripheral communities often depend centrally on criminal groups."

- The Brazilian military government's decision in the 1970s to group leftist militants, together with common criminals, which ultimately produced the CV.

This article has argued that another critical unintended consequence is likely to occur:

- Pro-incarceration policies like anti-gang sweeps and enhanced sentencing can increase prison gangs' ability to project power onto the streets. This in turn can lead to the further growth of prison gangs as criminal organizations, trigger important structural changes in criminal markets, and give prison gangs important sources of leverage over state actors.

This last unintended consequence is particularly pernicious because it is neither obvious nor easy to demonstrate empirically. Further research is required to determine how universal this effect is, and what factors may minimize it. But it is certainly consistent with the empirical record, and helps explain the enormous accumulation of street-level power demonstrated by prison-gang actions in El Salvador and Brazil. If true, it raises the possibility that many of these states' go-to policy responses may inadvertently contribute to the rise of powerful non-state actors.

2. **Unintended consequences of policies may not be easy to reverse:** Just because a policy inadvertently helps prison gangs form, spread, or project power does not mean that reversing that policy will undo prison-gang authority. For example, once a prison gang has established itself throughout a prison system via the transfer of its leaders, reuniting the leaders in a single unit is unlikely to eliminate the gang's presence in other units. Prison gangs seem to form through face-to-face transfer of know-how; once that transfer has occurred, it is too late. More broadly, prison gangs impose systems of social order that ultimately make their "subjects" better off than under anarchy or gang war. These social orders are likely to be resilient to policy-based efforts to undermine gang authority. In particular:

- Even if mass incarceration policies contribute to prison-gang projection, reducing incarceration rates, improving the targeting of anti-gang measures, or improving prison conditions may not prevent further projection of power.

3. **Prison-gang projection of power creates acute trade-offs among policy objectives:** Even if policy-makers *can* neutralize or fragment prison-gang authority, it is not clear that this is the correct policy objective. Prison gangs, for better or worse, have brought order to criminal markets that are traditionally fragmented, contentious, and often

quite violent. In so doing, they have demonstrated a capacity for pacifying peripheral zones beyond that of virtually any state policy intervention on record. Eliminating prison-gang authority in these regions would likely create a power vacuum that states are congenitally poor at filling; disastrous levels of urban violence and chaos could result. On the other hand, accommodative approaches risk further empowering prison gangs.

This dilemma is well-illustrated by the history of the Salvadoran *mara* truce, and the rapid shifts in state policy, from one extreme to another, that shaped it. In 2012, a government-mediated truce among prison-based *maras* led to a massive, sustained reduction in homicides. Though the government initially denied any involvement, going so far as to discount the truce's role in violence reduction, it later did an about face, proudly taking credit, and inviting neighbors to study the policy. Four years later, a new president not only dismissed the truce as ethically suspect and strategically misguided, he launched an increasingly militarized crackdown on the *maras*, and has actually passed legislation that outlaws negotiation with gangs, and even criminalizes "calls for dialogue." Neither policy approach has proven clearly successful. Although the truce proved unsustainable and quickly unraveled, the post-truce crackdown has produced violence on a scale not seen since El Salvador's civil war.

Governments would be better served by seeking a middle way between brute-force anti-gang repression and purely accommodative approaches—in short, a containment strategy. Such an approach would frankly acknowledge gang power on the streets and within prison, and tender what Schelling (1967, 72) called "diplomatic recognition" to gang leaders as important interlocutors. At the same time, state policy could transparently aim to confine prison-gang authority to purely criminal activity, while slowly supplanting gangs' power within peripheral communities. This would likely require both economic and social development interventions—rebuilding schools, community health centers, and so on—as well as shifting policing practice away from pure repression toward prevention and community involvement. Repressive force can still play a key role, but states should aim to deploy it more strategically, punishing gangs for overstepping behavioral and territorial limits, and creating incentives for gang leaders to put their authority to good uses. Gangs in turn are less likely to actively resist state incursion into "their" territory if the state has made clear it is not trying to

> "Governments would be better served by seeking a middle way between brute-force anti-gang repression and purely accommodative approaches—in short, a containment strategy."

exterminate them, but rather to provide public goods for largely law-abiding communities. Such an approach is admittedly easier to implement when gangs derive their income from drug trafficking (which for all its negative impact is ultimately voluntary) than extortion (which necessarily involves violence against residents). Yet even in the latter case, the state is more likely to succeed through  "salami tactics"—slowly pushing gangs into less destructive, but less lucrative activities, while slowly building up its own legitimacy in neglected communities—than by attempting to incarcerate or kill its way out of the problem through sheer repressive force.

To supporters of hardline crackdowns, these policy suggestions will surely appear naïve, unethical, or both. Policies of containment or détente are always politically hard to swallow, and even more so when the "enemy" in question is a purely criminal group with no overt political ambition or ideology. Negotiating with rebels or communists may be hard, but negotiating with criminals is taboo. This taboo was briefly broken in El Salvador, and has now been restored and codified into law; elsewhere, governments simply deny that the delicate dance of concessions and tacit agreements constitutes negotiation. Yet the reality is that governments are locked in a strategic interaction with prison-based criminal organizations with the power to alter patterns of crime and violence at a national scale. Eliminating prison-gangs is not a short-run option. Learning to manage them is the best path forward.

> **"Negotiating with rebels or communists may be hard, but negotiating with criminals is taboo."**

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