

# Mexico. The Fight For Security and the Criminal System Reform

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New courtrooms for Mexico's recently approved oral trials.

## HARD TIMES

Mexico is going through turbulent times. Extreme, savage, merciless violence unlike anything since the time of the revolution is plaguing several states in the northern part of the country. The federal government has deployed both civilian and military operations to recover territorial control and bring offenders to justice. The drug cartels, well armed with weapons that mainly come from the United States, are fighting for control over drug routes and charging a quota of blood and corruption in small, medium-sized, and large cities. In the midst of this, the citizenry is asking itself what the government's objec-

tives are and when the nightmare that has already cost more than 35 000 lives between 2007 and 2010 will end.

Solutions are not easy to envisage. Very probably public security will continue to be a central item on the public agenda in coming years. However, the steps toward building the rule of law and significantly diminishing the violence are already being taken, above all based on the coordinates sketched out by the important June 2008 constitutional reform in criminal matters.<sup>1</sup>

For this reform to help decrease the violence, arms trafficking from the United States has to be stopped. Evidence points to an important percentage of assault rifles confiscated from drug traffickers having been purchased in U.S. border state gun shops. The armories of Texas, New Mexico, and Arizona do a thriving business selling guns that end up being

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used to kill Mexican police, soldiers, and citizens. The lack of regulations on gun sales, the irrational ease with which they can be acquired with only minimal paperwork, considerably increases the risk of violence on the Mexican side of the border.

This does not mean that the U.S. government is guilty of the violence in Mexico, as is sometimes rather simplistically alleged, but we have the great responsibility of taking better care of our borders. Finally, the task of avoiding the entry of arms into our territory is ours, not theirs. Every country must assume its part of the responsibility, and our two nations must create shared channels to facilitate teamwork for information exchange, intelligence gathering, operations coordinated on both sides of the border, police training, etc. Therefore, ensuring control of the northern border and reducing arms trafficking from the United States must be the Mexican government's number one priority in its fight against insecurity and the big cartels.

#### SECOND-RATE POLICE FORCES

An additional step is linked to training and improving the thousands of existing police forces in Mexico. Every municipality—more than 2 500 nationwide—and every one of the 32 states and the Federal District, has its own police force, as does the federal government. The 2008 constitutional reform stipulates that all police officers be certified and their personal data be registered in a system that would ensure that they have no criminal records. The aim of this part of the reform is to substantially improve the quality of Mexico's police forces.

Besides training, certifying, and registering their personal data, it is also important to raise their wages so that a career as a police officer is attractive to more people. According to the federal government's Ministry of Public Security, 60 percent of municipal police officers earn a maximum of US\$333 a month.

This kind of wage makes them vulnerable not only for recruitment by organized criminal groups, but also creates a

big turnover in the police force since officers frequently explore other job alternatives and leave the force after only a short time. Paying them better is indispensable for moving ahead in the fight against crime in Mexico.

#### HOW DO YOU WIN?

Another public security issue that is beginning to be debated is linked to the goal pursued by the federal government's intervention in the fight against the big criminal groups. Many analysts ask themselves how we can know whether we are winning, are tied, or are losing. When and under what conditions will we know if the scales are tipping toward the side of law and order or the criminals' side?

To answer these questions, I think there are two objective parameters indicating possible government success in the fight against crime. One is linked to territorial control: a state is winning against criminal groups when the latter do not control parts of the territory or when they are constantly pursued by public forces wherever they are. The second parameter is linked to decreasing violence on our streets: fewer thefts, fewer kidnappings, and fewer homicides.

Territorial control has been ensured for quite a while now. The presence of federal forces, whether military or civilian, in places previously controlled by drug traffickers is evident. The broad deployment in Tamaulipas, Chihuahua, and Michoacán must be appreciated at its true worth. However, there is still much left to do since, even in those states, where operations are constant, people cannot go out onto the street and feel safe. Often, the situation looks like a game of cat and mouse.

The second parameter is much more complicated, and the data do not look very optimistic. In fact, if we take into account the figures for violence (homicides, kidnappings, etc.), it would seem that not only have we not advanced, but we are actually going backward. Homicides had been dropping since 1992, giving Mexico a much lower rate than other Latin American countries. For example, according to the Na-

tional Population Council (Conapo) and the federal Ministry of Public Security, by 1997, our homicide rate was 17 per every 100 000 inhabitants and dropped to 10 per 100 000 by 2007. However, the trend reversed itself in 2008, 2009, and above all 2010. In 2008 and 2009, the homicide rate increased 50 percent each year, revealing that Mexico had gone backward about 20 years in this area.<sup>2</sup> Fernando Escalante reports that in 2008 there were 5 500 more homicides than in 2007, and in 2009, 5 800 more than in 2008 and 3 000 more than in 1992, the year with the highest rate in the country's recent past. At that point, victory seems not only remote, but it looks like we are facing what could be called, as I already mentioned, a grave reversal.

#### THE PROBLEM OF THE JAILS

The previous sections have pointed out the low quality of our police forces and their miserable wages, the advance in territorial control by authorities and the huge spike in homicides. To complete this overview of the public security problems plaguing Mexico, we need to look more closely at the issue of jails. Frequently forgotten by our politicians, today this has become a Petri dish for new, more dangerous forms of crime, like telephone extortion, just to mention one example.

June 2010 figures indicate that we have more than 439 jails nationwide housing 227 882 inmates. Forty-two percent of the inmates are being held under preventive, pretrial detention, deprived of their freedom as a precautionary measure as long as their trial lasts; this is the same as saying that they have not yet been found guilty of committing any crime. If each of these inmates has at least four family members, the result is that more than 1 million people—or approximately one in every 100 Mexicans—have direct or indirect dealings with those jails. So, we can say that this is not something that involves a radical, subversive minority, but an important segment of the population, whose problems and privations are projected on many other Mexicans.

One hundred thirty-five of Mexico's jails have women inmates, sometimes separated from the male prisoners simply by some bars or a few steps from one dormitory to another. The laws are clear on this point, but they are not fully enforced. More than 150 detention facilities are overcrowded, from 230 percent overcrowding in Navolato, Sinaloa, or 224 percent in the Chalco Center for Social Readaptation (Cereso), in the State of Mexico, for example, to the reasonable rate of 1.14 percent overcrowding in the Nogales 1 Cereso in Sonora.

Almost one in four inmates is housed in six main penitentiaries: Mexico City's Federal District East, North, and South Ceresos—altogether, they hold 32 000 inmates—the Tijuana Cereso, the Guadalajara prison, and the Puente Grande, Jalisco Cereso.

In 23 of Mexico's states, prisoners are not appropriately classified, which in practice means that murderers are housed alongside pickpockets, rapists alongside those sentenced for drug trafficking, conmen alongside car thieves, and so on. This fosters violence inside the facilities and creates an atmosphere ripe for finding new recruits for organized crime. In 30 percent of our jails there are forms of self-government. This means that the inmates themselves, not the authorities, are the ones who organize activities, exercise control or violence against the others, are in charge of paid labor, employ other inmates for personal services, or carry out acts of sexual exploitation.

We cannot suppose that a diagnostic analysis of our penitentiary system's problems would be limited to the numbers explained above. To them, we must add the "collateral" problems "derived" from detention itself. Guillermo Zepeda Lecuona reminds us of the indicators of "incarceration genocide": in Mexico, the most vulnerable segment of the female population to contagion with the HIV/AIDS virus are women inmates, even more than sexual workers; the homicide rate in prisons is eight times that of the already very high rate in society at large, and the suicide rate is five times that of the general population.<sup>3</sup>

To these chilling data must be added the enormous problem of corruption in Mexican jails. Inmates state that the

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guards charge their family members to allow them to visit, to bring them food or other items, to be able to exercise their right to conjugal visits, or even to have the special benefits that are the right of prisoners about to be released, like day, weekend, school, or work leaves.<sup>4</sup> According to a survey by the Center for Economic Research and Teaching (CIDE) in Mexico City's Federal District and the State of Mexico, 30 percent of the inmates in the former and 19 percent in the latter said they did not have enough water to drink; 67 percent in the former and 58 percent in the latter thought they were not given enough to eat; and 35 percent in the former said they did not received medical attention when they needed it. In the Federal District, the authorities supplied less than 4 percent of inmates such basic items as sheets, blankets, clothing, or shoes; and 98 percent said the authorities did not given them toilet paper, toothpaste, or soap. Families are the big suppliers in the prison system.<sup>5</sup>

Weapons, drugs, and alcohol abound in our jails, and they can only be introduced into the prison with the acquiescence of authorities and guards. Some prisons have areas for the richest inmates, equipped with the most surprising array of luxuries: some even have a private garden, satellite TV, birthday parties, the right to many visitors at once, etc.

To supposedly combat the introduction of banned substances and weapons, the authorities practice ostentatious but ineffective methods of searching visitors, some of which violate these individuals' dignity, as CNDH General Recommendation 1 maintains. In this document, the CNDH states, "One of the human rights violations most frequently seen in most of the detention centers is linked to the searches that violate the dignity of relatives, friends, and lawyers visiting the inmates. This can range from a body search without the least respect, to extreme situations where people have been forced to take off their clothes, do squats, put themselves into demeaning positions, and even submit to cavity searches."<sup>6</sup>

If we do not solve the problem of our jails, it will be very difficult to bring together a successful public security policy. Today, the jails are part of Mexico's public insecurity problem, and they are not helping resolve it in any way.

#### WHAT NEXT?

Clearly, the panorama is by no means encouraging. The numbers show a northern border that is extremely "porous" to arms trafficking; badly paid and even worse trained police forces;

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and, in short, a jail system that is not getting the expected results. The painful consequence of all this is a desperate society that is watching, stupefied, as social intercourse in many cities of the country deteriorates and the criminal element implacably advances over and above different economic, and even political activities.

Given this huge problem, the way forward must be full enforcement of the 2008 reform of the criminal justice system, which covers all the links in the chain of Mexico's penal system. It deals with crime prevention, criminal investigation, the mechanisms for trying the accused, and implementing sentences involving incarceration.

Unfortunately, the implementation of the reform has been very slow and today is opposed by many actors who have an interest in the Mexican penal system remaining unchanged. The interests at play are very important ones, pressuring for immobility. Let us hope that the thousands of citizens' desires for change nationwide are stronger. The worst thing that could happen to us would be to remain as we are. ■■■

#### NOTES

<sup>1</sup> For an analysis of this reform, see Miguel Carbonell, *Los juicios orales en México*, 3rd Edition (Mexico City: Porrúa/RENACE/UNAM, 2011).

<sup>2</sup> Fernando Escalante Gonzalbo, "Homicidios 2008-2009. La muerte tiene permiso," *Nexos* 397 (Mexico City) (January 2011), p. 36.

<sup>3</sup> See the National Human Rights Commission (CNDH) document *Derechos humanos de los reclusos en México. Guía y diagnóstico de supervisión penitenciaria* (Mexico City: CNDH, 2007). This publication has an excellent introductory study by Sergio García Ramírez. Guillermo Zepeda's data can be found in his doctoral thesis, "La procuración de justicia en México" (The Administration of Justice in Mexico), presented in 2008 at the UNAM.

<sup>4</sup> A detailed account of what each product or visit costs can be found at <http://www.oem.com.mx/elsoldemexico/notas/n487121.htm>.

<sup>5</sup> Marcelo Bergman, comp., *Delincuencia, marginalidad y desempeño institucional. Resultados de la segunda encuesta a población en reclusión en el Distrito Federal y el Estado de México* (Mexico City: CIDE, 2006), pp. 41-47.

<sup>6</sup> The document is dated June 19, 2001, and can be found at <http://www.cndh.org.mx/recomen/general/001.pdf>. [Editor's Note.]