

Police Force Crisis and State Legitimacy in México

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Abstract

The public security crisis that exists in Mexico has profound roots in the current political situation of the country. The police forces make up a subsystem of the Mexican government that does not function in the interest of society and is a consequence of a political system with grave problems of legitimacy and democratic representation. The case of Michoacán reflects contradictions of a democracy that does not sufficiently transfer the necessary strength to its police forces to maintain order and enforce the law. Police efficiency can only be attained through betterment of the conditions of legitimacy of government, permitting, for example, the reelection of deputies and governors, the improvement of judicial systems, and the involvement of different groups and levels of society in the construction of a more efficient and effective police force.

Keywords: Mexico, police forces, Michoacán, police legitimacy

1. Introduction

The crisis of public security that exists in Mexico as a result of the 'War against Drugs' has been viewed fundamentally as a resulting problem of the high demand of drugs in the United States and not as a problem that has emerged from a series of social and institutional contradictions which Mexico lives today.

Particularly, the institution of police forces, which should be the government's arm of authority, has lacked effectiveness and efficiency in enforcing law and order and fighting crime. The government of President Calderon (2006-2012) began a front and center attack on the Mexican drug cartels, which are well-organized and articulated organizations, without having the necessary institutions to confront these criminal groups. The central thesis of this article is that the state institutions in Mexico, especially the police forces, have not achieved a grade of sufficient legitimacy to impose the monopoly of the use of force that is conceded them in the Mexican Constitution. The problem of corruption and inefficiency in the police forces in Mexico has to do with structural problems and the lack of legitimacy in the Mexican state. The lack of governmental authority transfers to the police forces, which lack legitimacy to impose a minimum of conditions of law and order and to prohibit criminal behavior in the eyes of society. In this context, the police forces have converted into an obstacle instead of aiding in the so-called 'War against Drugs' that takes place in Mexico.

The main question is to determine concrete actions that the State could take to improve the police forces in the context of urgency through which state legitimacy would also be achieved is a process of political development that is actually underway and could take many years in its consolidation. The current emergency of lack of public security in which Mexicans live does not allow the country the luxury to naturally develop a democratic consolidation in all branches of government and which would permit the police forces, the arm of law and order, to have sufficient legitimacy to impose authority and oversee society's coexistence. The experiences of police force consolidation in other countries shows that the path towards achievement of a reliable and efficient police force could take many years and is inextricably tied up with the processes of consolidation in executive, legislative, and judicial branches and institutions in which Mexico is actually taking its first steps.

Is it possible to make emergency changes in police forces or in processes of emergent restructuring to create police forces that give necessary results to confront immediate problems such as the criminal groups in Mexico, without aligning these changes with the democratic consolidation of the rest of the governmental institutions? Recent history of the police forces in Mexico reflects an actual preoccupation in the Mexican government to combat crime and make the necessary changes to be able to count upon police forces that efficiently defend law and order.

Sabat (2010) gives a good narrative of the efforts of the last three Mexican federal administrations to improve the police forces. However, the results have not been what was expected upon observing a marked increase in the number of deaths resulting from actions taken by organized criminal groups, the almost daily cases of police officers of all levels who are discovered conspiring with the same criminal groups, and over everything, the inefficiency of the police forces to inhibit criminal behavior.

According to the Second National Survey of Constitutional Culture: Legality, Legitimacy of Institutions and State Redefinition and Design (2011), people thought that the justice system did not function due to corruption, impunity and the presence of extra-legal interests. The great majority of the population feels unprotected against abuse by the authorities. According to the same information, the police system finds itself in last place in confidence in institutions

The lack of police efficacy obliged the Mexican government to recur to the last resort of force to contain the criminal avalanche: the Armed forces. However, each time this force is used, society questions the presence of the armed forces in actions related with fighting organized criminal groups. The amount of complaints of violations of human rights committed by the Mexican Army and Marines has ignited an intense debate in Mexico about the convenience of utilizing the armed forces in the fight against drugs in the context that for the most part, in other countries in the world, the military is reserved for situations of war against another country.

In that respect, clearly, the presence of the Mexican military does not provide other sources to combat crime in the process of containing criminal activity before a situation which points to the formation of a narco-state in Mexico, being that the levels of infiltration achieved by these criminal groups have permeated all the key spheres which fight against crime.

To date, penal processes are still going on against the high command of the Armed Forces, against functionaries of the Mexican equivalent of the Drug Enforcement Administration, against an undetermined number of municipal, state and federal police agents supposedly tied to organized crime; and to finish this list, with workers of the Supreme Court of Justice, which is the highest judicial organ of the country. Practically, all institutions that are related with the fight against crime have been infected by corruption and criminal money.

Thus, the level of collusion between crime and Mexican authorities has provoked that the United States attempt to support a more direct method of combating drug trafficking, suggesting, for example, the presence of elite troops (the Marine Seals of the United States) to aid in the detention of criminals, in a situation that appears similar to that which Colombia confronted in the 1990's. This situation would be at all levels undesirable for the Mexican government and for the United States government.

In this context, the present article analyzes the specific case of the police forces of Michoacán State during the period of 2006-2012. Michoacán has been one of the most affected states in terms of criminal group presence. Upon observing the recent political history of Michoacán, the reader can see the relationship between the evolution of quality of state democratic processes and the state police force situation.

The analysis demonstrates that without consolidation of a minimum of conditions of democratic development at state level, which translates into conditions of transparency and accountability, police forces that guarantee an acceptable standard of compliance with the law cannot exist. Taking that into account, whatever measure which the Mexican state governments take to improve their police forces (such as better salaries, training, opening of police career possibilities, and benefits) positive effects would be limited due to the existing structural problems on a large scale which overshadow the specific situation of the police forces and have to do with an almost non-existent system of law and order which takes away legitimacy from the government and from its armed branch of authority, the police forces.

2. Legitimacy of the State and Legitimacy of the Police Forces in Mexico

The police forces constitute a social institution in which legitimacy is of great importance to maintain law and order and have community support (Mazerolle, 2006). When society perceives a police force as legitimate, people are more willing to denounce a crime, obey its authority or simply to collaborate with the police in the area of investigation or application of the law. The police force makes up the essential figure of authority and strength in which legitimacy is a fundamental element to impose the monopoly of use of violence by police and put a stop to criminal behavior.

This fact is supported by the judicial process that suggests that citizens view police as members of an institution that possess the moral authority to enforce penal law when police actions should take place with the same framework of the law (Kochel, 2012; Tyler, 2004; Tyler, 2006). This fact presupposes the existence of a judicial framework that minimally guarantees a series of conditions of process for police actions.

In Mexico, there are 409,536 police elements, among municipal, state, federal and other dependencies, being the Federal District, the State of Mexico and Veracruz the states with the most elements, while Oaxaca and Quintana Roo are the states with the largest deficit of police forces in the country. In the case of Michoacán, there are approximately 5,318 municipal police, 1,200 state police, and 850 investigative police.

Traditionally, ministerial police forces have had the function of contributing to investigations that the public ministry serving as fiscal receives as accusations or complaints from citizens. The public ministry's role consists in collecting evidence and integrating complaints to present to a judge to dictate a verdict based on the evidence presented. Given the public ministry's importance in the process of imparting justice, this ministry must trust in the proof which the ministerial police and investigators present in order to adequately integrate the evidence which will be presented before a judge. This trust opens up the possibility of corruption by ministerial agents and by ministerial police and investigators in the compiling of adequate integration of evidence. Ministerial police corruption reaches mythical proportions and constitutes part of society's culture. The current salary of a public ministerial agent is about \$1,000 USD and that of police investigator around \$900 USD a month.

In the past there have been various efforts to professionalize this police force through training courses, the application of tests of confidence and by raising salaries, the ministerial police continue to be perceived as corrupt and inefficient at the moment of integrating necessary proof to process convictions. Popular culture makes frequent references to the application of torture by police investigators. During the years of single party rule in Mexico, the ministerial police force constituted an instrument of the government to punish opposing political parties. In this context of a lack a democracy, the ministerial police used to receive their orders from the public ministries and from the state justice departments to create cases and guilty parties for the cause of political interests or even of government officials' personal interests to incriminate someone.

The municipal police of Michoacán, and in many other states in Mexico, consist of individuals contracted by municipal presidents who, for their period of government of three years without the possibility of re-election, seek to safeguard public security of their corresponding municipalities. In most cases, these municipal police agents lack police training, have little or no basic education completed, and many times their contracts come about as payment received for personal favors given during political municipal president campaigns. The municipal police force's agents' lack of training causes a minimum of efficacy in the prevention of crime. Basically, this police force constitutes a minimum of the state effort to impose or reflect the law and maintain order.

3. Institutions and Democratic Transition in State Governments

According to Davis (2008), the process of democratization in certain historical conditions, are related with the deterioration of the rule of law. Davis sustained that the institutionalized legacy of inherited power of the Mexican police is a product of a political system that has gravely limited the efforts of the Mexican government to execute reform in the same police forces. The democratic transition of Mexico has created an environment of competition among political parties, which, together with the decentralization of the state and the fragmentation of its coercive and administrative apparatus, has exacerbated the internal and bureaucratic conflicts. These factors impede the government from reforming the police forces to improve public security and gain society's confidence. Davis suggested that when democracy serves to undermine rather than fortify the empire of the law, 'more' democracy actually lessens the real quality of democracy.

For the last 20 years, Mexico has undergone a transformation from a lack of democracy which was characterized by the existence of the hegemonic one-party rule of the powerful PRI (the Revolutionary Institutional Political Party). Up to 20 years ago, the PRI supplied a president with constitutional and meta-constitutional authority who commanded social, union, and business organizations with the legislative and judicial powers subordinated to his authority. With the political transition at the end of the 1990's, a new institutional arrangement was formed based on free elections, electoral institutes run by citizens, and an end to the interdependence among the branches of government.

The presidential period of six years of Vicente Fox (2000 to 2006) was the first time the federal government had a president other than a member of the PRI. During his six year period, changes were made in the organization of the institutions in charge of public security at the federal level (Chabat, 2006). The Secretariat of Public Security and the Agency of Federal Investigations (AFI) were created and the Center of Investigation and National Security (CISEN) was restructured. The changes were made in order to seek greater efficiency to combat the drug trafficking problem which had presented itself as a major problem for the federal government at the beginning of this century. If this change had occurred at the state and municipal level of government, implementation of security measures could have taken place at the three levels of government. However, these

changes to security and justice branches did not happen at the state or local level.

Instead, the diagnosis of change emphasized the problem of drug trafficking as derived from the high demand of drugs in the USA and a growing internal demand in Mexico itself. Although new positions were created at the federal level, little importance was given to analyzing the situation from a point of view which considered the profound weaknesses of the security forces at the state and municipal level. The micro-conditions of the problem were not analyzed: the situation of the state and municipal governments in Mexico and the incapacity of its judicial and legal systems to combat criminal activity.

The democratic reforms in Mexico of the last years have not brought about improvement in the quality of government nor legitimacy at the state or municipal level. State and municipal governments have continued to operate with the traditional rules of centrism and opacity which have existed since the time when the PRI was the hegemonic ruling party. According to Cejudo (2009), the political change experimented at the federal level in Mexico and greater autonomy of management has not translated to transparency and efficiency at state and local levels. Instead, local structures serve immediate political interests and have consolidated and established a client relationship with society. For the most part, division and mutual vigilance among the legislative, executive and judiciary branches which would serve to fortify democratic structures do not exist at the state level. The existence of these checks and balances would permit the design of a medium term political plan which would transcend during the six years of elected state government.

Of particular importance is the figure of Mexican governors. According to Granados (2011), these political figures present the following characteristics:

“high media presence, frequent mobility, ample space in which to manage local interests, control of party formation and a huge budget with which to work. But, at the same time, they lack what you could call a national agenda, relations with the federal government are heterogeneous and they frequently must respond to individual demands, they make short term decisions, and, most importantly, their notion of success is based on political objectives and not with the development and well-being of society.”

In many aspects, the democratic transition in the Mexican states recreated the most negative aspects of single party rule in Mexico. The centralized power which Mexican governors enjoy now emerged as a factor of political control confronting the absence of a cohesive element in the figure of the ‘President.’ Without the containment of power from a strong centralized presidency, the state governments started to operate as independent powers.

In this context, the state institutions of government have lost legitimacy according to society, particularly in public safety and the justice administration. Corruption scandals and police and tribunal inefficiency are what the citizenry knows. In the case of Michoacán, weakness and illegitimacy in the state institutions appear as factors of greater weight which explain the organized crime resurgence better than other considered logistics related to drug demand. In Michoacán, as in other states in Mexico, since before the election of other political parties than the PRI, the corporative structure and the central-focused power permitted the state to focus quickly on those points in which eruptions of violence flair up or simply when inconformity could alter the prevailing status quo.

During the times of single party rule in Michoacán, legitimacy existed for the political institutions in a questionable democratic scheme. Nevertheless, this legitimacy was established through the terms of imposing norms of conduct and behavior. The presidential figure and the governor’s delegated power constituted an institution which imposed authority and limits to distinct social groups within the state, including drug traffickers. These groups took care not to get involved in political issues and even more care to try to establish norms of operation for businesses or civilians. The government knew of their existence but let them operate while they did not represent any danger to governmental authority. These criminal groups even injected dynamism into local economies.

This symbiotic situation changed when the democratic changes during the last 20 years broke the existing institutional order and permitted groups which were tied to drug trafficking extend their activities in the context that the local and state powers would do nothing to stop them. In Michoacán, this process evolved more violently than in other states in Mexico with the ending of two governorships due to civilian manifestations, the shortening of governorships to four years, and the formation of organized social groups which frequently acted at the margin of the law and the institutions.

The end of the hegemony of the single party rule in Michoacán has not meant an era of reconstruction of governmental institutions which achieve legitimacy in society and are able to impose clear norms and codes of conduct and coexistence. The new governments took the inherited culture of politics from the epoch of the single

party rule, with its centralized order, power and opacity in its management of public resources and used it conveniently for its immediate interests. Clear indicators point out the weakness of Michoacán's institutions. Perhaps the clearest example is the use of public protest as an effective mechanism of pressuring and obtaining concessions. In the last 20 years, Michoacán's streets have seen street marches, public manifestations, sit-ins, the closing of government offices and cultural centers, and functionaries in turn have lobbied constantly with socially organized groups which exercise pressure through the use of force. The example of resigning governors due to these pressures sent a clear message to the inhabitants of the state: with measures of pressure it was possible to achieve whatever demand they wanted. This situation was the configuration of a weak state government that was unable to exercise a monopoly of the use of force as a manner to impose respect for institutions and legal procedures.

Another example of this unstable context are the related conflicts in the educational sector, particularly that of the public school teachers' union. Section XVIII, based in Michoacán, of the National Union of Education Workers (SNTE) arose in 1978 as a split fraction of the official union. Section XVIII has been characterized by an intense struggle against the state and federal government to achieve an improvement in the lifestyle of education workers (Hernandez, 2009).

The extremes of violence by this union group have been amply documented by the local media. Fist fighting in the street, takeovers of government offices, the stopping of classes in public schools for months at a time, and public lynching of opposition professors have been just some of the public actions taken by these groups. Despite the diffusion by the media, society has not presented a formal objection to these manifestations. Society's response has been limited to those sectors of the population with enough resources to be able to send their children to private schools, although the immense majority of the population continues to send their children to public schools due to lack of resources to pay private school tuitions. In general, Michoacan society has grown accustomed to the professors' acts of civil disobedience and violence. During the last 20 years, the last ten Secretaries of Education in Michoacán have been limited to attempt the administration of the unions and impose a minimal set of work rules.

This show of instability is not limited to the teachers' union. Other organized groups such as the truckers, student groups, farmers, Native groups, and state bureaucrats have taken to the streets with civil disobedience to obtain concessions from the government, mainly with demands related to politics or pay increases. Free manifestation is a civil right granted by the Mexican constitution; however, the constant wear and tear to those uninvolved in the protest is not considered at the moment of the manifestations. The society of Michoacán has seen almost everything, from street marches which turn violent to decapitated heads hanging from bridges in the city. The government's response has been to permit these protests while trying to reach agreement with the manifesting group, negotiating the law and reaching agreements that many times go against society in general. In this context of instability, the State Police, in charge of public security, and the justice administration, the State Justice Tribunal, find themselves weakened in their role of administrators through legal order. By not having legitimacy, these institutions cannot impose norms and rules of coexistence.

The political instability in state governments can be found in the political role of the governors. Traditionally, the governors in Mexico resembled viceroys of the central authority held by the President of the country. Upon the crumbling of this presidential foundation in Mexico, the governors, without a centralizing authority, began to exercise a constitutional formality that did not exist previously. According to Hernandez (2008), the Mexican governors can act with impunity without legal checks and balances or accountability for their actions.

In Michoacán, like in the majority of the states in Mexico, political life and state institutions have not been able to operate outside the influence of the strong man, the governor of the state who influences in the designation of candidates to the legislature and such instances as the Tribunals of State Justice. This centralized power implies that a balance of power does not exist as declared in the constitution.

In Michoacán, the candidates to the post of local representative are elected through top-rank negotiations of the political parties and in this process the governor strongly intervenes as chief of state affairs and head of his political party. The state elite of the dominant political forces decide who will be the contending candidates for each political party, limiting citizens' participation to elect a candidate. At the state level, there is no accountability of how funds are spent, nor mechanisms which permit evaluation, punishment or rewarding of any elected representative. Corruption scandals in the different forms they take are not uncommon. Since there is no reelection of state representatives, or deputies as they are called, there are no clear mechanisms which permit the evaluation of accounts of the popular representatives of society. In this context, the legislature appears with questionable institutional legitimacy which does not have the acceptance or approval of the people.

In theory, the election of political party leaders should have transparency and civil rights guaranteed by the Office of Transparency and by the Office of Human Rights. Nevertheless, the legislative leaders are actually chosen in terms of negotiation among the elected representatives. In these circumstances, the political parties' interests are those that determine who heads these offices commissioned to 'protect' the transparency of government activities. Afterwards, the political parties decisively influence the work of these offices. Theoretically, these commissions should be independent; however, these offices have converted into institutions which serve the short term interests of the state political elite. The election of the members of the local Judiciary power operates under similar circumstances.

The states of Mexico, including Michoacán, have a long way to go toward the consolidation of democracy. This long row to hoe is specifically expressed in the operation of its institutions. When comparing the federal level with the state level, we can observe a clear improvement in the democratic operations at the federal level, most of all through the media which reports a huge difference in how ideas and happenings are diffused. At the federal level, news reports a massive criticism of people, participants and other means of communication which generate the situations for discussion and debate that all states should have as well.

The resurgence of power of the governors, specifically in the case of Michoacán, provides a clear example of an inconclusive democratic transition for which the changing of political parties has not been sufficient to provide for a real democratic development. Instead, elites of power have consolidated in each of the political parties without any transparency or accountability from the three political powers which establish the constitution.

The former description shows the process of political turbulence that exists in Michoacán. These processes happen similarly in other states in Mexico; however, in the case of Michoacán, the appearance of a fierce criminal cartel, named The Familia Michoacana, has catalyzed a situation of emergency of state public security. From 2009 to date, more than 1,800 deaths have been blamed as a consequence of actions related to organized crime. The first attack by drug traffickers on civil groups stands out for happening in Michoacán in 2008, during the celebration of National Independence. More than 40 police officers have died as a consequence of direct attacks on criminal groups, and the head of the office of State Security survived an attack on his car, only due to the fact that his vehicle was armored.

Society perceives each police officer, whether he or she is a state, municipal or investigative officer, to be a probable collaborating agent with organized criminal groups. The corruption and disenchantment of society with its government materialize in the figure of the representative of the police forces.

Another aspect to evaluate are the implications that the differentiation among state and federal police has that may times reproduces schemes of conflict between the federal president and the governors in turn. During the period of 2008-2012, Michoacán suffered the consequences of the confrontation between the President of the republic and the Executive of the State who both belonged to different political parties. The president utilized the Federal Police Force to carry out operations against presumed members of organized crime, among them who were various state functionaries and state police. The conflicts between the Executive Power and the State Power were also duplicated in the respective police forces.

On one hand, if the same state government maintains little transparency and takes on no accountability, the police forces, as an organ of this government, will also reflect opacity and no accountability. The mechanisms of accountability are barely found in initial stages taking into account that the heads of accountability offices are chosen on the base of their political criteria by the local state deputies. This situation is condemned to continue until necessary changes towards a greater legitimacy are effected, providing more transparency and accountability by the state government and its actions. This change can only happen if all three branches of the government, the executive, the legislative and the judicial are on board. The situation could improve if there existed mechanisms of punishment from society to the government in turn by means of, for example, the reelection of municipal mayors, local deputies, and of course the state governor. The reader should remember that in Mexico, the reelection of local deputies, municipal mayors and the governor is prohibited, and therefore, there exists absolutely no mechanisms that permit punishment or reward to a government.

4. Conclusions

The public security crisis that Mexico is living has profound roots in the current political situation of the country. Police forces make up a subsystem of the Mexican government that does not function in the interest of society and that is the consequence of a political system in its totality that has severe problems of legitimacy and actual democratic representation. The case of Michoacán reflects the contradiction of a democracy that has not reached sufficient representation of the people to transfer to its police forces the strength necessary to comply with the law. If the governors, state deputies, and municipal mayors respond to the interest of the political parties that

support them and not to the interest of society, and continue without mechanisms of accountability, the police forces of these bodies of government will reflect the consequence of the original sin of the same lack of legitimacy shared by the government.

On the other hand, if the administration of justice, law and order presents numerous faults, one can only expect that its actions will be questioned. The police forces cannot improve without a substantial change in the majority of judicial proceedings in Mexico. In this consideration, whatever change of uniform, logos and slogans, salary increase, or police academy offering would be limited to the efficacy of the police. What can be done then to confront the crisis of security that exists in Michoacán and the majority of other states?

The structural response can only take place with the improvement of legitimacy of the government, permitting for example, the reelection of the deputies and governors, an improvement in the systems of imparting justice and a greater involvement of society in the construction of a more efficient and effective police force. The necessity of these processes to improve public security should be a major motivator to improve Mexican democracy.

The centralized police force from Mexico City could be an efficient model of police control to follow, and could represent a mechanism of contention of criminal activity. Salary improvement, training, arms, etc. could be applied in a federal police force that can go anywhere in the other states and function as the different state police forces. An arrangement of this type could be an emerging solution to the serious problem that Mexico lives today in public security.

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