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Abstract

The implementation of the global regime of prohibition has had a long history of human rights violations and extortion, which has infringed Mexico's sovereignty since the turn of the 20th century. Given the human cost of the war on drugs, various groups of citizens have fought on their own looking forward to: 1) reforming anti-drug policies throughout the regulation and implementation of damage-reduction policies, and 2) guaranteeing access to justice and reconciliation for communities and individuals who have been victims of violence connected to war, using social networks, public events, and strategic litigation.

As a result of my research into the history of drugs and drug trafficking, I recommend the creation of analytical tools and social mobilization like those proposed by transitional justice literature during the 20th century. I propose the creation of truth commissions that evaluate the damage caused by the war on drugs since the establishment of the global regime of prohibition around the turn of the 20th century up to the present day –specially when the United States is involved–, in order to repair the damage inflicted by the war.

Key words: global prohibition regime, ilegal drugs, violence victims, transitional justice, truth commission.

Introduction

The implementation of the global regime of prohibition has had a long history of human rights violations and extortion, which has infringed Mexico's sovereignty since the turn of the 20th century. Given the human cost of the war on drugs, various groups of citizens have fought on their own looking forward to: 1) reforming anti-drug policies throughout the regulation and implementation of damage-reduction policies, and 2) guaranteeing access to justice and reconciliation for communities and individuals who have been victims of violence connected to war, using social networks, public events, and strategic litigation.

It has been demonstrated that these strategies have had a very limited scope due to their lack of coordination and because anti-drug policies reforms are better received and implemented when they come from user countries. The meager results can also be explained by the inefficiency and corruption patent in the national justice system that processes cases involving human rights violations in which state agents took part. In addition to this lies the inability of human rights advocates to defend those whose rights were infringed indirectly by the state.

Thus, as a result of my research into the history of drugs and drug trafficking, I recommend the creation of analytical tools and social mobilization like those proposed by transitional justice literature during the 20th century. I propose the creation of truth commissions that evaluate the damage caused by the war on drugs since the establishment of the global regime of prohibition around the turn of the 20th century up to the present day –specially when the United States is involved–, in order to repair the damage inflicted by the war.

Social Costs of Prohibition

After winning a very closed election, Felipe Calderón decided to make the fight against drug trafficking his priority during his presidency (2006-2012). As a public policy, military and police deployment had meager results in terms of decreasing the flow of drugs to the United States. The social consequences of such fight and the harm caused by these policies are clearly devastating. I will present in this paper an account of the damages inflicted until 2012, although from what has been seen so far, since the Institutional Revolutionary Party (PRI) returned to power with Enrique Peña Nieto in the presidency, the situation does not seem to have improved on a consistent basis.

According to the count presented by the *Reforma* newspaper, there were 47,732 killings tied to organized crime between 2006 and 2012. Nevertheless, there are analysts such as Diego Valle-Jones who –using data from various sources– put the figure at around 63,000. When it comes to tallying deaths tied to organized crime, the statistical balancing act is more evident when we look at specific cases such as the slaughtering of journalists.

According to Article 19, a nongovernmental organization that defends freedom of expression, 71 reporters and photographers were murdered in Mexico between 2000 and 2012 because of their work. The Committee to Protect Journalists only counts 27 of such deaths, but also lists other 38 killings since 1992 in which the motives were unclear. There are also other groups –with less orthodox methodologies– that say that up to 127 media workers were killed during that period.

Raúl Plascencia, former president of the National Human Rights Commission (CNDH), estimated that around 24,091 people were disappeared in this period. However, a PGR database leaked to the U.S. newspaper *Los Angeles Times* recorded 20,851 disappeared people between 2006 and the end of 2012. The number of *levantones* (lifting ups of people) should also be added. There is no legal definition of this crime, but it usually involves the kidnapping or forced disappearing of people from one organized crime group by another organized crime group. The army said that 18,491 *levantones* took place between 2006 and 2012 (Castillo, 2011).

The Norwegian Refugee Council estimated that, additionally, 230,000 Mexicans were displaced as a result of the violence unleashed by the drug war. About half of those displaced moved to the United States. In its report, the Norwegian Refugee Council said, "Although the main responsibility for providing humanitarian assistance falls to national authorities, international agencies in the country whose missions are to protect people should do everything possible to work with the government in researching and documenting forced displacement in all its dimensions, in providing protection and assistance, and in promoting lasting solu-

tions for people who have been forcibly displaced. Nevertheless, to date, the methodology used by the council remains unclear and no governmental organization or agency has corroborated this number.

Finally, according to the CNDH's special reports, more than 39,000 Central American migrants were kidnapped in Mexico between 2007 and 2010. The data is incomplete because of government negligence.

The countless journalistic reports that try to bring to light the suffering of the victims of drug-related violence must be added to the statistics on the social costs of the war on drugs in recent years. Among these reports are the compilations put together by journalists under the leadership of Marcela Turati, Diego Enrique Osorno, Juan Pablo Meneses, and Lolita Bosch, as well as the work of Sandra Rodríguez and Javier Valdez.

Within this accumulation of evidence concerning the tremendous damage caused by the war on drugs in recent years, what have been the societal response and its achievements?

Limits of Societal Response

Achievements of social mobilization have been limited to date. The Movimiento por la Paz con Justicia y Dignidad (Movement for Peace with Justice and Dignity), for example, achieved the recognition of the rights of victims of drug-war-related violence to be political actors and to have access to justice and reparation for damages caused by the state.

This fake recognition during Calderon's administration materialized with the signing of a victims' law by President Enrique Peña Nieto on January 8, 2013. This law showed the limitations of the institutions that defend human rights to process demands for justice.

As Sergio Aguayo wrote in a column about the signing of the law:

> The marginalization of the CNDH was evident in the ceremony at Los Pinos and in the content of the speeches. Its president, Raúl Plascencia, was relegated to the next-to-last spot to the left of the stage, and the institution was not mentioned in any of the four speeches. Something is wrong, very wrong, when the main institution created by the state to defend victims is given such a secondary role at such an important event. This helps no one. This must change.

The marginalization of the CNDH is part of the inadequacy of the human rights discourse in processing demands for justice and defending the victims' rights in the war

on drugs. The marginalization of the CNDH is part of the self-marginalization of victims' rights groups, because they limit themselves to just one type of infringement against human dignity, that is, the one perpetrated by the state.

Besides, the victims of rights violations committed by actors who take part in the drug market are not considered and –given the organizational disaster of the Mexican justice system– the traffickers are not brought to trial. This brings about situations where in reports such as "Neither Rights Nor Security," published by Human Rights Watch in 2011, focus is placed particularly on more than 170 cases of torture, 39 disappearances, and 24 extrajudicial executions in which state agents took part, despite the enormous number of disappeared, dead, and displaced people in Mexico. The rest remains as circumstantial anecdotes.

In the cited report, it was not even analyzed or mentioned that these crimes and this style of criminality have been historically brought about by the implementation of policies and war on drugs based on regulatory frameworks imported from the United States and elsewhere.

Disconnection Between Drug Policies and Victims

Discussion about drug policy reform has been separated from the defense of victims. Although some members of the Movimiento por la Paz have come out in favor of drug legalization, the deliberation has strategically diverged both in Mexico and in the United States.

There is a stressed optimism for the recent advance in drug policy reforms in the American continent, to the point of considering them unstoppable. Substantive advances have been made in the decriminalization of drug use in Uruguay, Argentina, Ecuador, Brazil, Colombia, and Mexico. Besides, more local governments in the United States have passed into laws legalizing marijuana for medical and recreational purposes.

In a meeting of the Organization of American States in March 2012 in Cartagena, several Latin American presidents and former presidents agreed to study alternatives to the international prohibition regime and its policies. The legalization of marijuana in Uruguay, Washington State, and Colorado has been a major boost for hopes that drug policy reforms will take place more quickly. This is because ultimately the legalization in a country such as Mexico will be a minor matter given the U.S. government's acceptance of more rational regulations toward drugs.

The objectives of drug legalization in the United States show that policies that emerged from historic prohibition of certain drugs were irrational. Even more, they demonstrate that wars to prohibit drugs were unjust: they were the main cause of the destruction of entire communities for more than a century.

Citizens' initiatives wind up holding separate mobilizations seeking drug-policy reform and demanding justice for the victims. These initiatives range from forming spiritual healing groups or educational projects to curtailing the culture of violence and promoting a culture of peace, such as in Guerrero and Michoacán where communities have armed themselves to prevent the spread of criminal groups into their lands. There are also groups formed by the relatives of disappeared people in Baja California, Tamaulipas, Nuevo León, and Mexico City, among other places, where people have decided to join to look for their kin.

Nevertheless, on rare occasions these groups work together on drug policy reform or in claims for justice for the victims of violence related to drug policies. The connection of the victims of violence with the costs of prohibition of certain drugs has remained unseen to the Mexican and the U.S. governments and to drug policy reformers, especially in developed countries.

Various collective groups carry out research and actions aimed at changing drug policy in Mexico. They fight for a drug policy

based on evidence and respect for human rights. Their activities have been effective for advancing the view that the damage caused by illegal drug use will be reduced in addition to curtailing drug production and trafficking. However, in their documents and actions a narrow view of the history of the global prohibition regime is perceived; that is, the *raison d'être* of their organizations shows little collaboration with the initiatives to recognize and repair damage to drug war victims throughout Mexico's history.

Consequently, many questions remain in the air: What can be expected by communities of small farmers and migrants who were persecuted and even killed during the first operations that took place in the fight against drugs at the beginning of the 20th century?

Considering the massive ecological destruction of chemical defoliation programs, what will happen to communities left with fewer resources to address their poverty and marginalization in places such as the Sierra Madre Occidental since the 1970s? Will there ever be acknowledgment and reparation of damages and human rights violations caused by military operations such as Cooperation, Condor, and Canador in the 1970s, and those that followed? Doesn't Mexico deserve an apology for actions that have violated its sovereignty and for interna-

tional coercion, such as Operation Intercept or the pressure to declare drug trafficking as a devastating national security issue during the signing of the North American Free Trade Agreement with the United States? Wouldn't it be adequate for drug-consuming, arms-dealing, and prohibitionist countries to work together for the institutional, societal, and community reconstruction of a nation that has suffered so much damage due to the implementation of policies recommended and fostered by them?

On November 25, 2011, a group of well-intended Mexicans presented 700 pages that documented 470 instances of international humanitarian law violations, war crimes, and crimes against humanity to the International Criminal Court. Mexican lawyer Netzaí Sandoval backed with 23,000 signatures, pointed to Calderón, his security cabinet, drug trafficker Joaquín "El Chapo" Guzmán Loera, and the rest of the Mexican cartels as having responsibility in those crimes. Two days later, on November 27, the office of President Calderón said that it would take steps against the complainants for "false and calumnious" insinuations. In the end, nothing happened. The case failed and President Calderón did not act against the plaintiffs.

The case of the complaint against Calderón and its lack of consequences show the difficulties of achieving reconciliation and repairing damages from the wars on drugs when the root causes and its victims are not attended. It is necessary to create an intellectual framework so that our view of the problems produced by our attitude towards drugs integrates its causes with its consequences, and its local manifestations with global ones from its origins.

Options

The options to reform drug policies in the future should be built on a broad vision of its causes and consequences. They must be shared and socialized from the individual level to the global one considering the reparation of damages caused by previous policies. It is expected that communities that have been affected by state or criminal violence react with resentment given the reforms of these policies, particularly of drug legalization.

After the legalization of marijuana in Washington State and Colorado in 2012, for example, a frequent reaction in Mexico was to ask: How is it possible that they are legalizing drugs in the United States while Mexico is backing a bloody drug war? Are the criminals no longer criminals? Could it be that the war was totally unjust and whipped up?

The healing of the underlying resentment involving these issues is only possible through the articulation of policies and

forms of social mobilization that guarantee the reparation of damage to communities and states that have been affected by the violations of sovereignty and human rights during more than a century of wars on drugs. *We need, then, to foster a kind of Marshall Plan to reconstruct thousands of communities and millions of victims of wars on drugs, with financial help of The United States and other prohibitionist countries.*

A first step could very well be the establishment of a *Citizens' Truth Commission on the Causes and Consequences of Wars on Drugs in Mexico*. An exhaustive study by this citizens group could very well lay the ground for a national and international reconciliation while shifting to a more mature and rational regulatory regime for drugs.

This exercise will do little, nevertheless, to repair damages made to people, communities, and states that have been victims of irrational regulatory policies and frameworks violating human rights during the 20th and 21st century until now. An *institution with the capability of carrying out* punishment for those responsible *and providing care for victims of prohibitionist actions* will need to be created.

But even if a truth commission and institutions to carry out reparations are created, there is a large possibility of failure having no support and respect from the Mexican state. The current president has incentives to pardon not only National Action Party government officials who may have been engaged in abuses, omissions, and corruption, in order to bring stability to the political elite and drug market profits, but also their colleagues in the PRI and their U.S. counterparts.

A truth commission to reform the global drug prohibition regime would have to deal, from the beginning, with the need for *independence as well as political and legal strength* to evaluate cross-border connections with violent acts that are not necessarily carried out by a state, because they are brought about by regional, national, international, and multilateral prohibitionist policies.

In the case of Mexico, *calling the U.S. government to account* is essential. While the dismantling of the global drug-prohibition regime advances, programs to reduce damage caused by drug use will become more and more prevalent. The citizens' desires to know the history, nature, and effects of these substances will grow. As part of this process, study material about the history and the physiological, social, and historical effects of drugs should be broadened in basic education. *Education about a responsible use of drugs* should consider human propensity to abuse them and should teach basic facts about personal, communal, social, and historical responsibility.

Aguascalientes, July 2013-
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After reading this text again, I think that it is still a good registry of a moment in the discussion for drug policy reform in Mexico that has not yet ended. Somewhere else I argued that meeting the demands for justice

of victims as a state policy is in the interest of Mexico in the international arena. The main reason for this is that it would expose the global inequalities propitiated by the global prohibition regime of certain drugs. Advancing in the exhibition of global inequalities created by counterproductive drug policies would also be convenient towards the revision of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem in 2019.

I still think that in order to deepen this argument, we should work on: 1) an analysis of the origins and development of the global regime for the 20th-century prohibition of drugs promoted by the United Nations and some imperial nations, such as Great Britain and the United States; 2) an interpretation of the Mexican history of drug policies from the 17th century to the present, taking as analytic framework the recognition of rights to users of marijuana and peyote by the Mexican justice system; and 3) the proposal to strengthen the notion of "social harm" by incorporating studies of violations of human rights, processes of victimization and social costs of drug policies as a whole.

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