

Crime, Poverty, and Inequity in Latin America: Different Sides of the Same Coin

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Summary

This piece argues for shifting the focus on the problem of increasing insecurity in Latin America to a perspective that takes into account the predominant inequity in the region. Once inequality is recognized as the key element behind common crimes, numerous discussions arise that this text will try to present. In the first section, studies from the social and economic sciences are described in order to show that there is a direct relationship between the two variables. In the second section, it is shown how inequality is treated by two ideologically contrary approaches: one that is up to treating it in terms of the social conflicts inequality entails and another that omits any consideration of them. Lastly, the piece asks what motives could explain why the support from civil society for these two approaches is so uneven. Insecurity provides an apt example for understanding the dynamics of the permanent struggle between well-off and worse-off sectors of society in Latin America, the most unequal continent.

Introduction

In guise of initial justification, what can be anticipated is a piece that does not strictly conform to the requirements of academic articles that propose a singular hypothesis which is then subjected to pertinent tests to prove or disprove it. Rather, an attempt is made to identify and analyze distinct interrelated topics regarding social, legal, and economic aspects of reality in Latin America with a view to illuminating several possible discussions. For this reason, the piece seeks to take advantage of a format with less formal characteristics.

¹ I am thankful for the generous comments of Gustavo Maurino, Martin Sigal, and Mariano Sadoc Nino, who of course have nothing to do with the shortcomings of this piece.

To begin with, it is worth describing part of the context that frames the analysis. South America is the most unequal continent on the planet. To offer a few examples, African countries such as Mauritania or Ghana have Gini coefficients of 0.39 while Bolivia and Paraguay are estimated at 0.60.² While the average for the region is 0.522, the averages for the OECD, Eastern Europe, and Asia are 0.342, 0.328, and 0.412, respectively.³ In terms of equal opportunity, the data is also very negative. In Mexico – which is not even one of the most unequal countries in the region, for example, the poorest 20% of boys have on average only access to 3.5 years of education while the richest 20% reach an average of 11.6 years.⁴ The evident inequality of opportunities – and the proven link between lack of access to education and future development of children and youth – indicates that not only is it a question of a delicate situation in the present but also that it is not feasible to effect structural improvements in the medium term.

Consequently, most of the countries in the region fit qualifications such as, on one side, the phrase from the ex-President of Brazil Fernando Henrique Cardoso according to whom his country was not poor but rather only unequal and, from another side, the term “Belindia” coined in the 70s by the economist Edmar Bacha to describe the kind of country that is characterized by one segment of the population that possesses wealth similar to Belgians side by side by another whose wealth resembles that of the poor in India. According to recent statistics, the richest 10% in the region obtain 48% of the GDP while the poorest 10% only receive 1.8%.⁵ With an eye to reversing the extreme poverty in which millions of people find themselves, this characteristic of inequality represents in one sense an advantage since it means that there is sufficient wealth

² United Nations Index of Human Development, 2007/2008. A Gini coefficient close to zero indicates a tendency towards absolute equality between those who have the most and those who have the least, while a coefficient that approaches 1 corresponds to absolute inequality in which the privileged sectors hold all of the gross product.

³ D. de Ferranti, G. Perry, et al, “Inequality in Latin America and the Caribbean: Breaking with History?”, World Bank, 2003, available at <http://siteresources.worldbank.org/BRAZILINPOREXTN/Resources/3817166-1185895645304/4044168-1186325351029/10Full.pdf>

⁴ Ibid.

⁵ D. de Ferranti, G. Perry, et al, “Inequality in Latin America and the Caribbean: Breaking with History?”, World Bank, 2003.

available to tackle the plague, but in another sense a formidable obstacle stands in place – as it has for centuries – a privileged class with several tools for preventing the loss of their wealth.

The situation is so marked by structural features that the inequality even has its roots in the origins of the population. Descendants of European immigrants are the ones who have been able to establish themselves at a standard of living not remarkably dissimilar to that of habitants of the Old

Continent. On the other hand, descendants of African immigrants and indigenous communities have not seen any dramatic changes as regards the privations they have suffered during all history. As Zoninsein puts it:

In Latin America and the Caribbean, indigenous groups and descendants of Africans have been systematically held back behind the white population in terms of education achievement and the accumulation of skills over many generations. Moreover, discrimination in the labor market and the segmentation of the market following racial and ethnic lines has corresponded to restricted access to highly productive and industrial employment for descendants of indigenous and African people. As a consequence, there is a disproportionate number of indigenous and African descendants in jobs and activities that are less productive than average. The gaps in the accumulation of human capital, the discrimination in the labor market, and a subordinate role in a segmented economy explain why the average salaries of indigenous people and descendants of Africans are persistently lower than those of whites in the region.⁶

Linked to the criminal policies of the countries in the region, prisons are overflowing with people from these sectors. There are, meanwhile, almost no prisoners of European stock. Sadly, the potential victims of property crime are accustomed to crossing to the other side of the road depending on the appearance of the person they run into in a dark street, a practice whose logic is statistically irreproachable.

⁶ “El Caso Económico para Combatir la Exclusión Racial y Étnica en los Países de América Latina y el Caribe”, Informe de Investigación Banco Interamericano de Desarrollo, 2001, disponible en <http://www.iadb.org/sds/doc/soc-JonasZoninsene.pdf>

From time to time, these countries are rocked by news of especially violent and sinister crimes that push onto the public agenda calls for policies that purport to be “tough on crime” (among which is the policy of “zero tolerance”) in order to diminish the insecurity that ensues from the predominant violence. The crimes that stir the most interest in the mass communication media – as well as in public opinion – are those in which the victims belong to the most well-off sectors of society.⁷

Meanwhile, prisons are overflowing with people guilty of street crimes against property and personal integrity.⁸ The prisoners (many of whom are awaiting trial) are usually young members of the lower class. They have not been provided adequate educative, alimentary, or even sanitary conditions by the States. Cases where delinquents from the privileged classes are convicted, however, are scarce. These “white glove” crimes – generally less violent forms of theft and fraud – are not only infrequently prosecuted, but also the offenders, despite the fact that their better education and higher level of social inclusion warrant a firmer treatment, rarely end up in prison.⁹ This last type of delinquent particularly benefits from criminal procedures, personal ties to people officials in the justice system, the services of expensive lawyers who know how to take advantage of twists and curves in bureaucratic processes, and the greater complexity entailed in investigating these kinds of acts. To offer an example, one study revealed that in Argentina the cases of corruption take an average of 14 years to reach some sort of

⁷ There are even humoristic publications that calculate the number of poor people that must die in a criminal act in order to occupy the space allocated by the medias to the death of one rich victim.

⁸ Countries such as Mexico and Brazil are found among those that have the highest percentage of incarceration on the planet (almost 200 of every 100,000 people), which is far from the level in the United States, which leads the index at 738 but is yet far from the levels found in countries such as Nigeria, India or Nepal who only have 30. (C. Hartney, “US Rates of Incarceration: A Global Perspective”, National Council on Crime and Delinquency, 2006), available at http://www.nccd-crc.org/nccd/pubs/2006nov_factsheet_incarceration.pdf

⁹ Without doubt the criminal justice system cannot employ the same intensity regarding a crime committed by someone who was born in privileged circumstances and someone who grew up without any opportunities, especially in terms of education. This idea – whose discussion merits attention that goes beyond the scope of this paper – does not only consist in justifying instances of stealing out of hunger but also in affirming that the legal system must make a strong distinction between those who benefit from an unequal system and those who suffer from it daily. The sentences called for in criminal codes tend to ignore disparity of background and, often, offenses such as auto theft carry much heavier sentences than those recommended for economic offenses.

conclusion, conclusions that are not even satisfactory.¹⁰ Dossiers do not make it to public and oral hearings because after so much time the witnesses no longer remember the events well enough or, for various reasons, they cannot be found. Without question, the criminal justice system only demonstrates a certain degree of efficacy in cases of crimes committed by poor people, from where the association of “criminal” with these sectors arises.

The link between inequity and criminal behavior

Inequity is an element that cuts across every aspect of criminality analyzed. The lens of equality is useful for observing in greater detail the characteristics of criminal behavior in the region. Although the matter has not been given adequate attention in public debate, social and economic scientists have rigorously demonstrated the existence of a close tie between it and inequality. The “economic theory of crime” of Becker maintains that individuals compare the results of time spent in legal or illegal activities against the chances and severity of eventual punishment.¹¹ According to this model, inequity leads to higher crime rates by placing in close proximity persons with few incentives to exercise lawful activities (because of the low rates of compensation available for honest work) and others who possess expensive goods. For this reason, studies such as those carried out by Blau and Blau in 1982 found a strong relation between inequity and homicide rates in metropolitan areas.¹²

Strain theory, first advanced by Merton, argues that the least successful people become frustrated in comparison to the most successful ones.¹³ Lastly, the theory of social

¹⁰ Report by the Center for Investigation of Economic Criminality (CIPCE), available at <http://www.acij.org.ar/boletin/informe%20CIPCE.pdf>

¹¹ G. Becker, "Crime and Punishment: An Economic Approach," *Journal of Political Economy* 76 (1968), 169-217.

¹² J. Blau y P. Blau "The Cost of Inequality: Metropolitan Structure and Violent Crime." *American Sociological Review* 47 (1982), 114-129.

¹³ R. Merton, "Social Structure and Anomie", *American Sociological Review* 3 (1938), 672-682.

disorganization, outlined by Shaw and McKay, holds that crime occurs when mechanisms of social control are weakened.¹⁴ In areas where wealth is concentrated (large urban centers), very informal zones of poverty tend to appear (that can take the form of ‘ghettos,’ also commonly known in Latin America as *chabolas* or *favelas*) in which there are typically high levels of mobility and family instability.¹⁵ According to Kelly none of these theories explains on its own the circumstances that translate inequality into criminal offenses but each makes a crucial contribution to adequately justifying the conclusion.¹⁶

At the same time, of course, there is a very relevant nexus between, on one side, the variables of poverty and inequity and, on the other, “property crime” and/or “violent crime” (throughout this piece, “crime” will be used to refer to these variables even though in reality this only reinforces the mistaken but common belief that conflates these subtypes of offenses as crime in general, demonstrating how deeply rooted the association is in daily and even technical language). Inequality means that societies that possess a level of development that can be termed as medium (such as Argentina or Venezuela) or medium-low (such as the previous examples of Bolivia and Ecuador) are marked by high levels of poverty, with an even more correlation to high levels of these kinds of crime.

The influence of inequality on insecurity can be perceived from every angle crime is examined. It is seen, for example, when studying one of the most recent and widespread economic approaches to crime in the United States that relates it to the legalization of abortion in the country. These studies (which have not been refuted yet) reveal that the legalization of abortion in 1973 contributed to a drop in crime decades later. They establish that the women who

¹⁴ C. Shaw y H. McKay, “Juvenile Delinquency and Urban Areas”, Chicago University Press, 1942

¹⁵ For more details on these theories, see M. Kelly, “Inequality and Crime”, *The Review of Economics and Statistics*, Vol. 82, No. 4 (Nov., 2000), pp. 530-539.

¹⁶ *Ibid.*

gained access to legal abortions following the decision *Roe v. Wade* were those who were most likely to have children with socio-economic problems and thus a high chance of becoming delinquents. Young and adolescent single lower-class women were the ones who most benefited from freer access to economic and safe abortions. The regions with the highest number of abortions saw crime rates drop 30% more than in regions with low numbers. In general terms, the authors hold that the legalization of abortion is responsible for 50% of the marked drop in crime that has gradually occurred for nearly two decades.¹⁷

Beyond the controversy provoked by this research, for the purposes of the present work it is useful to note from another perspective the relevance of inequity with regards crime and its potential application to the situation in Latin America, where abortion is still illegal (with few exceptions such as Cuba and French Guyana). In truth, the prohibition almost exclusively affects people from the lower classes because people from the middle and upper classes have access to safe, high-quality operations by doctors using modern instruments. Poor young people, however, must either turn to methods involving high risks (of serious permanent injury and even death) or, in many cases, abstain from having an abortion. If the normative framework for reproductive health were structured on the basis of the principle of equality, measures to diminish the discrepancy in access to these treatments would surely be introduced. The situation in which middle and upper classes have easy access to them notably diminishes the amount of pressure from the public for such measures.

Another characteristic of the way crime is dealt with that makes clear its close bond to inequality is the privatization of security. In most developing countries, the State has steadily

¹⁷ See, among others, J. Donohue III & S. Levitt, "The Impact of Legalized Abortion on Crime", *Quarterly Journal of Economics*, May 2001, vol. 2; J. Donohue III & S. Levitt, "Further Evidence that Legalized Abortion Lowered Crime: A reply to Joyce", *The Journal of Human Resources*, vol. 39, no. 1, winter 2004

decreased its presence in the area of surveillance and patrols. Some time ago, police work was exclusively public but for several years now (especially since the rise of neoliberalism), the concept of private security has appeared that operates almost exclusively to the benefit of the privileged sectors. It is not even infrequent for state and municipal police to sell their services to whoever is willing to pay them in order to enhance their revenues. In Latin American cities police officers can be commonly seen carrying out their duties exclusively in private areas, such as recreation centers, restaurants, and office or residential buildings, which doubtlessly negatively affects their capacity to provide adequate public services. In other words, while in other times security was a rather egalitarian good, currently its supply is inequitable. Insecurity affects the poor to a greater degree since they have no means of improving the services they have access to. The greater media coverage of crimes committed against the rich, however, promotes a certain distortion of the situation.

The most unequal continent and insecurity

With regards this context of inequity, the high rate of criminality that exists in the region is unsurprising. Kliksberg and Sulbrandt explain that in Latin America:

An extremely serious tendency to increased criminality is being observed. It is currently the area on the planet with the most homicides behind sub-Saharan Africa. The average rate in Latin America approaches 28.4 homicides per 100,000 habitants per year, more than double the global average. . . . Criminality has thus become a serious burden for Latin American economies. According to estimates from the Inter-American Bank of Development, Brazil spends 10.35% of its GDP, in terms of public and private funds, on security annually. Colombia much more, almost double, Peru 5.3% of its GDP.¹⁸

The last twenty years have been especially negative in this sense. The neoliberal period of the 90s – which among other consequences led to weaker industrial output – clearly left its

¹⁸ “América Latina: Una región en riesgo. Pobreza, inequidad e institucionalidad social”, BID-INDES, 2004, available at <http://cdi.mecon.gov.ar/biblio/docolec/iigov/d0028.pdf>

mark. Homicide rates have doubled in the last ten years and the property crime rates have tripled in the past fifteen.¹⁹

In equality not only generates poverty and makes social and economic rights more vulnerable, it also produces an increase in insecurity that, in its turn, results in a need to allocate large budgetary resources to combat it through short-term measures that primarily involve spending money on prisons and budget items. Argentina, for example, spends approximately US\$ 32,000 per year for each of its estimated 50,000 inmates.²⁰ This is doubly burdensome on the poor, as on one side the policy is used to exclude them and, on the other, it reduces the amount of money from the budget that could be allocated for policies related to education, health, or nutrition that could reduce the degree of inequality.

Davis maintains that violence can be considered one of the central problems in contemporary Latin America. He explains that, just as the 19th and early 20th centuries were characterized by civil wars and state formation, and the 20th century by dictatorships, it is possible to state that the end of the 20th century – starting from the restoration of democracy – and the beginning of the 21st century are marked by the phenomena of violence on a day-to-day basis, public insecurity, and the deterioration of the rule of law such that even achievements of the consolidation of democracy are being eclipsed.²¹ One survey reveals that 55% of the people who stated that a military coup would be justified identify the fear of crime as their motivation, a number far superior to those attributed to other scenarios (the next largest response is high

¹⁹ M. Bergman, "Crime and Citizen Security in Latin America. The challenges for new scholarship," *Latin America Research Review*, vol. 41 no. 1, 2006. Direct consequences of this period are a more precarious labor market, weaker industrial activity (where labor requirements are more sophisticated) and a return to preeminence of activities related to raw resources (which require a less skilled labor supply).

²⁰ M. Ungar, "Prisons and Politics in Contemporary Latin America", *Human Rights Quarterly*, vol. 25 no.4, November, 2003.

²¹ D. Davis, "The Age of Insecurity: Violence and Social Disorder in the New Latin America", *Latin American Research Review*, vol. 41 no. 1, 2006

unemployment, identified by 28% of those surveyed).²² Despite the relevance of this circumstance in the region, it is not fully addressed in academic literature on the subject.²³

Public policy with regards this type of violence

There are two positions in clear opposition as regards how the State should address these common offenses. On one side is a position less sensitive to what causes the acts and more interested in achieving rapid results and punishing those directly responsible for them without considering neither the social conditions nor the effects that passing through the penitentiary system has on people (suffice to say that, in the region, a clean criminal record is necessary to find employment, so any type of infraction of this type implies an immediate barrier to finding work).

The emphasis of this approach is put on penalizing actions already committed. These measures, commonly referred to as being “tough on crime,” arose in countries such as the United States whose most recent incarnation with international success is the idea of “zero tolerance” sponsored by Rudy Giuliani, even though there is general consensus in the literature that adapting this policy in poor countries was completely ineffective because, among other factors, structural reforms of the police forces were never carried out. Under-financed and under-trained police forces that are called on to apply these policies tend to commit grave abuses (illegitimate detention, torture, etc.).²⁴ The most extreme situation that can develop in these circumstances is the formation of “death squadrons,” which are groups of police officers or soldiers that execute

²² M. Cruz, “The Impact of Crime on Democratization in El Salvador”. Article presented before the Asociación de Estudios Latinoamericana, 22nd International Conference, Miami, March 16-18, 2000

²³ M. Bergman, “Crime and Citizen Security in Latin America. The Challenges for New Scholarship,” *Latin America Research Review*, vol. 41, no. 2

²⁴ See, among others, M. Arroyo, “Evaluando la “estrategia Giuliani”: la política de cero tolerancia en el Distrito Federal”. Project on Reforming the Administration of Justice in Mexico. San Diego: Center for U.S.-Mexican Studies, University of California, 2003, available at repositories.cdlib.org/usmex/prajm/arroyo

children and adolescents who live in the street with the supposed objective of preventing future offenses. To take one example, in 2009 the Attorney General's Office in Rio de Janeiro filed charges against thirty policemen suspected of having planned and carried out the execution of twenty children and teens.²⁵

Under this framework, the only potential roles available to the communities are those of informant or of exerting social pressure to justify eventual abuses in the name of an imperious necessity.²⁶ The criminal justice system is based on the principle that effort should be made to prosecute every offense, which leads to, because of scarcity of material and human resources, a system of natural selection by which the less complex cases are chosen for investigation, which are generally those involving people with less education and resources.

The other position (which, for the purposes of this piece, we can call egalitarian) focuses on the social and economic causes that drive delinquency among the lower classes, forms of community intervention in areas that have the greatest problems, the responsibilities of authorities (including the role of police who often complicitly free areas for unencumbered criminal activity²⁷), and the problematic effects of incarceration on resocialization. Solutions proposed include arranging community activities to prevent future acts rather than penalize past ones. The concept that best encapsulates this approach is that entire communities or neighborhoods must be recruited in order to reduce crime, so the greater degree of commitment by inhabitants to this objective, the greater the chances of success.²⁸ Policies are specific to each

²⁵ BBC, "Rio probes police death squad," 7/7/09, available at <http://news.bbc.co.uk/2/hi/americas/8137721.stm>

²⁶ L. Dammert y M. Malone, "Does It Take a Village? Policing Strategies and Fear of Crime in Latin America", *Latin American Politics and Society*, vol. 48, no. 4, Winter 2006

²⁷ Ties between police and criminals have been discovered in many countries. There is even proof of cases in which inmates have been freed by prison guards seeking profit and others in which police force street children to commit crimes to avoid harassment.

²⁸ *Ibid.*

community or neighborhood and inhabitants play a role in their design together with the authorities.

Under this framework, fundamental importance rests on social policies designed to identify and address the factors that lead citizen to commit common crimes. High school dropout rates, the lack of adequate preparation of youth for the job market, the necessity of part of the population to obtain resources for the consumption of drugs that are freely trafficked because of inefficient policies of states and the consequent inability of users to successfully pursue educative or work activities must all be given special individualized attention in order to reduce the incentives of involvement in criminal activities. The criminal justice system under this paradigm is grounded in the principle of opportunity on the basis of which the actual actors (not only judges but also prosecutors) are to decide which offensive acts should be prosecuted in function of the criminality of state policy. The virtue of this principle is that it allows for the concentration of forces on crimes that generate conditions conducive to further criminality (the way, for example, that punishing the illicit sale of auto parts would reduce auto theft).

Farrell maintains that the position he labels as “hard” is necessary in the short term “in a context of alarming increase of delinquency,” while the “soft” position is necessary in the medium and long terms because the lowest classes lack adequate education. He also holds that both positions must be joined since they are both necessary in the fight against crime.²⁹ It is not, however, certain that both positions are compatible. On one side, the hard line approach entails the imprisonment of millions of individuals that encounter serious obstacles to resocialization upon completing prison sentences and the criminal record that follows them. On the other side,

²⁹ La Nacion (daily newspaper), “El sentido común y la seguridad”, 3/6/09, available at http://www.lanacion.com.ar/nota.asp?nota_id=1135065

both positions imply budgetary allocations of different sorts that none of the countries in the region appear able to assume. The maintenance of massive prisons, as has been said, requires significant public funding that can no longer be designated for the purposes of improving education or providing better opportunities to youth at risk. Furthermore, the type of police training called for by each approach differs.

One study that examines the policies implemented in Argentina, Brazil, and Chile reveals differences between the focus points of each country. In Argentina and Brazil examples of preventive community work are scarce³⁰ and the policies strive above all to reduce tolerance for committed acts.³¹ Since the return to democracy in Argentina, and especially during the governments of Menem and Kirchner, more severe sentences have been put in place for property crimes. This reached such a point that during the first government a modification to the Criminal Code was approved that made sentences for auto theft greater than those in the books for voluntary manslaughter. During these years the Argentine Ministry of Justice went so far as to contract as a consultant for its anti-crime policies the services of the Chief of Police from New York famous for his “broken window” policy.³²

In Brazil, police violence reaches extremes. In only one year in the city of São Paulo, 664 people were assassinated by police, 31% of whom were engaged in criminal activity. In Rio de Janeiro, 64% of those killed by police were shot in the back.³³ Even though the policies are generally punitive in tone, however, some innovative experiments have been implemented – in

³⁰ The study mentions communitarian projects in Córdoba, Argentina in the mid and late 1990s and in the state of Sao Paulo in Brazil.

³¹ L. Dammert y M. F. Malone, op. cit.

³² The theory was developed in J. Wilson y G. Kelling llamado “Broken Window. The police and neighbourhood safety”, The Atlantic Quarterly (disponible en http://www.manhattan-institute.org/pdf/_atlantic_monthly-broken_windows.pdf). It holds that broken windows in a building that go unrepaired end up encouraging criminal activity, so dealing with such occurrences promptly will prevent more serious crimes.

³³ U.S. Department of State. 2002. Brazil: Report on Human Rights Practices, disponible en www.state.gov/g/drl/rls/hrrpt/2002/18322pf.htm

recent years – involving communitarian police work that appear to be in harmony with the growth of the country, both in economic and institutional terms. Since 2008, Community Police Units have been set up in various *favelas* to carry out preventive activities in conjunction with residents, instead of waiting for crimes to occur before entering the neighborhoods.³⁴

In Chile, on the other hand, policies more attuned to community needs have been developed, perhaps aided by the fact that police forces are not generally seen as corrupt. In the year 2000, the Executive Branch initiated a program known as “100% Committed to Public Safety,”³⁵ through which neighbors participate in the analysis of insecurity issues in their area and in the design of a preventive plan to tackle them. Shortly before then, a policy known as “Plan Block”³⁶ had been implemented, according to which officers were assigned only one beat so that mutual relationships between police and residents would form in the interest of crime prevention.³⁷

The positions of civil society as regards crime: an Argentine example

Public policies tend to arise from diverse sources and for various motives. Policies related to the fight against crime are closely related to the positions supported by public opinion, for insecurity is identified as one of the principal problems in opinion polls. Government officials seek to demonstrate that they adopt the measures requested by civil society in this regard because they do not want to run the risk of mistakenly implementing plans that contradict public opinion. The description of an example from Argentina in the past decade will demonstrate how governments make such decisions in this regard.

³⁴ Para más información ver el sitio oficial de la Unidad de Policía Comunitaria, <http://upprj.com/wp/> . Ver también artículo publicado en Americas Quarterly, <http://www.americasquarterly.org/node/456>

³⁵ “Comuna Segura Compromiso 100” (translator’s note).

³⁶ “Plano Cuadrante” (translator’s note).

³⁷ Una descripción más completa puede encontrarse en <http://www.subsecar.cl/ComunidadPrevencion/cuadrante.php>

In 2004, a group of delinquents kidnapped and murdered a young man by the name of Axel Blumberg. Axel was the only son of Juan Carlos Blumberg, a textile magnate who, subsequent to the tragedy, spearheaded a series of massive demonstrations that appealed to broad sections of the middle and upper classes in the country because of the increasing insecurity and set up a foundation dedicated to the fight against criminal impunity in similar cases. The crime provoked the anger of a significant portion of society that saw itself threatened in the current circumstances. One of the slogans promoted by the foundation was “human rights are not only for delinquents.” The demonstrations drew over one hundred thousand people on two occasions. At both of these demonstrations, candles were lit and prayers said for the innocent victims of criminal acts. In a certain way, the phenomenon marked a break with what had been a slight tendency to favor a policy of inclusive public participation – through the use of popular assemblies – in order to address the economic, political, and social crisis that shook the country towards the end of 2001.³⁸

The initiative managed to bring about, in a short amount of time, the passing of various laws (known as the “Blumberg laws”) that toughened the criminal system for crimes of this type.³⁹ In fact, shortly after the marches, the National Congress and the Legislature of the

³⁸ F. Martinez, “Ciudadanía episódica y exclusión: de la alteridad política a la comunidad emotiva. Análisis del caso Blumberg”, *Revista Topos y Tropos*, núm. 3, disponible en <http://www.toposytropos.com.ar/N3/pdf/blumberg.pdf>.

³⁹ Varios tribunales en las diversas declaraciones de inconstitucionalidad que se declararon luego de la sanción fueron explícitos en cuanto a la circunstancia en que se dictaron estas normas. Un tribunal de la provincia de Buenos Aires sostuvo que “(e)s de público conocimiento que los legisladores argentinos, sin mucho meditar, reformaron en aquellos meses varias normas penales creando una sensación de seguridad bastante alejada de la realidad, mediante la creación de tipos penales constitucionalmente cuestionados y con un aumento generalizado de los montos punitivos” (Tribunal Oral Número 1 de la Plata, causa “Aranda, Adolfo s/ robo calificado, 5/7/08).

province of Buenos Aires adopted norms that lengthened sentences, increased preventive prisons, and limited the opportunities for temporary leaves for people serving prison sentences.⁴⁰

The case is also very interesting from a perspective examining ideological roles, for at the time a self-styled “progressive” space was guided by a discourse that opposed the message advocated by the movement for harsher sentences. As Schillagi put it, however:

The declarations of government officials at the time reveal a significant ambivalence: the national government puts distance between itself and the discourse among the public and in the media of a “war on crime” not only in the rhetoric surrounding the Blumberg case, but also in political support for human rights organizations and individuals involved with them who confronted the discourse calling for tougher sentences. By contrast, the laws sent to and rapidly approved by Congress, as well as the executive orders adopted (even before the demonstrations of 2004), take up a great deal of the points presented in the petitions that prefaced the calls for mobilization.⁴¹

The paradigm advanced by that movement still persists in public discourse and in medias of communication, and it is still considered by legislators when making decisions regarding the fight against crime. Despite slight modifications of these policies operated – overwhelmingly – through the Judicial Branch, the Argentine State’s fight against crime represents an attempt to suppress every petty criminal without exploring the causes. An example of this is the lack of any national plan for assistance to people addicted to *paco*⁴², a drug whose consumption has

⁴⁰ Subsequently several of these criminal policies were declared unconstitutional a few court, such as the one that dictated longer sentences for the illegal possession of a firearm if the accused had a criminal record. Those judges held that this policy penalized the person rather than the act, which qualifies as a double condemnation for someone has already suffered one.

⁴¹ “La disputa de las víctimas. (In)seguridad, reclamos al Estado y actuación pública de organizaciones y familiares de víctimas de delitos en la Argentina democrática”, pág. 4, documento presentado en el Congreso de la Latin American Studies Association, Brasil, junio 2009, disponible en <http://lasa.international.pitt.edu/members/congress-papers/lasa2009/files/SchillagiCarolina.pdf>

⁴² Fabricated from sodium bicarbonate, caffeine, cocaine, and amphetamines.

exploded in recent year among adolescents in marginal districts and which is particularly implicated in the crime problem.⁴³ The National Plan for Drugs dates from 1996.⁴⁴

Why is the “tough on crime” movement more influential than the egalitarian approach?

Unlike groups who press for hard line policies to great success, the movements that advocate for a more egalitarian approach generally encounter more resistance in their efforts to change the paradigm. It is worth the effort to attempt to identify influential factors for this in order to stimulate debate over the role of and opportunities available to civil society with regards security and, at the same time, to improve the general understanding of the motives that lead less equitable countries – such as those in Latin America – to opt for punitive policies.

Clearer, more direct reactions: It is possible that the punitive message communicates more easily into public opinion. The content is clearer, the diagnosis more concrete, and the proposals more direct. In fact, it is imaginable that the majority of society sees a more linear relationship between a severe prison sentence and crime prevention, at least when in terms of one individual criminal. The skill with which certain groups exploit this advantage is compounded by a degree of clumsiness on the part of egalitarian groups when trying to surmount the obstacle which represents the most difficult aspect of communicating their message.

The role of the victim: The Blumberg case reveals the impact that tragic, fatal events have on public policy in developing countries which do not possess a level of planning capable of preventing such events or of handling them when they do occur. Many of these reforms would

⁴³ Página 12, “Los muertos del paco”, 13 de noviembre de 2005, <http://www.pagina12.com.ar/diario/sociedad/3-59140-2005-11-13.html>; Página 12, “El paco y la muerte”, 4 de febrero de 2007, <http://www.pagina12.com.ar/diario/sociedad/3-79971-2007-02-04.html>

⁴⁴ See <http://www.sedronar.gov.ar/data/destacados.asp?t=41>

have been unimaginable had such events not happened. The active role played by the victim in cases that fire up public opinion has the effect of generating an incontrovertible message that provokes in its receivers (in particular the legislator or government official) a feeling of guilt that drives them to acquiesce to the demands made of them.

The power of conservative groups: As has been said, inequality is cause and effect of its historical development. The sectors that hold power have been to this point impregnable to structural reforms. With regards security, the egalitarian changes imply – in economic terms – a modification of income distribution and opposition to policies of this type may be based on this factor. These groups will consequently naturally suggest measure that do not affect the inequitable distribution of income.

Conflict of interest for a significant portion of egalitarian-minded groups: An additional explanation that is perhaps more daring will be attempted. It will be given more attention than the other possible explanations because it has undergone less academic refinement. The idea can be summarized in the following way.

People who defend hard line policies are defending their own self-interest. They sense that insecurity affects them at an existential level and their future depends on its solution. In accordance with numerous polls, insecurity is identified as the primary problem by inhabitants in the region and in countries like Venezuela and Mexico it is clearly the most severe problem.⁴⁵ The people who make up these movements are fighting for – in a certain way – their own survival. It might be difficult for people who do not experience the situation with the same

⁴⁵ 57% of the population in Venezuela hold it to be the most serious problem and in Mexico see Corporación Latinobarómetro, Año 2008, available at <http://www.scribd.com/doc/8073567/Informe-Latinobarometro-2008>.

degree of emotional intensity to understand it, but objectively it is a position marked by a very high degree of personal involvement.

By contrast, the opposite views are often held by people such as ourselves who are in a different position. Not only are we involved with the matter from a greater distance, but we also, in a certain way, have very concrete conflicts of interest. Many of the people, most of us included, advocating egalitarian positions, in fact, find ourselves in a peculiar situation in Latin America. The GDP per capita, adjusted for currency exchange parity, is often three times greater in developed countries than in the region. For example, inhabitants of a country like Spain have an average income of approximately US\$ 32,000 while those in Colombia must make do with US\$ 8500.⁴⁶ A significant percentage, however, of egalitarians – who generally benefit from quality education, which in turn results in, in the great majority of cases, a greater economic level – enjoy a standard of living comparable to that of our colleagues in developed countries. Furthermore, the abundance on unskilled labor means that many of us have more access to domestic help, which leaves – in some senses – even better off than our peers in rich countries.

If the countries in the region exhibited income distributions similar to those that, for example, exist in Western Europe, our economic position would be quite different. One estimation entitled, “A Country of Librarians” – published in a blog – examines the question of where the levels of poverty and destitution in Argentina would be if the rich were, instead of 41 times wealthier than the poor, only 6 times richer, or to assume a more modest goal, 10 times richer (like in Spain). The result provided by the author is that the salaries of those who are wealthier than the mean (which does not comprise the richest sector of society), would be

⁴⁶ World Bank, Global Development Indicators, September 2009.

somewhere around US\$ 800, or approximately what librarians currently earn.⁴⁷ Put another way, if we egalitarians achieved our ideological objectives our standard of living would likely be very different from that which we currently enjoy, in that it would be much more modest.

In his work, “If You’re Egalitarian, Why are You so Rich?”, Cohen asks whether the professedly egalitarian wealthy who live in “non-egalitarian societies (that is, societies whose governments, for whatever reason, fail to implement the kind of equality that the egalitarians support) would be willing to conform to the degree of equality that they recommend to the government.”

In addition to this type of analysis are some contextual circumstances of many countries such as those in the region. In non-egalitarian developed countries (of which the best example might be the United States) substantial changes in the indexes used to measure inequality would not radically affect the financial capacities of the egalitarians since, on one hand, the degree of inequality is not as categorical as it is in Latin America⁴⁸ and, on the other, because the economic might of those places is such that egalitarians would continue to enjoy a very high standard of living. In our countries, however, keeping in mind the median income of the inhabitants and the degree to which the abundance of human resources are taken advantage of, the results would not be the same. The most obvious materialization would be the great number of people aspiring to the upper-middle class who suddenly would no longer be able to take advantage of an abundance of domestic help (it is not infrequent for upper-middle class people in countries like Brazil to employ cooks, housecleaners, and drivers); advantages North American egalitarians will never

⁴⁷ Blog “Pateando Sapos”, <http://pateandosapos.blogspot.com>

⁴⁸ According to the latest figures, the Gini index approaches 0.46 (Income Distribution Measures Using Money Income and Equivalence-Adjusted Income: 2007 and 2008”. Income, Poverty, and Health Insurance Coverage in the United States: 2008. United States Census Bureau. p. 17). <http://www.census.gov/prod/2009pubs/p60-236.pdf>.

enjoy. Lastly, the concept of “rich Latin American egalitarian” applies to people who would not be considered rich in developed countries but who, by virtue of a higher than average position in developing countries, are privileged.

Although, the argument that Cohen proposes is relevant to reflections expressed here, the question he is trying to answer is not the same. His starting point is asking what egalitarians should do (with the money they have) while living in non-egalitarian systems and striving for a more egalitarian State without however experiencing the full import of the practical consequences a more egalitarian State would imply. This part of the paper examines who the conflict of interest of the egalitarians influences their efforts to combat the injustice of the system.

The situation in which egalitarians in the region such as us find ourselves is clearly that of a typical conflict of interest. On one side, we desire a more just society yet, on the other, we take advantage of the effects of injustice to obtain a higher standard of living. The question of whether to sacrifice our privileges in order to live in a more equitable society usually goes without a satisfactory answer because the image in the back of the mind of egalitarians is of egalitarian developed countries – where it would be easy to accept the consequences of living – but not in underdeveloped countries. Egalitarians in those countries cannot imagine living on a librarian’s salary.

In terms of insecurity, these conditions cannot avoid modifying the balance of power between those who propose tackling insecurity with egalitarian policies (that suggest substantially improving equality of opportunity and access to healthcare, implementing communitarian policies of crime prevention that empower residents and affirmative action measures, etc) and those who defend hard line alternatives. It is not hard to imagine that there is

a difference between one group of people who defend their position from a nearly extremist position since the objective is so central to their life ambitions (as was said, property crimes constitute, in the judgment of these groups, the primary risk to their goods and physical integrity) and another group who defend their position without any personal investment. It could well be that in the subconscious of the egalitarians lies an actual recognition that insecurity is one of the prices that must be paid for such a high standard of living in a country that is overall very poor.

In normal circumstances, those that are worst off – and, in this case, criminalized – would take the initiative to propose changes that would remove the prejudices against them. The degree of inequality in Latin America, however, is so extreme that the poor do not have enough education necessary for proposing changes, so egalitarians are left to represent the disadvantages sectors without any mandate from them. The conflict of interest, as with every conflict of interest, leads to less vigorous action.

This possibly causal factor in the difference of weight between the two movements is relevant because it might be intimately related to the other motives described in the first part of this section. It is not hard to believe, even, that the facility of hard line policies could be related to the differing levels of commitment of each faction, since the egalitarian movement could have communicated the link between the lack of opportunity and the tendency towards crime much more effectively.⁴⁹ Something similar occurs when discussing the role of the victim, since the harm done an individual who has suffered from a criminal act is not necessarily sufficient justification for hard line policies. Moreover, on this point, egalitarians could find allies in

⁴⁹ An illustration of the force of egalitarian messages as regards the state of insecurity can be found in the Brazilian film *Bus 174*. The film is about an incident involving a robbery in a city bus in Rio de Janeiro that turns into a hostage situation. One of the attackers is a young man who had survived a police raid aimed at killing street children who were sleeping across the street from a church (an action that was carried out to venge their having broken a window in a police car the day before). Eight children were killed. More information about the film is available at <http://www.bus174.com.br/director.htm>

religious actors such as the Catholic Church (in the Gospel of Matthew, the Sermon on the Mount makes explicit the principle that “You have learned to take an eye for an eye, a tooth for a tooth, but I say unto you: do not answer evil, indeed, if someone strikes you in the face, offer him the other cheek as well.” In other words, if rich egalitarians had the same incentives as those of the people in favor of punitive policies then surely they would find more effective means to communicate their message and convince – somehow – those who have the means to effect changes in policy.

In guise of epilogue

As has been said, a good part of the social, economic, and legal problems in the region have something to do with the notoriously unequal distribution of wealth that characterizes it. The resistance of the privileged sectors logically prevents structural transformations in the short term. Some of the countries on the continent are proving that changes can be effected over the long term. In the face of this challenge, with regards the levels of insecurity, accurately diagnosing the causes and effects of this struggle turns out to be necessary.

The fight against common crime provides an adequate example of how the dispute operates between those who advocate for changes in social composition and those who seek to maintain it. Both existing models are completely different in terms of the premises on which they are based, in terms of the objectives sought, and the types of activities they recommend. They are both competing to impose a model for society. Unfortunately, one of the groups in the struggle is at a disadvantage, partly because of the system itself which prevents the people who suffer most from its inequity from participating on equal footing. Many of the people who actually take up the position do so despite having contrary personal interests. It is not a coincidence that in Latin

America common crimes are persecuted without pity and complex crimes are persecuted lethargically. In a way, they do nothing other than represent the current social composition and lack the necessary strength to achieve change.

In the region, countries such as Chile and Brazil appear to have managed to gradually transform their repressive mechanisms in recent years and favored policies that are less harsh. The other countries (and the egalitarians in them, rich or not) should pay attention to these developments. The economic growth that they have attained probably gives them more maneuvering room to negotiate with the economically powerful groups. The situation is identical to that of natural science experiments, which require paying close attention to the developments as they unfold. They give reason to hope for a less violent and less inequitable future.