



NEW METHODS OF STATE CONTROL IN THE CRIMINALIZATION OF SOCIAL ACTION

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Abstract:

The article aims to analyze some causes that led to the criminalization of drug trafficking activities in Mexico. This reflects changes in national security institutions, and at the same time, the weakness experienced by the Mexican State to ensure the safety of citizens in some territories of Mexico.

Key words: Technology of surveillance, weakness of State, New model of national security, safety of citizens.

Introduction

This article seeks to analyze and interpret the Mexican government's decision to criminalize drug trafficking activities based on the following two premises: the changes that national security institutions have undergone in the last few years given the definition of a public enemy, and the absence or weakness of the State's control over some of the country's territories, which has been addressed by increasing the presence of the country's military forces in these areas.

The article is divided into three parts. The first part examines the characteristics of the new model for national security, which stresses the use of technology and education/specialized training to fight criminal activity. The second part analyzes, in broad strokes, the current official culture of surveillance in Mexico, both from theoretical and practical perspectives, including examples that highlight how the criminalization of social practices legitimizes the use of force. The third part of the article considers how, in the current context of surveillance aimed at combating organized crime, individuals and organizations defined as criminal from the point of view those in power/the State have evidenced an erosion of basic civil rights.

New Model for National Security

National security forces in Mexico have undergone changes as a result of two factors: first, the government's definition of a public enemy (drug traffickers), which has legitimized the use of both military and police forces; and second, the government's need to assert its presence in territories where its control had been weak or non-existent, which has, in turn, prompted some criminal groups to organize society at local and regional levels (Flores Nández, 2012:130).

The Mexican government's construction of a new public enemy in the country responds to the U.S. government's criminalization of drug trafficking activities (Enciso, 2009). It is also due to the disappearance of institutions of public safety that focused on fighting armed subversive groups, especially as intelligence gathering activities, generally speaking, were channeled toward combating the regime's political enemies (Torres, 2008). Political party alternation in the Mexican presidency only accelerated this transformation in the institutions of national security. Beginning with the Presidency of Vicente Fox (2000), a new model of public safety began to take shape, encompassing not only the various police forces but also institutions focused on research and intelligence-gathering activities (García Luna, 2011:19). In 1989, the Dirección Federal de Seguridad (Federal Security Directorate, DFS) was replaced by the Centro de Investigación y Seguridad Nacional (National Center for Research and Security, CISEN), whose objective was to build databases and analyze them in order to devise strategies to combat criminal organizations defined as threats to national security (García Luna, 2011:20). Since public safety considerations, however, were not limited to intelligence gathering activities, in the government's view new preventive police forces ought to be created at the state and federal levels. Thus, the Policía Federal Preventiva (Federal Preventive Police, PFP) was created in 1999 as a dependency of the Secretariat of Governance, but in the year 2000 it was placed under the direction of the newly created Secretaría de Seguridad Pública Federal (Secretariat of Federal Public Security, SSP), and, as a result, PFP became part of the latter as well. The purpose of SSP was to devise public security policies based on the implementation of a new police force.

The National Telecommunications Network on Public Security was established in 1998 but had not managed to come up with a homogeneous national database that was particularly useful for intelligence gathering activities to combat criminal activity (García Luna, 2011:21). The new model of national security sought to standardize institutional procedures to combat and prevent crime while also seeking to professionalize police forces. This standardization was focused on the generation of information issued from police sources and citizen complaints, which was then processed through IT networks to build geo-criminal maps and criminal files on individuals and criminal organizations. This processed information constituted the foundation upon which the activities of the police forces were organized for the purpose of arresting individuals identified as criminals and disbanding criminal networks (García Luna, 2011: 25-26). This enabled the creation of a system termed the Mexico Platform, an IT platform aimed at facilitating the supply, exchange, and analysis of information on crime throughout the country. Alongside these databases, specialized police training was conducted in order to implement practical plans based on the information yielded by the IT platforms. The Sistema Integral de Desarrollo Policial (Comprehensive System for Police Development, Sidepol) was, therefore, created with the goal of professionalizing police activity. In the meantime, in order to protect strategic installations, the Servicio de Protección Federal (Federal Protective Service, SPF) was established.

This whole process of reorganization was aimed at professionalizing the approach to fighting criminal activity (García Luna, 2011:29). The Mexico Platform, however, came to be considered the high-tech expression of the new model of national security. Especially because it is part of a national telecommunications network that has enabled the construction of the Sistema Único de Información Criminal (Unified Criminal Information System, SUIC). The national telecommunications network is an information communications and exchange infra-

structure that connects various security institutions and government branches. SUIC brought together databases designed for intelligence gathering activities.

Aside from this, 2008 saw the modification of the legal framework for public safety and penal justice in Congress and the Senate so that alleged criminals could be arrested and jailed as a preventive measure. It also provided for the recording of communications between individuals, the definition of the concept of organized crime, and exceptions for dealing with these within the justice system. The latter was legalized through amendments made to Article 16 of the Political Constitution of the United Mexican States¹, whereby, in the case of organized crime, judicial authorities may decree the detention or arrest of an alleged perpetrator for forty days with the possibility of extending the period to a maximum of eighty days. Organized crime is defined as an organization comprising three or more people who commit crimes on a permanent basis (Alvarado, 2008:71).

In January of 2009, the Ley General del Sistema Nacional de Seguridad Pública (General Law of the National System of Public Security, LGSNSP) was issued, as well as the Ley de la Policía Federal (Law of the Federal Police, LPF). The LGSNSP penalizes organized crime within the framework of the judicial branch, and the organization charged with combatting crime, the Federal Police, is regulated through the LPF. Police forces have to investigate criminal activity using modern techniques that enable them to obtain information on crime and, at the same time, convert into evidence that will allow the judicial system to issue arrests and convictions (García Luna, 2011:33). In other words, the police must present evidence on the alleged criminals to the institutions in charge of issuing punishment. Moreover, the Federal Police may request, with previous authorization from a judge, any information that telecommunications services and satellite communications systems may have; it may also carry out undercover and infiltration operations to gather information in public places as part of broader preventive intelligence activities (García Luna, 2011: 34-35).

The databases provided by government institutions and the governments of the various federal entities in the country enabled the construction of the SUIC. Those databases include the following: biometrics (finger prints, face, and voice), data from drivers' licenses, the public registry for motor vehicles, arrest orders, information generated by printed and audiovisual media, data from firearms registry, on individuals incarcerated abroad, on air passengers arriving in the country, on migratory flows, and registry information for vehicles insured through private companies (García Luna, 2011: 47-48).

The criminalization of drug trafficking activities, however, has resulted in a disproportionate budget assignation among the different public security offices. The Secretariat for National Defense saw an allocation of 68.73% of the budget destined for national security in 2011, and the Navy Secretariat was allocated 26% of that budget. Meanwhile, CISEN, charged with gathering intelligence to combat crime, saw a budget allocation of only 4.30% (Flores Nández, 2012: 126). The decision of President Felipe Calderón's government to criminalize the organized business of drug trafficking and to use of the army and navy to combat it stemmed not only from the lack of legitimacy resulting from the hotly contested presidential elections of 2006 (Enrique Osorno, 2009), but was also part of a process of transformation in the institutions of national security, which ceased to fulfill their goal of fighting political dissidence, armed or not, in an authoritarian political system that underwent some fundamental changes when a multi-party system came into existence –and which was evident in the political party alternation throughout the different levels of government (Flores Pérez, 2009). In the context of the authoritarian regime, crime control was possible through the existence of strong ties forged between the various police forces and some public functionaries in charge of national security whereby impunity and certain guarantees were purchased to carry out illicit activities (Ravelo, 2011: 19-22). Complicity between criminals and national security government officials, as well as the various police forces and now the army and its officers

¹ The following articles of the Political Constitution of the United Mexican States were amended: 16, 17, 18, 19, 20, 21, 22, fragments XXI y XXIII of article 73, fragment VII of article 115, and fragment XIII of Sub-section B of article 123.

cers (Carrasco Araizaga, 2012: 6-13), continues to this day. This dynamic cannot, therefore, be attributed to a simple problem related to a lack of technology and the absence of training and knowledge. Rather, it is, on the one hand, because drug trafficking is a highly lucrative business, and, on the other, because the reforms implemented throughout the national security system have not been effective in achieving centralized control over drug trafficking activities, which has resulted in a heterogeneous approach throughout the country that has thereby enabled the various criminal elements to negotiate their impunity with local authorities (Ravelo, 2011: 30-43). The latter forced President Calderón to assert his presence as an authority figure by deploying army troops to perform the task of policing and fighting armed drug trafficking organizations, which have done as they have pleased through bribes and threats to local business people and government officials (Ravelo, 2010: 6-8).²

Considered from a different perspective, the power void effectively exhibited by the State in Mexico has been interpreted as the loss of its punitive capabilities, which has enabled local politicians to develop complicitous ties with the drug trafficking world (Curcó, 2010: 37). This power void, however, is also related to the lack of public policies aimed at addressing fundamental social needs for human welfare. This situation is a consequence of neoliberal economic policies that left the issue of collective welfare to the idiosyncrasies of the market or of local social forces that have organized daily community life, to varying degrees, based on illicit economic activities in some instances (Maldonado, 2010). As a result, lawless territories have emerged in certain areas of the country --that is, territories that operate beyond the boundaries of the legal code established by the State. This, in turn, has led the Mexican State to identify the need to demonstrate its presence and assert its power through punitive forces, disregarding the rights of those affected because drug trafficking activities have been defined as illegal (Maldonado, 2012: 7).

Economic deregulation and the dismantling of social welfare institutions at the individual state level in Mexico have contributed significantly to the transformation of local sovereignty into a power that now determines its own norms and rules. This has fostered the emergence of informal powers such as the rule of local chiefs or bosses (*caciques*) and business people trading in illicit material (See Hernández Rodríguez, 2008). The State's punitive measures have not been effective in breaking down the economic power of drug traffickers, succeeding only in parading captured individuals before the media to announce how the new laws apply to those who participate in organized crime. The rise in the number of homicides in the territories where the army has been deployed to perform the tasks of policing and fighting illicit activities is what has prompted the government's punitive measures (Escalante Gonzalbo, 2009, which, in turn, has been accompanied by "collateral damage," such as deaths of innocent civilians and the army's violation of the inhabitants' human rights (Bowden, 2010; Turatti, 2011).

Calderón's government thus prioritized punitive or repressive policies, relegating intelligence and public policies to a secondary role. Such an approach has had clear social costs, especially as is evidenced in the population shifts towards other regions or localities.³ In most cases the moves have been within the country, a trend that has grown throughout the last few years. In 2007, the number of people displaced by violence related to drug cartel disputes over territory and government punitive measures amounted to 115,000; in 2011, however, the number of those displaced came to 160,000, a figure that according to the UN Office of the High Commis-

² The territories in Mexico where drug traffickers have effectively asserted power and control are: Nuevo Laredo and Reynosa in the state of Tamaulipas, Morelia, Uruapan, and Apatzingán in the state of Michoacán, Culiacán and Guamuchilito in the state of Sinaloa, and Acapulco and Zihuatanejo in the state of Guerrero. To a certain extent, this is evidence of a power void on the part of the State (Ravelo, 2010: 9).

³ A number of business people and business owners have migrated to US border cities; for instance, some of those in the Mexican city of Monterrey have taken up residency in San Antonio, Texas (Rodríguez García, 2010: 12-14).

sioner for Human Rights (OHCHR), surpassed that of the 154,000 people displaced by the armed conflict in Libya (Vela, 2012a: 1). Government crime prevention measures have had limited effect as 80% of homicides go unpunished. In the states most affected by the war on drug trafficking, such as Chihuahua, Durango, Sinaloa, and Guerrero, the rate of impunity or lack of punishment reaches 96.4% (Vela, 2012b: 1). The national security crisis has created situations of social vulnerability in which the government's ability to protect a citizen's life and property is weak or non-existent, resulting in a general feeling of a lack of personal safety that is further compounded by the State's punitive measures, which has become another source of violence, albeit a legally sanctioned one, in the so-called war on drugs (Nández Flores, 2012: 144-145).

From the vantage point of electoral logic, political party elites have used the information about the complicit behavior of government officials or representatives of rival parties with the drug trafficking business to discredit their administration and thereby be voted into office. Interestingly, the fact that there is evidence that links government officials with drug traffickers is further proof of the impunity that governing elites enjoy in Mexico (Monge, 2010: 22-25, Barajas, 2012: 4-5).

The changes that the institutions of national security have undergone in Mexico have fostered the emergence of a society dominated by control or surveillance. The general trademark of such a society has been the punishment or criminalization of social actions that, from the perspective of political and economic powers, are considered as illegal acts in a context where an informal economy generates employment and income for the majority of Mexicans.

Surveillance and Society in Mexico

Institutions of power have conceived discipline as a means to educate the body according to certain norms with the objective of establishing control over social conduct (Foucault, 2005; Ceballos Garibay, 2005: 82). There are, therefore, rules agreed upon by the various State institutions aimed at regulating the behavior of individuals with the goal of training them to submit to the logic of a particular economic and political power. In order to accomplish this, however, surveillance techniques are required to track individual conduct, so that behaviors that deviate from the established norms can be sanctioned. Surveillance techniques depend on information regarding the behaviors to be regulated and are usually accompanied by the construction of a dual discourse that establishes a differentiation between what is correct vs. what is not, what is normal vs. what is deviant or pathological, what is true and what is false, what is included and what is excluded, all of which serve to justify the State's actions to correct or re-educate anomalous elements. Discipline also entails regulations that are based on coercion and punishment as well as the bestowal of gratifications (Ceballos Garibay, 2005: 84-86). From this perspective, a disciplinary society is also one of control that has been promoted from economic and political powers. The idea is that the State comprises a set of structures and institutions that have created an ideology of political and economic domination issuing from the capitalist class (Althusser, 2011: 116-117).

The concept of structures and institutions that crystallize political domination remains, nevertheless, in a new context characterized by uncertainty and curtailed rights for citizens, where criminality and terrorism have been defined as the principal enemy threatening the stability of modern societies. Thus, new standards for social behaviors have been established and perpetrators are sought through image technologies (Agamben, 2009: 12-13). Capturing deviant behaviors through digital imaging technologies leads to the dematerialization of the various forms of control because they can be exercised at a distance. Electronic devices, moreover, dissociate the identifier from the identified through the production of an image -- the subject being watched often may be unaware of such targeted measures of surveillance (About and Denis, 2010: 135-136). These methods, along with the support of other hi-tech mechanisms such as databases, have contributed to the transformation of a disciplinary society into a surveillance society (Lyon, 2004: 40-41). Control all but disappears as it be-

comes more intense because technology enables the coordination of human knowledge within power strategies --though the users of some high-tech devices can become so entangled in their procedures and limitations that they end up serving the needs of technology rather than using it to their advantage (Braunstein, 2012: 28-29). As a result, the State is able to gain progressive control over the private life of its citizens when it operates following the logic of surveillance as a basic premise to insure security for all (Sofsky, 2009: 132-133). In other words, it is a matter of the consolidation of a State that prioritizes security, based on information obtained from its citizens which is then classified and used as needed to further the power of the State (Celorio, 2011: 34-35). The security-focused State criminalizes social practices through the creation of individual punishments regardless of the fact that conflict may emerge from social issues and, as such, must be dealt with through appropriate institutional means in order to avoid further deterioration into violence. (Wievorka, 2011: 171-173).

Current State surveillance practices in Mexico are characterized by the systematic use of the latest technology and a new paradigm for the concept of criminal activity. In Mexico City, for instance, supermarkets and department stores have created databases with the names and addresses of people accused of shoplifting. The collected data, obtained from inquiries conducted by the Office of the Attorney General of the Federal District, includes the following items: age, gender, residential address, socioeconomic background, the product stolen, location of product's resale or whether it was taken for personal use (Cruz Flores, 2012: 32). The State's criminalization of certain social practices has not managed to halt the illegal trade of databases ---such as official voter registration lists or information about workers enrolled in a particular pension fund---, which are priced according to how valuable they may be to the potential buyer (Jiménez, 2012: 8, Castro Reyna, 2012: 1). The Mexican government has also used hi-tech surveillance technology to build databases of information on social organizations that oppose the State's measures to combat organized crime and has used such information to track leaders and members of those organizations (Gil Olmos, 2012: 31-32). The existence of web-based social networks enabled the emergence of a student movement called "#Yosoy132," that opposed Mexico's Institutional Revolutionary Party's presidential candidate in the most recent election, Enrique Peña Nieto. Peña Nieto, in turn, bought airtime on news programs in private television networks and radio to promote his candidacy (Igartúa, 2012: 6-11, Gómez and Espinosa, 2012: 1). These examples evidence the power that organizations are able to wield when they that can connect on a network and operate on the premise of inclusion/exclusion (Castells, 20120: 72-73).

Closing Thoughts

The criminalization of drug trafficking activities has broader social consequences when citizens are stripped from their rights, both those who are labeled as a threat to national security and those who are the victims of criminal activity (Agamben, 2006). The latter constitute "collateral damage" (Bauman, 2011) as they are not directly linked with the illicit activities yet suffer the consequences of newly established systems and procedures to deal with crime. Despite the use of high-tech surveillance systems, the State is unable to guarantee the safety of its citizens; it has gained, however, greater control over the private life of individuals and social organizations, which has come in handy in the process of furthering its own strategies of power. Rampant impunity and the complicitous relationship between government authorities and drug traffickers are the two fundamental elements that explain why and how this illicit business of international scope continues to thrive. And this far outweighs any attempts to rein it in through the use of the latest technology or through specialized training of police forces.

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