

Political legitimacy in Mexico and police in high-conflict areas

Legitimidad política en México y policía en zonas de alto conflicto

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RESUMEN

El presente trabajo analiza la importancia de la legitimidad política en el accionar policial en México, sobre todo, en regiones donde los carteles criminales construyen estrategias que buscan justificar sus actividades delictivas mediante acciones sociales y políticas que les otorguen la legitimidad de la cual carecen los gobiernos locales y sub-nacionales. El artículo observa aspectos de legitimidad de la Policía Nacional de Colombia que pueden aterrizar al caso mexicano, específicamente a la recién creada Guardia Nacional Mexicana. El análisis se focaliza en los municipios de la llamada Tierra Caliente, Michoacana que ejemplifican los problemas de legitimidad política y las dificultades que esto implica para la actividad policial.

PALABRAS CLAVE: Colombia, México, legitimidad, Policía, Municipios

ABSTRACT

This paper analyzes the importance of political legitimacy in police actions in Mexico, especially in regions where criminal cartels build strategies that seek to justify their criminal activities through social and political actions that give them the legitimacy that the police lack on local and sub-national governments. The article observes aspects of legitimacy of the National Police of Colombia that can be applied to the Mexican case, specifically to the recently created Mexican National Guard. The analysis focuses on the municipalities of the so-called Tierra Caliente, Michoacana that exemplify the problems of political legitimacy and the difficulties that this implies for police activity.

KEYWORDS: Colombia, México, Legitimacy, Police, Municipios

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INTRODUCTION

The stability and functioning of any type of political regimen are based on the combination of the capacity of rulers and government to use force based on political legitimacy and the acceptance of such measures by citizens (Paletta, 2011). This can be conceptualized as popular recognition that the rules of the political system are valid, as are the decisions taken under their domain. This means that political systems that achieve a substantial level of legitimacy will be more resilient when confronting crises. Theoretically, legitimate systems have better rulers with authorities that operate under the fundamental conditions required to effectively implement policies (Aragon, 2008). Establishing electoral democracy may be a key to creating political legitimacy, but numerous empirical studies show that it is not a necessary condition. According to Rothstein (2009), not even the Nordic democracies show extensive evidence that legitimacy originates in the representativeness of the political system. Rather, political legitimacy depends at least as much on the quality of government as on the capacity of electoral systems to create effective representation.

Globally today, a crisis of State legitimacy is manifested in the inability to provide basic mechanisms of co-existence and fulfil the original conditions under which the contract of the State was contemplated. Modern states have failed to implement democratic regulating mechanisms or satisfy the basic conditions of a liberal state. Moreover, they have become unjust in their conceptions of society, the administration of justice and economic systems (Berenguer, 2016).

This is especially clear in Latin American countries, where the crisis of legitimacy in their political systems is reflected in broad failures in the administration of justice and, particularly, police systems. Although electoral democracies exist, poor institutional development and the absence of the rule of law generate situations in which citizens see the State as lacking seriousness. Hence, neither the State nor the institutions that derive from it –such as police corporations– enjoy much credibility. This opens voids of authority that produce fields ripe for criminal activity, and explains much of the crisis of violence that is currently ravaging the region, though this is usually attributed more to worldwide demand for drugs.

Analyses of Mexico and countries like Colombia reveal situations of governments that are confronting, precisely, problems of legitimacy, crises that are responsible, to some degree at least, for the presence of criminal groups that take advantage of existing circumstances to impose their own forms of social legitimacy and pursue delinquent activities (Ovalle, 2010; Aguirre, 2013).

Political legitimacy is important for police work in terms of allowing the use of force and the application of the rule of law by an institution, the police, derived from the very existence of the State and its obligation to apply existing legal norms. Political legitimacy and police can be studied from two

perspectives. The first sets out from the vision of citizens and is based on their perceptions or feelings regarding justice, police actions, and the degree to which they cooperate with police to enforce the law (Jannie, 2017); a view established in social psychology. Secondly, police legitimacy can be examined from an organizational perspective that considers the constraints placed on police work. In this approach, analyses of the logic of police action stem from the views of legislators, politicians and the juridical cultures that form the institutions and ways of thinking that determine the limits and features of policing. This vision is founded upon institutional theory, which contrasts with the view of citizens based, as we just saw, on the perspective of social psychology. No matter which vision is chosen, however, police institutions in Mexico are exposed as lacking the legitimacy required to perform actions that could be deemed 'adequate'.

It is important to emphasize that these two perspectives have been constructed from the optic of common law, since much of the research on police corporations has been carried out in Anglo-Saxon countries marked by a culture of respect for law and order and juridical structures distinct from those of Latin American nations like Mexico. It is a substantive fact that very little research has focused on the inertias experienced by countries in processes of democratic construction, where many of the precepts applied to analyze police –such as the rule of law and a certain degree of democratic institutional– are virtually non-existent. Also, from their very origin in Latin American nations, police forces were formed as instruments of illegitimate, authoritarian states often impugned for their indiscriminate use of force (Cruz, 2009).

The Republic of Colombia shares many characteristics and features with the democratic process that Mexico is living today. To some degree, that great South American country confronted the same political and economic problems that now face Mexico. In Colombia, the early 1980s witnessed the emergence of violence generated by the activity of organized crime groups devoted, above all, to drug-trafficking. Like Mexico, Colombia in the 80s lacked a legitimate political system and a democratic institutional structure that would have allowed it to deal, efficaciously and efficiently, with the terrible problems produced by the spread of criminal violence. Colombia has a national police force, the Colombian National Police, *PNC*, which operates under a concept of military police (Jímenez, 2011), very similar to the proposal of the Mexico National Guard.

In this context, the recently created Mexican National Guard, *Guardia Nacional*, is analyzed, landing aspects of the Colombian experience with the *PNC*, above all, regarding the importance of improving political legitimacy as a necessary condition for a good police operation. The work is carried out from an ethnographic perspective based on the author's own experience in the Tierra Caliente region of Michoacán, where the importance of political legitimacy is observed as a necessary condition for good police work in contexts

where criminal groups take over the regions based on strategies that seek to legitimize their criminal actions. The work analyzes aspects of political legitimacy and police in Mexico at the level of the central government and local governments. The work ends up underlining the importance of political legitimacy for the proper functioning of a national police force.

POLICE AND POLITICAL LEGITIMACY

Mexico today is still advancing in its incipient process of transitioning to democracy, but this means that many of its institutions lack the solidity required to adequately manage social co-existence and other aspects of change (Aguilar, 2016). Democratic systems must embrace respect for basic human rights and ensure equal opportunities, the free exercise of civil liberties, and citizen participation in electing governments, but these conditions do not yet exist in Mexico. While the country does have an independent electoral authority and Central Bank, it lacks adequate systems for administering justice and an effective program of political checks and balances (Rubio, 2016).

Democratic change in Mexico began in 2000 with the election, for the first time, of a President from a political party distinct from the *Partido Revolucionario Institucional* (Institutional Revolutionary Party, PRI) that had monopolized government there for over 60 years. Later, the PRI also lost governorships and its majority in the House of Representatives. At the same time, the country created independent institutions –like the aforementioned electoral authority– and agencies that offer access to information and the defense of human rights. But this democratic impulse has not translated into significant, positive changes for Mexicans. From 2000 to 2018, the nation's economy experienced an average growth rate of just 2%, insufficient to improve the living conditions of citizens (Gómez, 2011). Moreover, no reform of the juridical system has been undertaken with the objective of guaranteeing justice to the population.

The democratic process has brought greater political competition, but this has meant more expensive campaigns in which candidates and political parties invest enormous amounts to obtain offices of popular election. This entails receiving private –often illegal– campaign funding that eventually has to be returned to those illicit investors, often by utilizing government resources to fund public works that benefit those financiers, or by deviating funds from state budgets.

Another fundamental problem is corruption in the form of webs that come to involve virtually every aspect of public life in the country and are present in all processes of public action (Arellano, 2016). Corruption extends from primary school teachers to the police, the military, government agencies, congressmen, senators and even the President himself, creating a situation that generates a state lacking both political legitimacy and effectiveness in its most basic attributions (Rosas, 2018).

In this context, Mexico's police corporations, the armed branches of the Mexican State, lack the strength required to impose the monopoly on the use of force. Indeed, they are seen as representatives of a corrupt political class and the closest, primary contact that citizens have with a State that is inefficient and incapable of providing even minimal conditions of public security for its citizens (Díaz-Cayeros, 2015).

POLITICAL LEGITIMACY AND POLICE AT THE MUNICIPAL LEVEL

The problems of legitimacy facing the Mexican State are lived most clearly at the level of municipal government. While in theory this level of administration is closest to the citizenry, it is plagued by problems of governance and institutional design (Olivos, 2013). The reelection of mayors (*alcaldes*) in Mexico was prohibited until 2018, so those officials could only serve one 3-year term during which they were responsible for providing basic public services and security. However, they had to operate under conditions of insufficient budget resources because the largest shares of the funds that municipalities receive come from the coffers of the state and federal governments. In fact, the only revenue they generate directly is collected through annual municipal property taxes. In stark contrast, the obligations of municipal government are vast, including everything from public works to road and sewer maintenance, providing potable water, and safeguarding public security.

Obviously, their scarce resources result in public services of very poor quality, and this reality only exacerbates their low levels of legitimacy. The absence of incentives to enhance their form of governance, the reality of having to operate with limited resources, and the fact that officials lack both administrative experience and legitimacy, have generated a situation in which citizens perceive the 3-year terms in municipal office simply as periods in which local politicians fill their pockets. It is hardly surprising, then, that local governments tend to be disastrous in terms of providing any kind of concrete wellbeing to their constituents.

The case of Michoacán clearly reflects this situation, even though this state has long played a fundamental role in processes of political change in the country. It is the state where the independence movement was forged in the 19th century and it has participated significantly in the current political configuration of the Republic. In addition, the so-called National Democratic Movement (*Movimiento Democrático Nacional*) was created in Michoacán near the end of the 20th century in an effort to generate the political conditions necessary for the legislative changes that allowed the democratic transition to begin. Despite this key role in Mexican politics over the past 10 years, however, Michoacán exemplifies governmental weakness and illegitimacy. The fact that it had eight different governors in the twelve years from 2006 to 2018 reveals instability and poor consolidation of democratic institutions. But the

situation at the level of municipal governments there is even bleaker due to permanent conditions of weak financing and political instability.

In municipalities in Michoacán, as in others ravaged by extreme violence, the voids of authority generated by the inefficiency of local government opened the way for criminal groups to participate in spheres of municipal power. These delinquent organizations have stepped in to fill gaps in legitimacy, especially in relation to public security. They now perform police work and control crime by replacing local police forces. In fact, when problems of public security, conflicts over civil matters like inheritance, land disputes, or failures to fulfill the terms of contracts arise, citizens often look to local criminal leaders to resolve the problem. Over time, these local mafias extended their power and became actively involved in local politics, especially by financing the campaigns of local politicians; thus gaining *de facto* control of structures of local government, including municipal police corporations.

Aware of the growing collusion of municipal police forces with criminal groups, Mexico's federal government turned to the federal police to combat delinquent activity. However, this measure sparked conflicts between local authorities –often colluded with criminal groups– and the federation, such that the policing activities performed by federal forces were seen as intrusions in local political life, and the majority of residents perceived the federal police simply as the armed branch of a politically-illegitimate government. In many cases, the criminal groups with which the federal government was struggling enjoyed greater legitimacy and social acceptance at the local level than the federal police; indeed, social support was fundamental for those criminal groups because it provided escape strategies and allowed them to adopt guerrilla tactics based on popular backing.

For the federal government, the fight against organized crime became a question of political legitimacy. The margin of victory in favor of Felipe Calderón in the 2006 presidential election was barely one-tenth of a point, so he took office amid severe impugnations of the legality of the entire electoral process. Huge sectors of Mexican society perceived the new president as a product of a fraudulent election, but despite this slim mandate, President Calderón launched “Mexico's war on drugs” in 2006 with the deployment of 6,500 soldiers to Michoacán. In a period of just 60 days, some 20,000 soldiers nationwide began to participate in activities like pursuing and capturing drug-traffickers. Calderón's war was an imperative as a political and media ploy that gained a certain level of legitimacy for his administration (Piñeyro, 2012), but the reality is that the struggle against those delinquent groups became more political than juridical for the hope was that it would generate higher levels of acceptance and legitimacy for the political class.

However, after six years of deploying the strategy, the continuity of violence in Mexico show clearly that it was useless to attempt to solve the problem of violence solely through an approach based on policing. Because the

government's designs included only a police-oriented approach to insecurity, very few measures were implemented in efforts to improve the legitimacy of the State or, more specifically, that of local governments. In settings marked by voids of authority and delegitimized local governments, the capture of one criminal leader simply meant that one of his lieutenants would emerge quickly to take his place, since the order that prevailed was established by criminal groups through their dense relations of corruption with authorities, economic groups and other malefactors.

THE COLOMBIAN NATIONAL POLICE AND POLITICAL LEGITIMACY IN THE COLOMBIAN CASE

The Colombian National Police *PNC* acts in a complex context. According to Orjuela (1998), the Republic of Colombia can be characterized as a weak state with a fragmented civil society that resulted from the economic and political changes the country has suffered since the 1990s. However, the affirmation that Colombia's political class and system of representation lack legitimacy can certainly be questioned. While it is true that the indexes of electoral abstentionism hover around 50%, that the political class participates in corrupt practices, and that political parties lack concrete thematic platforms, it is also clear that administrations have been renewed continually through free elections, and that the mechanisms of electoral competition have improved and now allow more equitable contests (González, 2006). Colombia has made significant strides in increasing governability and legitimacy. Indeed, one could say that the political changes initiated there since 1991 have increased the legitimacy of the Colombian State, at least when compared to the Mexican case. According *Fragile State Index*, Colombia ranked 65th compared 98th from Mexico (*Fragile State Index*, 2020). Those political reforms sought to recoup partially the regime's legitimacy, enhance practices of governance, establish a more harmonious relation between governors and governed, and consecrate the rights of citizens in a constitution that recognizes that nation's cultural, political and ethnic diversity (Rojas, 2012).

The case of the *PNC* and its operations in complicated regions of Colombia with political problems similar to those of Mexico, illustrates the significance of legitimacy and the degree of democratic development as factors that impact the success of national police forces. Legitimacy acquires substantive importance when police activity occurs in contexts of conflict between national interests and the objectives of local criminal groups, especially where people may perceive that delinquent groups, and *not* the federal police, wield the legitimate use of force. This situation appears often in these two countries, where criminal groups construct complex, elaborate mechanisms of social legitimacy for their activities by filling gaps of authority and performing functions that should be covered by the State. In the 1980s, Colombian drug-

traffickers built homes, offered sanitary programs and financed community development projects, while criminal groups in Mexico have focused more on imposing order and justice and mediating all manner of social conflicts due to the blatant deficiencies of the systems of administration of justice and the police (Camacho, 1988).

To a great extent, the problems of political legitimacy in both Colombia and Mexico can be explained in terms of their attempts to apply democratic political models to very different specific realities. In the case of Colombia, creating political institutions based on democratic experiences in western nations and then imposing them on political structures founded upon interpersonal and hierarchical relations resulted in a functioning that was imperfect from the perspective of democratic governance. Similarly in Mexico, the implementation of democratic mechanisms in social systems based on personal loyalties or other factors distinct from respect for law and order produced a partial democracy plagued by problems of legitimacy. Like Mexico, Colombia began a series of processes of economic change following a neoliberal scheme that, in some way, sought to employ mechanisms of the market economy to improve the distribution of resources. However, as in Mexico and most other Latin American countries, those measures that idealized the market only generated greater inequality by stimulating the growth of certain economic sectors to the detriment of others. Also as in the Mexican case, the political history of Colombia can be seen as one of permanent conflict between conservative and liberal visions. In Colombia, the former would be represented by the interests of large landowners (*latifundistas*), while what predominated in Mexico were the interests of a corporative political class grouped around the symbols of a single party system.

The situations described above reveal similarities between Colombia and Mexico in relation to their processes of battling criminality and democratic development. *PNC* was created in a context of severe problems of legitimacy that affected the Colombian State, as was the case of Mexico's Federal Police. Like any other police force, Colombia's reflected the interests and ideologies of the government in power (Becerra, 2012) and, of course, we can never lose sight of the police's role as a mechanism of social control. Another interesting aspect concerns the role that Colombia's *PNC* has played in the peace process there. In contrast to Mexico, Colombia's national police emerged as a civil corps with responsibilities directly related to the citizenry and social co-existence. While the *PNC* has by no means been free of problems of corruption and questionable practices (Yagoub, 2016; Pajaro, 2019), a review of its activities leads to the conclusion that it faces a minimum of legitimacy to accomplish its task.

Colombia has established a slow path to a more democratic and fair country after experiencing the longest civil conflict in Latin America. This process has been consolidated after the 2016 peace accords between the Colombian

state and the Revolutionary Armed Forces of Colombia (FARC). The Colombian state has sought improve human rights and improve the functioning of its constitutional counterweights. Despite progress, there is still a long way to go towards a democratic and just society. Regardless of the progress made, what should be highlighted is a perspective that incorporates the importance of democratic progress and legitimacy for the consolidation of a better federal police force.

Another aspect that must be considered is the one related to the military command of this police. The *PNC* depends directly on the Ministry of Defense (Law 62, 1993), giving it the character of a military police force, as it does not depend on civilian command as in other policemen. This implies a greater responsibility to the armed forces in national surveillance and civil affairs and is a subject that should be discussed more widely within the democratization processes of the countries (Alvarado, 2009).

This trait must be considered for the Mexican case and the training of its new police. In Mexico, the lack of legitimacy of the State and the police that represent it underlie the hydra of violence that, it seems, is virtually impossible to stop. As we have seen, criminal groups there take advantage of the lack of legitimacy of the Mexican State to assume the functions of judges, security agents, mediators of conflict, providers of social support, and customs officers, among others, thereby filling voids of governance (Mackey, 2018; Aguirre, 2013). A new police force must necessarily consider the importance of representing a democratic state that allows it the legitimate use of force.

MEXICAN NATIONAL GUARD AND LEGITIMACY

In Mexico the lack of legitimacy of the police obliged the government to turn to the ultimate resource of institutional legitimacy left to it: the armed forces. Mexico's recently-elected government (2018-2024) has just created the so-called National Guard (*Guardia Nacional Mexicana*) that consists, essentially, of a national police force made up of soldiers and marines with a hierarchical, military-style structure very similar to that of the national army. The idea behind forming this new police corporation, in addition to gaining political legitimacy, is to achieve a certain level of effectiveness in the fight against public insecurity. The new National Guard seeks to absorb some of the political legitimacy enjoyed by the Mexican army, but its creation comes in a context of a new federal administration that enjoys political legitimacy thanks to the strong mandate it received by winning a high percentage of votes (53%). This high level of legitimacy for the federal executive branch, together with the legitimacy attributed to the army, are two factors that the government is counting on to increase the strength and legitimacy of this new model of policing.

It is important to understand that Andrés Manuel López Obrador, the victor in the 2018 presidential election, based much of his campaign on a

discourse that emphasized a sharp disdain for the existing political system and the need to combat corruption and improve the standard of living of Mexicans. The question now is whether in this context of greater legitimacy for government and police, the National Guard will succeed in earning the legitimacy it needs to operate effectively in regions where criminal groups have already established their social legitimacy, as in the case of the state of Michoacán.

Mexico's new government has not outlined any coherent strategy for achieving peace or solving the structural problems that lead to violence. Drug-trafficking continues to be the principle motor of criminal activity and of the creation and persistence of criminal groups, while the weakness –even absence– of the Mexican State largely explains the current situation of violence. Recent technological advances, moreover, have produced a context in which the drugs once typically produced in Mexico –poppies and marijuana– are no longer very profitable in international markets. This means that criminal groups have lost a substantial proportion of their income; a circumstance that has forced them to turn to various forms of extortion to obtain money.

The case of Michoacán reflects this process. After the federal intervention of 2013 that put an end to the hegemony of the main criminal group there (*los Caballeros Templarios*), violence continued with the arrival of new delinquent organizations that came to fill the voids left by their predecessors. The federal government's campaign proved futile because the structural conditions of violence persisted. The *Caballeros Templarios* were simply replaced by other criminal groups that practice extortion and impose their version of order on various municipalities in collusion with corrupt municipal governments. The result is that criminal groups continue to influence the course of public life by financing political campaigns and intervening in the everyday lives of citizens who deeply distrust municipal and state police forces because of their collusion with criminals. In reality, drug-trafficking is not the principle business of the new criminal groups, as they have learned that it is more profitable to participate in public life and use extortion to gain their riches.

In most of the violent municipalities of Michoacán, as in other areas of the country, the new National Guard will operate amidst local political structures that are profoundly corrupt and have established their own kinds of social orders that often enjoy greater legitimacy than the federal government that the *Guardia* represents. In the absence of any process of political legitimization that could lead to extensive changes in the political structure at all three levels of government in Mexico, the police will continue to face severe problems because it is not identified with the interests of society as a whole nor with those of the country in general. On the other hand, the proposal to grant command of a national police to the military should be valued. The National Guard does not bet on the construction of civil security institutions, nor does it help the construction of effective state and municipal police forces

(Hernández, 2019). In the long run, these omissions contribute to the continuity of the illegitimacy of the Mexican State as a whole and in its state and municipal expressions.

CONCLUSIONS

Legitimacy is a fundamental factor for proper police operation. The creation of the Mexican National Guard occurs in a context in which the Mexican state lacks institutions with sufficient legitimacy to confront criminal groups that base an important part of their strategy on obtaining legitimacy for their criminal actions, trying to fill the gaps in authority and power left by the Mexican state. The analysis of violence in Mexico reflects a pattern of continuity that makes it necessary to reflect on the need to change the approaches followed by the different Mexican governments to a perspective that emphasizes the structural causes of violence.

However, this discussion of the importance of improving political legitimacy and in general democratic quality seems to be absent from the discussion and the processes that have taken place around the creation of the Mexican National Guard.

In Colombia there has been a greater discussion about the issues of legitimacy and democracy in relation to the functioning of the national police. In this sense, it is important to return to these discussions to emphasize that the Mexican National Guard cannot function properly without substantial improvements in the rule of law, democracy and transparency. Specifically, it is necessary to make improvements at the local government level, which is where the greatest gaps in government legitimacy lie.

The new National Guard will have to face complex situations in regions with collusion between local political groups and criminal. Without sensible efforts to gradually improve the checks and balances and the application of the rule of law at federal and state level, but above all at the municipal level, it will be very difficult to accomplish its task. The case of Michoacán reflects these conditions of illegitimacy and failed policing strategies that allow violence to continue unabated in a region where problems of illegitimacy and inadequate governance play out on a daily basis. The case of Michoacán reflects the situation in many regions of Mexico with presence of criminal groups.

Finally, it is important to discuss the military character that this new National Guard would have and the need to promote civilian controls to this new corporation. Recent events in Mexico involving the military's involvement in acts of corruption should lead to a deeper reflection on the viability of involving the last redoubt of legitimacy of the Mexican state in public security tasks.

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