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# Private and State Violence under Neo- liberalism

The transition from a bipolar to a globalized world has involved an important and differentiated use of violence, articulated by new forms of the political, the social, and the subjective. That is to say, in the new world order, institutional power assumes specific forms of violence that have significant correspondences to the forms of political power and social representation, and the social values that render acceptable these forms of violence. On the one hand, states manage commercial, financial, and political organizations—such as the International Monetary Fund and the World Bank—that have implemented certain policies in order to assure the worldwide expansion of corporate powers. On the other hand, states manage internal repressive apparatuses and military forces that allow them control; they function as the true guarantors of new forms of wealth accumulation, either through persuasion or imposition. In this scenario, State violence plays a central role in the current process of hegemonic reconfiguration; in turn, it has reorganized itself mainly in two forms of war: a) the so-called War Against Terror, which includes the concentration camp model, however restricted, for the moment; and b) the war against insecurity and organized crime, which has led to the large-scale extension and re-organization of the penal system. In both cases, as the privatization of the means

of destruction and instruments of violence proliferate, State violence is carried out both by public and private organizations.

Nations worldwide have subjected themselves to global security policies internally and externally, adopting the language of war scripted by the global world powers. The “War Against Terror” and the “War Against Crime” are wars waged on behalf of authoritarian domination and enable the most radical forms of repressive violence. The first allows for the maintenance of the new global order by replicating the concentration camp model (e.g. Guantanamo, Abu Ghraib, and the web of CIA “black sites”). The second, waged on behalf of a State’s supposed internal security, uses juridical and penal reorganization leading to increased imprisonment, especially of the young poor population. Both bellicose logics are intertwined, dictated by world powers through the State or supranational State agencies, and are effective tools for global hegemonic reorganization.

## The “War” Against Terror

The end of the Cold War both opened up a new phase for capitalism and represented an obstacle for it. With the disappearance of the communist “enemy,” the legitimacy of armed intervention at the international level waned. It therefore became necessary to find a new enemy, to construct the figure of a dangerous opponent of imprecise location and indefinite power that would justify the strong-armed actions necessary for global expansion. At that time, drug-dealing nets seemed to offer that new figure and already in 1987, one heard about “the war on drugs.” Drug trafficking, however, is too intertwined with the corporate network and their economic interests to be able to become a permanent, primary enemy. Indeed, it constitutes one of the most profitable global businesses, involving hundreds of billions of dollars. Although it is extremely difficult to establish quotes, in a conservative estimate from 2011, the United Nations Office on Drug and Crime calculated that global income for drug trafficking was 320 billion

dollars. Researcher Marcelo Colussi argues, however, that the commercial circuit of illicit drugs generates even higher profits of about 800 billion dollars per annum, more than the income generated by the oil industry.<sup>1</sup> Already in 2002, economist Michel Chossudovsky stated: “The multimillion-dollar income generated by the sale of drugs is deposited in the Western banking system, in their branches and havens; they launder enormous quantities of narco-dollars, and this is why international narcotic trafficking constitutes a multibillion-dollar business that reaches the same magnitude as the international oil business. From this point of view, geopolitical control of the narco-routes is as strategic as the control of pipelines.”<sup>2</sup>

Aside from its profitability, drug trafficking has been tied to international political power networks, which finance illegal and undercover operations by the CIA in different parts of the planet.<sup>3</sup> These are some of the reasons why the target for a global and sustained “war” needed to be gradually shifted in another direction.

Beginning in the Reagan era, international terrorism as a threat to the United States was offered as such a target, and since the 1990s the mass media have increasingly thematized the terrorist phenomenon as the central security threat—not only nationally, but globally.

If we add up the victims of international terrorism reported by the press between 1988 and 1999, however, the number of victims does not even reach 3,000. Even Walter Laqueur, who studies terrorism and urban guerrillas, stated in 2001 that up to that time, “terrorism was no more than a nuisance.”<sup>4</sup> Three million, three thousand or three victims are always something more than a nuisance, always irreparable, but put into perspective, it is evident that a phenomenon causing three thousand victims worldwide and in the span of 11 years cannot be considered a serious threat to global security. Moreover, by 2000, the Anti-Terrorist Protocol had been signed at the Latin American Summit, thus assigning it disproportionate international relevance.

In this sense, we could discuss the construction of the figure of terrorism in

at least two senses. On the one hand, to the establishment and funding of armed paramilitary groups during the Cold War<sup>5</sup> by Western intelligence services was added the business of the “illegal”—but tolerated—sale of weapons in connection with drug-trafficking networks. All of this facilitated the proliferation of paramilitary groups, as well as the circulation of weapons of every kind and calibre. In that sense, shortly after the attack on the Twin Towers, Marc Augé inquired into how we were to consider terrorism, stating metaphorically that it is an “auto-immune illness.”<sup>6</sup> Along the same lines, in 2010 the US State Department listed approximately 250 terrorist groups throughout the world that had caused 15,000 deaths during the preceding year.<sup>7</sup> Aside from the questionable criteria for this classification, two issues immediately emerge: the marked increase—and not the decrease—of the victims of terrorism after the war against terror had been declared, and the fact that 60 percent of those attacks happened in Iraq, Afghanistan, and Pakistan, all places with a considerable presence of troops and anti-terrorist activity after 2001. It is estimated that in the decade 2001–2011, more than 80 percent of the victims of terrorism died in non-Western countries, which are paying the bill for a “war” declared by the West. It seems clear that anti-terrorist terror only fuels violence, which, as a sort of perverse side effect, has turned against peripheral countries that are now paying the price for the war declared against terrorism.

We could also discuss the construction of terrorism in the mass media and political discourses as characterized as a threat to global security. The idea of an international terrorist network was gradually configured by corporate power. Like corporate power, “terrorism” proliferates: it is diffuse, reticulated, and transnational—traits assigned to it in order to position the “terrorist” as a threatening figure that needs to be exterminated. With the destruction of the Twin Towers and the attack against the Pentagon on 11 September 2001, the conditions were thus already in place to formulate the “war against terror.”

How can terrorism be defined? According to Resolution 1566 of the UN Security Council, adopted in 2004, terrorism is “any criminal act destined to kill, badly hurt, or take hostages with the purpose of creating a state of terror in the population in general, in a group or in a person, as well as to intimidate populations, to oblige a government or an international organization to execute an action or abstain itself from it.”<sup>8</sup> It is highly significant that criminal acts such as killing or gravely hurting with the purpose of creating a state of terror “in a person” are included. According to this, what distinguishes simple murder from a terrorist attack is intentionality, which opens up a wide space for judiciary discretion and interpretation, while facilitating political manipulation of the law. John Brown points out that this slippage fundamentally implies a transition from “no punishment without law”—characteristic of the Rule of Law—to “no crime without punishment” proper to the securitized State.<sup>9</sup>

One of the problems posed by anti-terrorist legislation at the national and international levels is that it is based on “states of exception,” where legal protections like felony probation are suspended, and the powers of intelligence-gathering and police services are expanded to the detriment of individual rights. Even more alarming is the vast internal intelligence and surveillance apparatus set in place in the US after 2001 under the justification of supporting the “war against terror.” The FBI has gathered a gigantic database of information on citizens signalled as “suspects” using a secret government apparatus of global proportions, comprising 1,271 governmental organizations and 1,931 private security and intelligence companies.<sup>10</sup>

A global consensus has emerged around the struggle against terrorism, which is very useful for the control of internal dissidence. This has resulted in the international approval of a variety of anti-terrorist laws, which, with certain variances among countries, expand the concept of terrorism in order to make it valid both for local circumstances and internal

political conflicts—consequently (either intentionally or not) enabling the indiscriminate repression of anti-systemic movements. To summarize, the figure of terrorism operates in order to sanction almost any opposition to the social, political, or economic system, punishing subjects with harsh measures under a law of exception. In order to accomplish this, the following steps are taken. First, protest is criminalized and thus de-politicized; next, protest and violence are assimilated, rendering illegitimate any non-State use of force; finally, all violence against the system and formal democracy, insofar as it is destabilizing and violent, is considered to be terrorist. The crime of rebellion disappears—as it is synonymous with terrorism—and with it, the right to rebel, widely recognized by liberal doctrine before these recent transgressions on behalf of governments worldwide. In this manner, all forms of insurgence are de-legitimized and legislated as exceptional. As previously legitimate forms of protest are pushed beyond legal protection, a “system without opposition”<sup>11</sup> is thus created. Indeed, the most alarming aspect of the war on terrorism is not the harshness of its penalties, but the suspension of rights and the exceptionality of the punishments.

The elasticity of the term “terrorism” allows it to accommodate a variety of phenomena. Thus, the “extreme dangerousness” of the “enemy” justifies “preventive” measures, and not only are certain acts and individuals punished, but also those considered to be potentially capable of committing them, even before the felony exists. It could be said that the figure of the “terrorist,” insofar as it is a diffuse category that can include many ethnicities, political inclinations, and religious preferences, embodies the Other of our times. In the construction of this Other and the war scenarios against it, many public and private interests—both political and economic—are played out.

While the first bombs were falling in Baghdad in order to respond to a non-existent terrorist threat, big corporations like Halliburton and Bechtel Group were signing contracts for

hundreds of thousands of dollars to provide different services there, such as rebuilding what the American troops had not yet destroyed. Other firms benefited from contracts providing food and lodging for the military forces, as did politicians associated with those companies, like Dick Cheney. In addition to this we must add the greatest business deal of all: the privatization of Iraqi oil reserves. In that sense, it is not irrelevant that the sub-contracting of private security forces generated considerable profits, as well as led to many abuses against civilian populations. A significant example here is Blackwater Security Consulting, which earned over one billion dollars in Iraq and Afghanistan,<sup>12</sup> while it was held responsible for many casualties, the most notorious of which being the murder of 17 people in Baghdad on 16 September 2007. Private corporations brought between 20,000 and 30,000 mercenaries, with their own rescue and intelligence teams, constituting “the second greatest coalition contingent in Iraq, only surpassed by US troops.”<sup>13</sup>

In the context of the so-called war against terror,<sup>14</sup> over a hundred private military companies were established in Iraq and the Arabic Peninsula. The growth of the private military industry, in addition to representing a major business endeavour supported by the United States, defies the Geneva Convention and other international treaties, and also questions the alleged State monopoly on legitimate violence. As businesses grow, civilian casualties multiply. The majority of victims—over 100,000—were civilians killed indiscriminately: women, children, journalists, wedding assistants, either casually or intentionally murdered. The second largest number of deaths were insurgents from occupied countries; third, representing only three percent of the total, were the occupation forces, made up of American citizens who do not necessarily benefit from corporate profits gained through war. In addition, civilian victims multiply by way of technology: only 60 percent of unmanned aircraft and “intelligent” weapons effectively found their targets, and over 90

percent caused “collateral” damage in unarmed civilian zones. This did not only occur in Iraq and Afghanistan during the peak of George W. Bush’s bellicose fever. In the course of Barack Obama’s first term, the United States continued to murder civilians, either through the direct bombardment of targets in Afghanistan or unmanned aircraft (drone) attacks against alleged insurgents in Pakistani territory, claiming they were terrorists. According to the Daily Times, between January 2009 and July 2010, these raids over Pakistan left at least 2,500 casualties,<sup>15</sup> and many more deaths have been reported since. This indiscriminate violence was brought about by the so-called “technological wars,” which aim to cause the death of others without putting one’s own at risk, thus radicalizing the principle according to which “saving humanity” presupposes eliminating a fraction of it.

This global violence, under the name of the “War Against Terrorism,” is indeed terrorist in itself because it resorts to mass violence, creating hundreds of thousands of victims through arbitrary and indiscriminate bombing over civilian populations. The war embodies the transgression of every legal order in order to dominate the world by force and fear, applying “exemplary punishments” that would dissuade other nations from resisting the advance of the global corporate model. The war against terror has distinguished “partners” such as Mexico and Colombia from other states accused of sponsoring terrorism or insufficiently collaborating in this endeavour (such as Cuba, Venezuela, and Bolivia).

In Mexico, anti-terrorist legislation was approved in February 2007, in sync with US policy for the region and for the world. Terrorism was defined here as the use of “any violent means” toward “actions against persons, things, or public services that would spread alarm or terror amongst the population or in a group or sector of the population, in order to threaten national security or to force authorities to make certain decisions.”<sup>16</sup> The vagueness and extensive legal reach of this crime, which can result in up to 40 years

in jail, evidently makes it useful as a means to restrict political rights, as well as criminalize the majority of social protest movements. Additionally, political alignment with the United States is reinforced. In turn, the incorporation of the figure of international terrorism allows for the persecution—and extradition—of those who, without having committed any crimes on Mexican territory, can be questionably accused of having organized or financed any activity of this kind. It also enables the freezing of assets of organizations defined as terrorist by central agencies, as well as those suspected of having ties to organized crime.

#### The “War” Against Organized Crime

Neither the War Against Terror nor the War Against Crime are true wars, but rather forms of state violence targeted mainly against dissidents and the excluded. Their logics and procedures, moreover, are superimposed. The war against crime shields itself through the growing preoccupation with public security fuelled by the political class and the mass media. The Mexican case may be considered a “model” example of this, in that it has condensed series of general tendencies. It is paradigmatic because it implies a determinate way of dealing with crime and with criminals, which may be extended to other countries, and also because it embodies a series of tendencies present in current penal system reorganizations. It is important to begin by identifying some of the traits of this “war.”

#### 1

Organized crime and especially drug trafficking constitute a dense network that includes many governmental offices, security forces—the police as well as the army—some members of political parties and the business community at the national level, as well as a fraction of powerful public and private international groups. The implications of this global business have been documented in a variety of publications, particularly in the revealing investigative journalism of Anabel Hernández’s

Los señores del narco [The Narco Lords]. Clearly, municipal, state, and federal police forces are involved in this network. In this regard, a note was published in the national press about Federal Police members who rioted after having been assigned to Ciudad Juárez on 7 August 2010. Seeking to denounce the complicity between their bosses and organized crime, and to demand their resignation, the rioting policemen blamed ministerial agents from the Attorney General’s Office (PGR) for capturing innocent people with the purpose of accusing them of drug trafficking and extorting them to pay lots of money. On 18 December 2009, when the army captured and killed Arturo Beltrán Leyva (leader of the Beltrán Leyva Cartel), they found a list of people who received monthly payments from the cartel in exchange for protection. Amongst them were officials from the Attorney General’s Office—a federal organization—and the State Department of Public Security, as well as heads of the police force. The complicity between the police and criminal groups is not limited to local dependencies or low-level agents. For example, in 2008 it was revealed that Miguel Colorado González, technical coordinator of the Assistant Attorney General’s Office for Special Investigations on Organized Crime (SIEDO), a branch of the PGR, had for nine years worked for the Beltrán Leyva Cartel, back then allied with the Sinaloa cartel. With regards to the involvement of the police in criminal networks, it is interesting to remember that in his statement at the trial, protected witness José Salvador Puga Quintanilla, member of an organized crime organization, stated that: “People working for federal, municipal and state police work also for different (criminal) organizations, but they always work more for a specific one”<sup>17</sup>—that is, they protect only one of them.

Nor is the army free of associations with criminal organizations. It is well known that the Mexican government, since at least the 1970s, has established agreements with organized crime leaders, seeking to control both the production and trafficking of drugs. The trade in

narcotics was actually considered to be a policy matter of the State. This began to change under President Miguel de la Madrid (1982–1988) and took a decisive turn under Carlos Salinas de Gortari's government (1988–1994), coinciding with the establishment of the neoliberal model. According to Anabel Hernández, in the early 1990s, the government moved from charging a sort of non-official tax to demanding large amounts of money in personal bribes. In turn, officials offered protection to specific cartels. Moreover, Hernández states that many of the officials involved became subordinate to the drug lords, and completely invested in the business.<sup>18</sup> In turn, some drug lords became government officials, blurring even more the already indistinct boundaries between politics and drug trafficking.

In past years, many politicians have made agreements with organized crime groups in exchange of money for their campaigns. According to Columbia University professor Edgardo Buscaglia, “between 55 and 65 percent of political campaigns are infiltrated by criminal groups,” including all political parties.<sup>19</sup> In turn, businessmen in charge of big corporations launder the money earned in the illegal traffic of people, goods, and narcotics, as well as from other criminal activities such as kidnapping. In this manner, they enable the drug lords' entry into the legal economy in exchange for large profits. Buscaglia estimates that the National Confederation Sinaloa Cartel is tied to 3,007 “very powerful companies who make profits in Europe, the US, and Mexico,”<sup>20</sup> amongst them some of the most well known banks in the world.

Furthermore, authorization and protection networks provided by the US are decisive in this business, and the relationship between North American agencies—especially the CIA—and drug trafficking is also very well established. Nowadays, the massive arrival of drugs from the South, and the massive shipment of money and weapons from the United States, is possible only with the complicity of the authorities on both sides of the border. Also, the big capos (cartel leaders) operate and live

in the United States, and will be able to do so until they either get out of control or cease to be useful. Considering that the majority of drug trafficking profits remain in the US, it is clear where the main business is, and who benefits from it. As Argentinian lawyer and writer Eugenio Raúl Zaffaroni states, there is “a protectionist effect toward the benefit of some of the criminal service lenders (and) a concentration of criminal profits in the big transnational corporations that ends up in the central countries.”<sup>21</sup>

Beyond the struggle against a complex network of organized crime organizations, North American agencies have thus actually enabled drug trafficking, building an enormous paralegal apparatus operating under its control. The consolidation of such a large apparatus has led to a balance between the apparatus itself and official power structures, making uncertain who imposes which rules on whom. If the US government prefers to deal with a single criminal organization—and it seems that for now, and in Mexico's case, it is the cartel led by El Chapo Guzmán, who has access to the US market—its because they reap profits from this arrangement. In that sense, it is interesting to remember the defense of Vicente Zambada Niebla—the son of one of the Sinaloa cartel capos who was captured in Mexico and extradited to the US—who affirmed he had performed illicit activities with the authorization of US federal officials. His defense lawyer used the legal figures “defense by exercise of public authority” and “incitement to an offense by law enforcement personnel,” as Zambada stated he had worked for over five years with personnel from the DEA and the FBI (whom he named). Furthermore, he stated that officers from both Agencies, as well as from the Immigration and Customs Enforcement US (ICE), gave him their consent to execute criminal activities from January 2004 to March 2009.<sup>22</sup> From this, it can be inferred that the US government is not at all interested in ending drug trafficking—as it has shifted focus towards terrorism—but rather to control and use it for their own benefit. Both phenomena have been the product of

their own construction, first creating allies and then “enemies.” Bearing this in mind, we can consider this system to be a *narcocracia* [narcocracy], constituted by drug lords, narco-businessmen, and narco-politicians, along with the narco-military and narco-police that give them protection.

2

It could be argued that we are not facing a war against drug trafficking, as is often affirmed, for such a war would presuppose two sides: the government and drug dealers fighting to the death. On the contrary, the involvement of different state and non-state actors demonstrates the interpenetration between government, society, and organized crime, which comprises a massive network that disseminates atrocious forms of violence in a struggle for market control amongst its internal factions. Officials from different departments are part of this confrontation and favour one of the sides in order to gain profit. This network affects with its violence large sectors of society that end up being its victims, although they may also be involved in it. Kidnapped for ransom, murdered for revenge or by mistake, or extorted for money, owners of small or medium businesses or merchants, displaced farmers and villagers, and abused immigrants are the most common victims. Youth are frequently used by criminal groups who take advantage of their cultural and economic precarity; police and soldiers are recruited from the most humble sectors for the same reasons. Any way we look at it, from a national or international perspective, we are dealing with a false war that, on the one hand, allows for an extraordinary accumulation of illegal profits, which are partly reinvested in illegal activities, and are also useful to the political system. On the other hand, like terrorism, this war offers an enemy that does not weaken but rather empowers violence, making it more and more threatening. It could be pointed out that when Vicente Fox's presidency ended, the balance of this alleged war was 9,000 dead; during Felipe Calderón's term, the number of

victims rose to 60,000. Unleashed violence that threatens everyone and disseminates fear thus justifies the use of bellicose discourse as a useful weapon for legitimacy. Considering that Calderón declared a “war” against organized crime four days after taking charge, in the context of a highly questioned electoral process, the parallel with George W. Bush's war against terror is more than evident.

3

Drug trafficking is not sought to be eliminated, but controlled. Struggles amongst rival factions are a key part of the history of drug trafficking. In the last decade, however, there have been efforts to unify all the criminal groups under a single command, with which accords may be established. Shortly after Guzmán Loera's flight from the Puente Grande jail, he assembled more than 25 important drug lords in a sort of council. The idea was to coordinate actions and share protection from the authorities. In this meeting, a national criminal organization was created, La Federación, homonymous with so-called legitimate institutional power. Guzmán Loera was recognized as the head of the organization because he was protected by Vicente Fox's government. Anabel Hernández states that “many things that the brilliant idea of creating a drug dealer union was a suggestion by the DEA... [because] for the US government it was easier to have a single interlocutor with whom to negotiate drug smuggling in its territory.”<sup>23</sup> The truth is that La Federación was also protected by Calderón's government, and all signs point to the fact this protection exists on both sides of the border.

4

The real dangerousness of the capos resides in the information they know. Organized crime bosses know in detail how this network functions and who benefits from it. Their power resides in this knowledge, but is also their greatest weakness. Indeed, the narco-lords know which “decent” politicians are linked to the network, and they know which “prominent” men allow the real drug lords to

operate. This is why when their cycle comes to an end, when there are no longer useful, or when they suspiciously behave as if they were autonomous, they are locked in high-security prisons, or an adversary is ordered to murder them. The information they possess is pure venom for politicians, as drug money feeds their electoral campaigns.

#### Augmenting Penitentiary Punishment

As an answer to the violence unleashed by the large drug networks, the tendency in Mexico has been to modify the law in order to increase penitentiary punishment. As Marcelo Bergman states: "Reforms to criminal codes that took place after 1994 typified as serious a large amount of crimes, resulting in an increase of penalties. Moreover, many crimes were exempt from the possibility of early release," therefore increasing the duration of potential time spent in prison.<sup>24</sup>

Between 2000 and 2008, 17 reforms were enacted in the Federal Criminal Code geared toward increasing punishment. In 2008, a Constitutional Reform took place with significant implications for this tendency, affecting the principle of presumption of innocence and increasing the number of cases that deserve preventive jailing. But perhaps the side of the new law that most contravenes human rights is the redefinition of organized crime, the main object of the reform. Organized crime is defined as "the factual organization of three or more people with the purpose of permanently and repeatedly committing crimes," that is, it is a crime accomplished with the sole intention of executing another crime. Modifications introduced by the Judiciary Reform at the legislative level, as well as attributions and procedures by the police and judiciary, are geared toward expanding the prison population. Instituting a "state of exception" centred around the figure of "organized crime" enables many disturbing changes: the suspension of people's liberties because of their probable participation in illicit activities; the augmentation of isolation

periods, mainly to extend the length of the order not to leave the jurisdiction; the restriction of procedural guarantees such as the suspension of trial and statute of limitations, when the accused evades justice or is put under the hands of a judge abroad; the concealment of the accusing party; the restriction of public audience; and the confiscation of property allegedly derived from illegal activities, even before a case is put to trial.

In this manner, the state "authorizes" itself to violate the rights of persons who have been accused of organized and other crimes, and to take exceptional measures legalizing the misrecognition of some citizens as subjects of rights, only because of their being suspected of organized crime or other severe illicit acts. The increase of imprisonment time has naturally led to prison overcrowding and an increased lack of control in penitentiary centres. Those who remain imprisoned, moreover, are largely minor criminals, as people at the top of the cartels have enough resources to evade justice. This reproduces an old and yet singular phenomenon with a specific purpose in contemporary penitentiary system: the imprisonment of the poor for longer terms, and in more degrading conditions. This phenomenon in Mexico and neighbouring countries, as well as the orientation of law and justice toward these perverse consequences, begs the question of why the opposite of what the system purportedly seeks (the reduction of crime and the reinsertion of criminals into society) occurs, and moreover, how the system actually benefits from these policies.

#### The Penitentiary System

The population of Mexican prisons has been steadily increasing over the past 20 years, from 98 of every 100,000 inhabitants in 1992, to 200 of every 100,000 inhabitants in 2010 (ICPS). Marcelo Bergman argues that the growth of the prison population resides in "the extension of the convictions rather than the number of persons imprisoned."<sup>25</sup> Surveys conducted in Mexico DF and State prisons by the Center

for Economic Research and Teaching (CIDE) in 2002, 2005, and 2009 present some very interesting data, which can be considered to be representative of the situation across the country, as they hold the largest jail population in total. They showed that in 2009, 40 percent of inmates were between 18 and 30 years old, and if we add the 30-to-40-year-old portion, 76.4 percent of the prison population was under 40. In addition to being young, they were also largely uneducated and left home early on.<sup>26</sup> However, they were not unemployed. On the contrary, they have mostly worked since they were children: 32 percent of those under 12 years old, 60 percent between the ages of 12 and 15, and 92.3 percent of those older than 18. Moreover, fully 97.3 percent were employed a month before being detained, more than half of them as self-employed merchants or taxi drivers.<sup>27</sup> At the national level, by April 2008, the numbers indicate that 23.54 percent of inmates were jailed because of crimes under federal jurisdiction, which encompasses drug-related crimes, illegal weapons, criminal association and money laundering, and 74.46 percent were jailed for common law offenses.<sup>28</sup> These numbers allow us to see that the jailed population differs vastly from the perpetrators of severe crimes, which evidently have a larger impact on society. In fact, as Bergman states, "most of the crimes punished are simple and not serious."<sup>29</sup>

Furthermore, the percentage of recidivism is high (29.3 percent in 2002), and increased in each subsequent survey up to 36.5 percent in 2009. This fact shows that the penitentiary system does not encourage re-socialization and tends to re-imprison petty criminals. Indeed, "many detainees are harassed by corrupt policemen; after their release, they ask them for money or simply arrest them in order to cover their detainee quota."<sup>30</sup> We could conclude with Bergman that Mexican jails "are not imprisoning the most dangerous criminals, but those whose detention poses the least problems. [This] means that there are a large number of poor people in prisons, while most professional criminals live outside them."

Evidently, the rule of law implies differential sets of rights according to an overall strategy of differential punishment.<sup>31</sup> In addition, just as a person dealing with the system could evade prison thanks to corruption—mainly of the police, but also public prosecutors and judges—once she is in the system, she is trapped in a network of corruption that encompasses payment for minor "favours," such as missing roll call, trafficking of all kinds of legal and illegal goods and services, all of which are allowed in these institutions.

The difference between leading a life relatively worth living inside prison or living in a truly horrible situation is determined by the networks of corruption that govern the system. Overcrowding is the rule for the majority of prisoners. According to the 2002 survey, "there are cells intended for three inmates in which more than 10 sleep... On average, inmates report that in the past week they slept in the same room with other 9 inmates... [and because of] a lack of mattresses and beds they sleep on the floor (20 percent report having to pay for a mattress)."<sup>32</sup> Furthermore, by way of the same mechanism through which some inmates gain access to mattresses, others with more money are able to individually occupy cells that would normally hold five or more people, and have other privileges as well. These institutions, moreover, do not provide access to basic personal hygiene tools or health services, nor do they provide sufficient food and clothing. In 2002, for example, 90 percent of inmates received food from their families. A large amount of goods not supplied by the prison, however, are available inside, illegally traded among the prisoners. Business transactions include prohibited goods, and authorities have estimated that 50 percent of inmates consume drugs regularly, especially marijuana and cocaine.<sup>33</sup> Indeed, drugs can "pacify" the population, as well as all those involved in trafficking, be they inmates, penitentiary personnel, and external distribution networks. Anybody who sells things inside a jail, from soda to forbidden drugs and cellphones, must pay a "fee" to the guards. The National

Association for Family and Friends of Prisoners estimated that every year in Mexico DF institutions, authorities make up to 1.7 billion pesos (about US \$1.3 billion) by charging illegal fees to prisoners and their families.

The fact that inmates resort to illegal trafficking in order to obtain the income allowing them to survive inside jail is associated with the difficulties of finding proper work inside prison. Some jails do provide work for inmates, but with insufficient pay to survive, which only ends up benefiting the corporations who establish labour contracts with penitentiary centres. The lack of work and precarity thus obliges prisoners to turn to illegal activities from which they can derive higher profits, which in turn produces more profits for those higher up in the system. At a first glance, these illegal networks seem to control the jail, which is only possible with the consent of the formal institutional powers, and superior powers. Sometimes, the direction taken by a prison may be dictated by external political powers, associated with mafias both inside and outside the jails, thus demonstrating the interconnected power relations that run inside, through, and beyond prison walls.

Because of their articulation in tension with internal and external institutional powers, informal power networks are decisive in the organization of the prisoners' everyday lives. Generally, they are ruled by principles and hierarchies linked to external criminal networks, but they are tolerated by the institutions that derive great profits from them. It can also be said that those who are the least linked to greater crime networks end up being doubly jailed: first, by the institution, which guarantees physical enclosure, and second, by the internal criminal networks, which, in concert with the institutional power structures, control everyday life in the prisons. Both, of course, necessitate contact with external mafia groups.

The idea that jails are an extension of the criminal world is not new, although the relationship between formal and informal power networks within prison and beyond is seldom brought up. It is evident that drugs,

alcohol, phones, the prison cell market, and being able to get early release from prison can only exist at a massive scale by way of the mediation of the prison's own personnel, who give permissions and concessions in exchange for the profits derived from such activities.

Luis Astorga, a professor at the National Autonomous University of Mexico (UNAM), has articulated this problem in the following manner: "There have been many cases in which connections between guards, authorities, and prison directors with illicit activities inside the prisons have been proven... [There prevails] a systemic corruption that goes back a long time. In this system, with all the licit and illicit businesses entailed in its administration, many officials and politicians have access to petty cash, on which directors also depend." Astorga concludes with a key affirmation: "Contrary to common belief, it is not organized crime who is in charge of the game, but rather, it is the game that dominates politics."<sup>34</sup> It should be added: politics tied to organized crime. A city within a city, the jail is a sort of holographic reality with regards to the external world, although the state of exceptionality that exists in other social areas is highly exacerbated.

Jail as an institution neither prevents nor reduces crime and neither does it successfully reinsert criminals into society; rather, it creates society, as once they get out they find themselves severed from their previous social networks and work options. The prison apparatus tends to consolidate itself into a "para-legal regime,"<sup>35</sup> a realm of exception in sync with the exceptionality of the law and of the State itself. As a consequence, we must conclude that the increase in the incarcerated population, combined with allowing and maintaining conditions of "exception" and corruption within prisons, serves a penitentiary system that reproduces crime—as opposed to preventing it. Furthermore, this system punishes minor criminals with more violence, which corrupts them more than re-integrates them. These facts derive from the political decisions made by the State regarding the criminal justice system. It is thus necessary

to ask ourselves: What is the reason for this decision, and what purpose does it serve within the context of current hegemonic reorganization?

This first response to this can be found in the economic dimension of the problem. According to a study carried out by the House of Representatives Center for Social and Public Opinion Studies, each prisoner costs the State 130 pesos a day (about \$10), which implies a monthly cost of \$300 per imprisoned person; that is to say, more than \$60 million dollars per month, according to the current prison population. The social cost of crime, which encompasses the monetary cost, is paid by society itself. Society is its main victim, as the increased incarceration of prisoners is financed through public taxes directed to the prison system, or through service outsourcing paid to mafia groups by the State. Crime is thus a profit-making machine that benefits the large criminal networks—for as we have seen, they are in many cases allied with State officials and contribute to election campaigns—and those who organize repression: private security enterprises, as well of State bodies involved in judicial and penitentiary corruption.

The privatization of the penitentiary system has been propitiated with the promise of reducing its costs. In June 2009, Public Safety and Security Minister Genaro García Luna announced that the government would build twelve new jails that would be outsourced, with the purpose of expanding the federal penitentiary system. Almost immediately, officials from the State of Guerrero declared that they would build two new jails and that they would outsource to the private sector 11 of the 18 jails in the state. In the State of San Luis Potosí, a public tender was announced with the goal of building the Ciudad Valles prison, and the tender was won by ICA, associated with the large construction firms La Nacional and La Peninsular. This prison is the first to have been built with private funds, which amounted to 1.2 billion pesos (\$960 million). Moreover, the classification and differentiation of prisoners into "danger" levels has led to the creation

of prisons of medium, maximum, and super-maximum security, with more technology required and larger amounts of money invested. Indeed, the State Executive Branch proposed in April 2011 the creation of super-maximum security prisons where even visitations would take place through technological devices. This evidently increases prison costs, opened up as public tenders to the private sector, as well as creating ultimately negative implications for the living conditions of prisoners.

### Conclusion

By way of a general conclusion, it could be said that both scenarios of state-sponsored aggression, the War Against Terror and the War Against Organized Crime, are consistent with the global reorganization of hegemonic powers in different areas. In accordance with the current accumulation and wealth concentration practices employed by powerful private-state power networks, they allow for the transfer of public funds to private enterprises and individuals, strengthening corporations at the cost of the State; they facilitate the military occupation of territories, as well as the intervention of other countries; and they legitimate laws of exception while restricting civil rights and augmenting the repressive potential of the State. And to top it all off, they are being employed by current so-called democracies, which are hardly participatory and bear strong authoritarian components that have intensified in recent decades.

**Notes**

- 1**  
See **Marcelo Colussi**, *El narcotráfico: Un arma del imperio* (Buenos Aires: Argenpress 2010).
- 2**  
**Michel Chossudovsky**, *Guerra y globalización* (México: Siglo XXI, 2002), 27. In *Mexico, an important oil producer, income generated by drug trafficking in 2010 was three times as high as oil sales; four times higher than revenue from abroad, and seven times higher than income generated by tourism, according to data from the press and the authorities.*
- 3**  
*Ibid.*
- 4**  
**Walter Laqueur**, *Una historia del terrorismo* (Barcelona: Paidós Ibérica, 2003), 315.
- 5**  
*Cases of guerrillas financed by the CIA are documented in Nicaragua, Afghanistan, Iran, Chechnya, Kosovo, during and after the Cold War, as part of the struggle for controlling locations considered to be strategic. See Chossudovsky, Guerra y globalización.*
- 6**  
**Marc Augé**, *Diario de guerra: El mundo después del 11 de septiembre* (Barcelona: Gedisa, 2002), 64–65.
- 7**  
Some authors, like **Alfonso Merlos**, point out the increase of
- suicide attacks after 2001. See Alfonso Merlos**, *Al Qaeda, raíces y metas del terror global* (Madrid: Biblioteca Nueva, 2006).
- 8**  
See *Organización de las Naciones Unidas (ONU) Consejo de Seguridad [United Nations, Security Council Resolution], S/RES/1566, 2004. Emphasis added.*
- 9**  
**John Brown**, “La definición del terrorismo: ¿Innovación jurídica o regreso a un pasado oscuro,” *Redcientífica* (2001): 7–9, <http://redcientifica.com/dos/doc200111300002.html>.
- 10**  
*La Jornada* (Mexico), 22 December 2010.
- 11**  
**Mary Luz Sandoval**, *Diacrítica del terror* (Bogotá: Tercer Mundo, 2007), 285.
- 12**  
*Público* (Madrid), 2 December 2010.
- 13**  
**María Cristina Rosas**, “¿Privatización o privación de la seguridad?”, *Metapolítica* 35 (2004): 89.
- 13**  
These include **Airscan**, **Blackwater**, **ISI Group**, **Cochise**, **OS&S**, **Centurion Risk**, **Triple Canopy**, **Titan**, **WWLR**, **CACI International**, **MZM**, **Vinnell**, **Dyncorp**, **Ronco**, **Group 4 Securicor**, **Combat Support**, to name a few. See *La Jornada* (Mexico), 9 September 2007.
- 14**  
“Who gets married in the middle of the desert?” asked **general Mattis** from the **US Marine Corps**, trying to undermine the fact that his forces had killed 41 people, including many children, at a wedding. *La Jornada* (Mexico), 21 May 2004.
- 15**  
*Between September and December 2010, the CIA committed 50 attacks of this kind in Pakistani territory. See Público* (Madrid), 22 December 2010.
- 16**  
See *ONU* [UN], 2004.
- 17**  
**Anabel Hernández**, *Los señores del narco* (México: Planeta, 2010), 504.
- 18**  
*Ibid.*, 198.
- 19**  
**Eduardo Buscaglia**, “En México, hasta 65% de las campañas están infiltradas por el crimen,” *La Jornada*, 28 July 2011.
- 20**  
*Ibid.*
- 21**  
See **Eugenio Raúl Zaffaroni**, “Gobalización y crimen organizado”, *Sociedad Latinoamericana* (2011), <http://sociedadlatinoamericana.bligoo.com/content/view/1548008/G>.
- 22**  
*La Jornada* (Mexico), 4 August 2011.
- 23**  
**Hernández**, *Los señores del narco*, 363.
- 24**  
**Marcelo Bergman**, “Cárceles en México: Un estado de situación,” *CIDE* (30 September 2004), 6.
- 25**  
*Ibid.*, 7.
- 26**  
*Centro de Investigación y Desarrollo de la Educación* (CIDE), *Delincuencia, marginalidad y desempeño institucional: Tercera encuesta a población en reclusión en el Distrito Federal y el Estado de México* (Mexico: CIDE, 2010), 9–15.
- 27**  
*Ibid.*, 17.
- 28**  
*Secretaría de Educación Pública*, *Sistema Penitenciario Mexicano y educación para jóvenes y adultos en los Centros de Readaptación Social* (Mexico: SEP, 2010), 5, [http://www.redlece.org/IMG/ppt/CENTROS\\_DE\\_READAPTACION\\_SOCIAL\\_EN\\_MEXICO\\_2.ppt](http://www.redlece.org/IMG/ppt/CENTROS_DE_READAPTACION_SOCIAL_EN_MEXICO_2.ppt).
- 29**  
**Bergman**, “Cárceles en México,” 18.
- 30**  
*CIDE*, *Delincuencia, marginalidad y desempeño institucional*, 29.
- 31**  
**Bergman**, “Cárceles en México,” 11, 18.
- 32**  
*Ibid.*, 12.
- 33**  
*Ibid.*, 15.
- 34**  
**Luis Astorga**, “Entrevista a Mariusa
- Reyes**,” *BBC Mundo* (4 November 2005), [http://news.bbc.co.uk/hi/spanish/specials/2005/carceles/newsid\\_4377000/4377278.stm](http://news.bbc.co.uk/hi/spanish/specials/2005/carceles/newsid_4377000/4377278.stm)**BBCMUNDO.com**.
- 35**  
**Bergman**, “Cárceles en México,” 16.