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Militarización del Estado en México: perspectivas desde las administraciones de Felipe Calderón (2006-2012) y Enrique Peña Nieto (2012-2108)

Militarização do Estado no México: Perspectivas das Administrações de Felipe Calderón (2006-2012) e Enrique Peña Nieto (2012-2018)

ABSTRACT

This article points out the concept of militarized security policies –i.e. the direct involvement of the military in homeland security tasks and the armed confrontation of the cartels- in contemporary Mexico. In this context, the administrations of ex-Presidents Felipe Calderón (2006-2012) and Enrique Peña Nieto (2012-2018) are being evaluated based on a number of criteria: the repercussions of their policies in terms of the rise of a war economy, a further weakness of the rule of law and the victimization of the civil population. The concept of «gray areas» controlled by the Mexican

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Drug Trafficking Organizations is also highlighted as a new threat undermining the sovereignty of the Mexican state.

RESUMEN

Este artículo apunta el concepto de políticas de seguridad militarizadas —es decir, la participación directa de los militares en tareas de seguridad nacional y la confrontación armada de los carteles— en el México contemporáneo. En este contexto, las administraciones de los expresidentes Felipe Calderón (2006-2012) y Enrique Peña Nieto (2012-2018) están siendo evaluadas según una serie de criterios: las repercusiones de sus políticas en materia del surgimiento de una economía de guerra, una mayor debilidad del Estado de derecho y la victimización de la población civil. El concepto de “zonas grises” controladas por las organizaciones mexicanas del narcotráfico también se destaca como una nueva amenaza que atenta contra la soberanía del Estado mexicano.

RESUMO

Este artigo aponta o conceito de políticas de segurança militarizadas - ou seja, o envolvimento direto dos militares nas tarefas de segurança interna e o confronto armado dos cartéis - no México contemporâneo. Neste contexto, as administrações dos ex-presidentes Felipe Calderón (2006-2012) e Enrique Peña Nieto (2012-2018) estão sendo avaliadas com base em uma série de critérios: as repercussões de suas políticas em termos de ascensão de uma economia de guerra, mais uma fragilidade do Estado de direito e a vitimização da população civil. O conceito de “áreas cinzentas” controladas pelas Organizações de Tráfico de Drogas do México também é destacado como uma nova ameaça que enfraquece a soberania do Estado mexicano.

INTRODUCCIÓN

The process of state-building in Latin American countries presented a particular case.³ The Military's position was particularly salient in the political systems of several countries in Latin America throughout their history. The significance of such a position led Alain Rouquié (1969) to conceptualize this phenomenon as the "militarization of the Latin American state" (p.880). He also argued about the *politicization of military regimes* since the Independence of Latin American countries from colonialism, the *caudillos* till the frequent military dictatorships (Rouquié, 2008). The armed forces had been an inherent part of the Latin American political history from the days of great historical figures of the Independence such as Simon Bolívar, José de San Martín, and Bernardo O'Higgins (Löwy & Sader, 1976).

Nowadays, the military continues to occupy a preponderant position within the political system of Latin American countries, while -in the whole continent- external or terrorist threats are not the norm as in Europe. Cross-border conflicts between Latin American countries do not tend to be so common as in the Middle East and the African countries. Nevertheless, internal threats have led the military to play an even more major role. Indeed, in some countries, such as Colombia, Venezuela, Peru and Bolivia, political leaders have resorted to the direct involvement of the armed forces in the fight against drug trafficking and organized crime. Other countries in South America, such as Chile and Argentina, consider these tasks more as a matter of homeland security, i.e. of the police. National defense differs from homeland security in these cases and echoes Jean-René Garcia's (2015) theory on the "fragmentation of the concept of homeland security and national defense" in South America (p. 259).

For the purpose of this article, it is important to understand that militarized security policies can be defined as the direct involvement of the military in homeland security tasks and the armed confrontation of illegal armed groups. In particular, Colombian armed forces were involved since the 1960s in the counter-insurgency doctrine, and since the 1980s in the fight against the Colombian drug cartels of Medellín and Cali, and later against the paramilitary groups. Brazil has resorted to the military to deal with phenomena of violence related to drug trafficking in the *favelas* in Rio de Janeiro and Sao Paulo.

3 The challenge that the state in Latin American countries had to face, after their emancipation from the Spanish and Portuguese colonization, relied on its institutionalization at the intersection of the national socio-political order -which was also under construction- and the transnational relations within which it had to impose its existence and authority over other states (Revesz, 1997). As Bruno Revesz (1997) points out, its capacity for influence in an international order dominated by the strong states of the northern hemisphere (US and Canada) was reduced and its penetration into the heart of its own internal order was weak.

Similarly, Mexico's case is particularly pertinent, where Felipe Calderón's administration implicated the armed forces in the fight against organized crime and *gray areas* in 2006 (Kouloglou, 2017). Indeed, *gray areas* can be defined as regions that have become inaccessible and hostile to any penetration and no official government can address the issue or enforce the minimum rules of law; entire areas are in danger of being closed for good and sink into a tragic anarchy for the population (Raufer, 2006). Police corruption was also a common phenomenon in these countries mainly inherited from the era of military dictatorships (Rouquié, 2008). In the light of some exceptions, most of the police force in these countries are poorly recruited, poorly paid and therefore, often corrupted (Rouquié, 2008), and one of the reasons that the respective governments decided to resort to the involvement of the military.

According to Olivier Dabène (2009), these policies of the militarized fight against illegal groups risk losing part of their democratic authenticity: On the one hand, the police and / or paramilitary forces, by fighting violence with violence, are not only damaging the principles of democracy but also escalating the phenomenon itself and enhancing the feeling of insecurity. On the other hand, these policies are characterized by restrictions on fundamental freedoms, violations of human rights or even by the militarization of the society. Therefore, the repressive apparatuses are hardening.

In this article, the *militarization of the state*, i.e. the direct involvement of the Mexican Armed Forces (MAF) in homeland security tasks and the armed confrontation of the cartels, is considered as a factor that exacerbated the phenomenon of *gray areas* in Mexico. Through the comparative approach of the security policies implemented by the administrations of Felipe Calderón (2006-2012) and Enrique Peña Nieto (2012-2018), this article will explore the repercussions of the militarization of contemporary Mexican policymaking in terms of homeland security. Indeed, should the militarization of policymaking be considered as a threat to the sovereignty of the Mexican state?

To respond to this question, this article will focus on the evolution of security policies during the presidencies of Calderón and Peña Nieto and the emergence of *gray areas* (I), and on the repercussions of militarized policies and their impact on the rule of law (II).

THE EVOLUTION OF SECURITY POLICIES DURING THE PRESIDENCIES OF CALDERÓN AND PEÑA NIETO AND THE EMERGENCE OF «GRAY AREAS»

Until 2000, the Institutional Revolutionary Party (PRI- *Partido Revolucionario Institucional*) managed to have some level of control over the Mexican cartels through its monopoly on power and the tacit agreements with drug traffickers (Ravelo, 2012). Following the first so-called *democratic* transition in 2000⁴, the National Action Party (PAN- *Partido Acción Nacional*) broke some of these agreements in order to strengthen the security in the country and restrict the progress of cartel expansion (Chabat, 2010). Nonetheless, the cartels began to extend their domination in «non-traditional» areas -like the state of Michoacán and the state of Guerrero- and to be implicated -in addition to drug trafficking- in various other criminal activities such as arms trafficking (Grillo, 2012).

In 2006, the drug cartels diversified their criminal activities and were also involved in a multitude of parallel illegal economy operations, e.g. arms trafficking, extortion, and kidnapping, demonstrating significant control of territories in several parts of the country and unprecedented military capacity (Vulliamy, 2012). Indeed, this was the beginning of the rise of *gray areas* within the country. Felipe Calderón decided to respond to this expansion of organized crime by resorting to the direct involvement of the military in the fight against the cartels and by launching armed operations.

The militarization of the fight against the Mexican cartels, led by Calderón, had as its objective the *decapitation* of the criminal organizations by capturing or killing their leaders. The former Mexican president aimed to dismantle the hierarchy of criminal organizations, as he expected that the organizations would cease to function after the elimination of their leaders (Rosen & Zepeda, 2017). However, this strategy led to the fragmentation of the drug cartels into smaller cells, which were operating more locally and made the issues of their containment and elimination more complicated (Valdés, 2013).

4 The notion of democratic transition in Latin America countries is a particular issue. According to Juan J. Linz (1991), the democratic transition involves two cases: firstly, the societies which have experienced a democratic regime during an important period which was displaced by a non-democratic regime and secondly, the societies in which the democratic regimes have succeeded colonial or traditional governments without having previously experienced democracy. The first case involves a process of «re-democratization», while in the second case there is no experience of the functioning of democratic institutions and therefore democracy is being created for the first time. It is, moreover, necessary to recall that democracy cannot be considered as consolidated until the democratic transition has been completed. A necessary but by no means sufficient condition for the completion of a democratic transition is the holding of free and contested elections (based on broadly inclusive electoral eligibility) that meet the institutional requirements for the elections. However, such elections are not enough to bring about a democratic transition (Linz & Stepan, 1996).

In 2012, the phenomenon of *gray areas* had almost spread to the entire country after the departure of Calderón and the arrival of Enrique Peña Nieto (2012-2018) in office, due to the various fragmentations of criminal organizations following the militarized fight of Calderón against the cartels and the intra-cartel wars of succession. The new generations of traffickers are more violent, need more territory, and no longer just strategic points in order to carry out their activities (Aguilar V. & Castañeda, 2009). Further, they have engaged in practices that also target the civilian population and its livelihood such as fuel theft, money laundering, and, more recently, the smuggling of migrants. The militarized policies implemented by Calderón and continued by Peña Nieto (A) led to a more complex drug-related violence since 2006 and the exacerbation of the phenomenon of *gray areas* (B).

MILITARIZED POLICIES AGAINST MEXICAN DRUG TRAFFICKING ORGANIZATIONS

Calderón decided to radically change the country's security policy, regarding to his predecessor, by directly engaging the MAF in the fight against organized crime. The military operations were supported by the significant increase in budgets of the Secretariat of National Defense (SEDENA) and the Secretariat of the Navy (SEMAR)⁵. Felipe Calderón also strengthened security cooperation between Mexico and the United States by authorizing an increase in the number of US DEA (Drug Enforcement Administration) agents operating in the country alongside the MAF, as well as the opening of three regional border offices (Esquivel, 2013). This agenda of security policies was also often likened to the policies implemented by the Uribe administration (2002-2010) in the context of its *Democratic Security* (*Seguridad Democrática*) and the fight against the FARC (Revolutionary Armed Forces of Colombia).

When Calderón assumed the presidency, he inherited an already vulnerable situation in security terms. The drug traffickers controlled various territories of the country, the war between the cartels was imminent, and diplomatic tensions with the United States emerged because of the escalating violence at the borders by the criminal organizations. In addition, there was a stable flow of drugs to the United States which was not disrupted by the Fox administration's anti-narcotics policies, a dramatic increase in domestic drug use, and "the Fox administration's reluctance to use law enforcement" (Chabat, 2010, p. 29).

5 During the presidency of Fox, the budget of SEDENA reached between 30,000-35,000 million pesos and during the presidency of Calderón increased until 55,000 million pesos in 2010 to fall again in 2011, in 50,000 million pesos. SEMAR benefited from a budget of 10,000 million pesos during Fox's presidency, while it reached a budget of 15,000 million pesos between 2007 and 2012, under the administration of Calderón (Guerrero Gutiérrez, 2012a).

In fact, Calderón, from the beginning of his election, declared war against the Mexican cartels by deploying the armed forces in the cities as the first measure of his militarized security policy. The objectives of this policy were based on the «kingpin strategy» employed in Colombia to dismantle the cartels of Medellín and Cali by the DEA targeting key people in the Colombian cartel organizations by eliminating the leaders and therefore «decapitating» the hierarchical structure (Crandall, 2005).

The period of Calderón in power was the time that the Mexican state would have to respond to the rampant hold of organized crime over several regions. The uniqueness in the case of the «gray areas» in Mexico, referred to the capture of municipal, ministerial, state police, and elected authorities by drug trafficking in more than 2,500 municipalities in the country. Indeed, the criminals targeted the control of routes and strategic points as well as customs and ports, and they billed individuals and businesses, in several towns for the *derechos de piso* –i.e. taxes to criminals for using their territory- (Aguilar V. & Castañeda, 2009).

The main goal of the Calderón administration -and later, the administration of Enrique Peña Nieto in certain terms- was to reclaim the spaces which had been sequestered by the gangs of drug traffickers and other criminal organizations (Presidencia de la República, 2012). Issues such as violence generated by the disputes between criminal organizations and changes in the balance of power had to be faced urgently. Regarding the first aspect, drug trafficking organizations were fighting one another for markets or territories. As for the second aspect, changes in the balance of power have been produced by the reorganization of public security institutions and the political alternation in 2000 that has disrupted the pacts at the regional level. In this context, Felipe Calderón implemented militarized security policies, by deploying the MAF and attacking the cartels.

Peña Nieto came to power in 2012 after the bloodiest period in contemporary Mexican history. The «open war» against the cartels of 2006 offered no alternative but to be continued (Ravelo, 2012). When Enrique Peña Nieto took office, the expansion of drug trafficking organizations was significant in almost all the Mexican federated states. The security policies of the new president -candidate of the PRI- were based on the confrontation of the phenomena like the corruption and the fragility of the institutions and not only on the capture and the elimination of the big leaders of Mexican Drug Trafficking Organizations (MDTOs), contrary to the strategy of his predecessor. Although the dissemination to the media was restricted regarding the military operations in the fight against organized crime, in order to restore the image of the country, executions and killings linked to drug trafficking have not ceased to increase from 2015 to 2018. The slight decrease observed between 2012 and 2014 did not change the context of extreme violence (Rosen & Zepeda, 2017).

It is important to mention the factors that maintained violence linked to organized crime at high levels in recent years. The first factor has its origins in the criminal activity and violence produced by small gangs -around 240 across the country- which have dedicated themselves in particular to extortion. The second factor is the escalation of the conflict between the Sinaloa Cartel and the Jalisco New Generation Cartel (CJNG), two criminal organizations capable of waging a «long» war. The third factor also reflecting the high level of violence is linked to the partisan alternation of the executive power. This development disrupted protection networks and criminal gangs as well as new actors have taken the opportunity to displace their rivals. The last factor is the boom in fuel theft, initiated in recent years, which has created a new criminal market with a larger underground distribution and sales network in Mexico (Guerrero Gutiérrez, 2018b).

The first months of Peña Nieto's governance the results were satisfactory (Guerrero Gutiérrez, 2018a)⁶. Yet, in 2015, the Mexican government lost the capacity to deal with the growing crisis of violence. In several states, the institutional protection networks superimposed by the administrations of the PRI governors -who operated in an authoritarian manner in their areas of competence- had been broken. The cases of César Duarte in Chihuahua, Roberto Borge in Quintana Roo and Javier Duarte in Veracruz are emblematic in this regard. In all three cases, the PRI lost the post of governor in the 2016 elections. Significant signs of corruption were noted against the outgoing governors and their key staff. Chihuahua, Quintana Roo, and Veracruz recorded an accelerated upsurge in violence that began when the electoral defeat of the PRI was imminent or during the period of transition (Guerrero Gutiérrez, 2018a).

Enrique Peña Nieto's security policy did not change radically from the policy adopted by his predecessor. The fight against organized crime was certainly covered less by the media, but the armed forces were still largely a part of Mexican security policies. The creation of the Mexican National Gendarmerie (GNM) in 2014, was based on the model of the French Gendarmerie and the Chilean Gendarmerie aimed to prepare a hybrid police unit, under military command and training, specializing in the elimination of the threat of organized crime and the increased power of drug traffickers (Barrón Cruz, 2015). However, its contribution was very limited which is why it was dissolved in 2019, and replaced by the National Guard (Serrano Carreto, 2019).

6 Translated in English by the author: In 2012, the Zetas Cartel -perhaps the most violent organization- was in the process of being dismantled. Its main leader, Heriberto Lazcano, was killed in October 2012 during a clash with elements of the navy. He was succeeded by Miguel Treviño Morales, alias Z-40, captured in July 2013, and Omar Treviño Morales, alias Z-42, arrested in March 2015.

DRUG-RELATED VIOLENCE SINCE 2006 AND THE PHENOMENON OF «GRAY AREAS»

The dissolution of the Guadalajara cartel in the 1990s, following the arrest of its leader, Miguel Ángel Félix Gallardo, resulted in its fragmentation into five more regional organizations -the cartels of Sinaloa, Tijuana, Juárez, the Gulf and Sonora- and the system of *plazas* (territories) emerged. Then, the emergence of other cartels like the *Zetas*⁷ and the *Familia Michoacána* completed the drug cartels' network in the 2000s (Valdés Castellanos, 2013).

Following the *declared war* by Felipe Calderón in 2006 against the cartels, their greater fragmentation led to their transformation into local criminal organizations and revealed the crucial need for territorial control for their survival and operation. The close relations created by the corrupt networks of police officers, political leaders and the military were organized around the same vector: the territory (*plaza*) (Cambell, 2009). The intra-cartel wars have split into two clans: First, the Sinaloa cartel and its allies. Second, since 2001, the Gulf cartel was initially the main enemy of the Sinaloa Cartel. Following several fragmentations due to these wars, new criminal organizations emerged in 2006, introducing more violent actors. The Gulf cartel was later replaced by the Zetas in 2010⁸, and more recently by the Jalisco Cartel New Generation (CJNG) in 2018. Indeed, all these organizations were fighting against the Sinaloa cartel.

A special reference needs to be made in the mode of action of increased violence used by the Zetas which dates to the influence of the Guatemalan *kaibiles* -an elite anti-subversive unit of the Guatemalan army special forces- who infiltrated the Zetas organization. During the Guatemalan civil war (1960-1996) soldiers beheaded rebels outside their neighbors' doors in order to dissuade them from joining the Marxist insurgency. When hired as mercenaries, the Zetas applied this practice in order to terrorize the enemies of the cartel. This practice of deterrence through terror was also employed by Al-Qaida, as well as during the pre-Columbian era by the Mayans, to demonstrate their absolute domination over their enemies (Grillo, 2012).

The response to the development of criminal organizations and their signs of unprecedented violence, prompted the new-elected Mexican president to

7 One of the deadliest and bloodiest organizations in the history of drug trafficking in Mexico. Its members have the letter «Z» on military uniforms (to demonstrate their military past). The names of its leaders are also shown with the «Z» and a number, for example «Z-40». For more insights: Ricardo Ravelo., *Zetas, la franquicia criminal*, Ediciones B, México D.F., 2013.

8 At first, the Zetas were the armed wing of the Gulf cartel, but following internal disputes, the two entities split in 2010 (Ravelo, 2013).

declare an open war against the cartels in 2006. Felipe Calderón, like another «Prince» portrayed by Nicolo Machiavelli (2009, reissue), followed the advice of the Florentine thinker: “to despise the art of war is to take the first step towards its ruin; Possessing it perfectly is the way to rise in power” (p.29).

Nevertheless, the condition that Machiavelli imposed on the *Prince* for the use of the art of war, fell under the *perfect possession of this art*. The Mexican President was not in such possession, because his strategy was new, even in the eyes of the Mexican Armed Forces. The army was not trained to patrol the towns and the villages and therefore, two main consequences arose; the extreme violence and the emergence of *gray areas of a non-physical presence type* (Kouloglou, 2020). In the «non-physical presence gray areas» type, illegal armed groups do not need to be physically present in the controlled area. There is no organic connection to the area. This type of control is based on violence or the threat of violence, on corruption and intimidation, without really having control of the land, i.e. a kind of pseudo-territorial control (Kouloglou, 2020)⁹, presenting a threat to the sovereignty of the state.

Through this control of the territory, organized crime challenges the spaces of state power and the exercise of legitimate violence, by building a parallel power based on terror and assassinations (Benítez Manaut, 2009). The danger of this type of *gray areas* lies in the fact that the illegal armed actors operate in a clandestine manner. To this end, they may acquire sufficient power to intimidate state and federal governments, which would enable them to challenge the state’s aspiration for a monopoly on coercion (Bailey, 2014).

In Mexico, public opinion put pressure on Felipe Calderón, following his declaration of war against organized crime, in order to confront the cartels. However, before declaring war on this kind of phenomena, it was necessary to reform state institutions and eradicate the political «tolerance» of the past. Thus, in addition to the phenomena of corruption, extreme violence and *gray areas*, the fragmentation of cartels was another evolution during Calderón’s governance (Flores, 2013)¹⁰.

This phenomenon has further weakened the rule of law in Mexico, and a better coordination at all levels of the federal system was required. Therefore, the

9 The concept of «gray areas of a non-physical presence type» is to be distinguished from the concept of «gray areas of physical presence». In this case we are referring to areas that are dominated by illegal armed groups which deploy their combatants or their partisans on the concerned territory. There is an organic connection to the territory that sometimes is a power or a weakness for them. This is the example of the FARC guerrillas who were trying to establish a proto-state control of the occupied zones to finally arrive at a Marxist-type revolution in the whole country.

10 Translated in English by the author: It is important to mention that this fragmentation has multiplied the cells of the cartels that currently operate on Mexican territory, because the six powerful cartels that existed until 2007, increased to 16 in 2011 and currently we are observing more than 89 cartels and sub-cartels which operate as local mafias.

concept of internal sovereignty¹¹ theorized by Carré de Malberg (2004), which expresses state power as the highest authority within the state, does not find its application in the Mexican case, because organized crime has become more powerful than official authorities in the balance of power.

The arrival of the PRI representative -Enrique Peña Nieto- in power after six years, in 2012, has not drastically changed the situation. The balance of power remained on the side of organized crime, despite the various military operations against cartels and the captures or deaths of drug traffickers. This war against these internal threats would seem to require a reconfiguration of the rule of law of the country (Rubio, 2015)¹², as well as a reconstruction of a single internal security policy, independent of the change in power.

THE REPERCUSSIONS OF MILITARIZED POLICIES AND THEIR IMPACT ON THE RULE OF LAW

The first joint operation launched in Michoacán with the involvement of 7,000 military elements contributed to lower the levels of violence. In 2007, 328 executions were registered in Michoacán, 38% less than the previous year. In 2008 there were 289, i.e. a decrease of 45% compared to 2006 (Guerrero Gutiérrez, 2012b). The joint operations in other states (Baja California, Guerrero, Nuevo León, Tamaulipas, Chihuahua, Durango and Sinaloa), however, were not as successful as the initial one. With the exception of Nuevo León, in those states the number of executions was higher in 2009 than in 2007. Indeed, in these states, executions increased by 325% in these two years (Guerrero Gutiérrez, 2012b).

The failure was due to two reasons: the surprise factor had disappeared, and the organizations were prepared to respond to the government's offensive. On the other hand, the state's combat capacity decreased as the focus of attention multiplied

11 Translated in English by the author: Internal sovereignty in fact implies that the state possesses, either in its relations with the individuals who are its members or who are living on its territory, or in its relations with other public or private groups formed within it, a supreme authority, in the sense that his will predominates over all the wills of these individuals or groups, the latter having only a power inferior to his. The word sovereignty is therefore used here to express that state power is the highest power existing within the state, that it is a *summa potestas*.

12 Translated in English by the author: In Mexico, with the political «death» of the old PRI regime, the ability to govern has also disappeared. The costs of this regime were very significant, marking a situation where the rule of law was «weak» and the risks very high. The drug traffickers understood this and took advantage of the breakdown of the state at the end of the PRI era and the transition of power. A «strong» state wouldn't «have to» be at war, but in Mexico, the state, due to its inherent weakness, did not have many options. Nonetheless, the authoritarian state of the past imposed rules. A «strong» state, which is not authoritarian, must impose them through institutions. The challenge is to transform the state so that it has the capacity to govern, to institutionalize disputes and to be held to account.

throughout the country. In May 2008, when operations began in Durango and Sinaloa, violence began to escalate to unprecedented levels (Guerrero Gutiérrez, 2012b). The magnitude of the social cost was not certain, as information about the Calderón government has been frequently disputed. However, executions rose from 2,000 per year in 2006 to over 12,000 in 2012, without it being possible to determine with precision whether the victims were killed by official bullets or criminal bullets (Aguayo Quezada & Benítez Manaut, 2012).

Calderón's militarized security policies had also a significant repercussion on the structure of the MDTOs, i.e. their fragmentation into smaller cells which were operating more locally (Guerrero Gutiérrez, 2012b; Valdés Castellanos, 2013). This fragmentation led to further militarization in several regions in Mexico, as the MDTOs diversified their criminal activities and became more active into the arms trafficking business in order to thwart the armed confrontation with the MAF (Valdés Castellanos, 2017), using very sophisticated weaponry.

When Peña Nieto assumed the presidency, several states of the country were transformed into war zones. The «war on drugs» led by Calderón intensified the violent character of the MDTOs (Guerrero Gutiérrez, 2018b). The situation in security terms was not irreversible and Peña Nieto had no other option but to continue the military operations. Even though the first months of his presidency had a positive impact in terms of reducing the violence, further militarization had been installed (Gerardo Hernández, 2020) threatening the sovereignty of the state. A war economy had replaced the mere profits of the *narco-business* (A) and the consequences of these militarized policies impacted further the civil population and the rule of law (B).

THE RISE OF A *SUI GENERIS* WAR ECONOMY IN MEXICO

War economy in Mexico evolved and took forms encountered in the Liberian civil war and several armed conflicts in sub-Saharan Africa (Atkinson, 1997) as political transitions took place in the country, security policies changed, and criminal organizations adapted in these evolutions. Every year more drugs cross the borders. There are more and more people entering the *narco-business* because of the money involved (Guerrero Gutiérrez, 2018b). Indeed, the *narco-business* also becomes more competitive with drugs of better quality¹³.

13 High-ranking official of the Executive Secretariat of the National Public Security System, anonymous, personal communication, November 23, 2016.

The various phases of drug trafficking encountered in Mexico can be presented as such: The country went from a first phase of *good understanding*, of *cohabitation* with the official power, to a phase of *transition-opposition* with the arrival of the PAN in power, and then, to a phase of *direct and open confrontation* following the outbreak of war by Felipe Calderón (Contreras, 2010).

The drug trafficking phenomenon and drug-related economy have evolved into a powerful structure where it directly challenges and threatens state power, provoking a violent confrontation. However, this *direct and open confrontation* does not benefit Mexican Drug Trafficking Organizations (MDTOs), because it is damaging for *narco-business* in terms of economic growth (Bailey, 2014). Indeed, we must consider the fact that drug trafficking as an illegal business needs discretion and anonymity to operate. It is also necessary to find the capacity to bribe government officials -or at least the necessary people- so that drug dealers can operate with impunity, or the inability of the government to detect the circles of corruption linked to trafficking within the government itself (Contreras, 2010; Valdés, 2013).

Since 2006, and the armed confrontations between the MAF and the MDTOs, the drug-related economy was diversified, and more criminal activities contributed to the rise of a war economy context. The role of the Zetas was significant in the intensification of the arms trafficking in Mexico. Since their appearance on the Mexican criminal environment, they have generated a «hyper-militarization» in the **narco-business**. Indeed, the Zetas constitute the first criminal organization that -due to their military past- introduced, into the intra-cartel war and the armed confrontations with state forces, a very sophisticated arsenal and large quantities of arms of any form (e.g. RPGs, automatic rifles) (Chi et al., 2014; Fernández Menéndez & Ronquillo, 2007; Ravelo, 2013).

In order to balance the competition, the rest of the MDTOs also had to follow this advancement, and the war economy had begun to diversify. In 2008 and 2009, the practice of kidnapping for ransom was widespread in the country, but the Zetas killed their prisoners even after receiving the ransom. They also introduced the practice of beheading their victim in order to spread terror (Ravelo, 2013). In addition to these practices, it is also necessary to note that arms trafficking largely contributes to this lucrative war economy and the militarization of the disputes between the cartels and the state forces. The weapons most used by the Mexican cartels are AR-15 type -semi-automatic rifles- and AK-47 type -known as Kalashnikov-. The sale of automatic versions of these types of guns is illegal in the United States. Nevertheless, there are manuals that explain how to turn AR-15s and AK-47s into fully automatic weapons by assembling the pieces (Vulliamy, 2012).

The Zetas were one of the most infiltrated cartels in arms trafficking. They operated in particular in the state of Tamaulipas -in the center and south of the country-, in the United States and in Guatemala. Since they used to be ex-service-men of the Mexican Special Forces, they were proficient in guns. They also maintained a network for arms trafficking in Guatemala and other countries in Central America (Benítez Manaut, 2010; Kessler, 2010). Aside from AK-47s, AR-15s, rifles in general, and small arms which make up the majority of the arsenal used by the cartels, the Zetas used weapons such as grenades, explosives and missiles, which are mainly originated from the United States (Rouquié, 2013). The Jalisco New Generation (CJNG) uses also the same kind of armory.

In the context of a *sui generis* war economy in Mexico, it is important to mention the fact that Mexico is an intensive weapon user country. Among the biggest users of these weapons are drug traffickers. During the first two years of Felipe Calderón's administration, 43,609 people linked to seven Mexican cartels and 124 heavily armed criminal groups were arrested. From the beginning of his presidency, more than 30,000 weapons were seized (Sánchez, 2009). In 2008, the number of homicides linked to drug trafficking rose to more than 5,600, an increase of 200% over the previous year. Criminal organizations use large caliber weapons, but they are not the only «consumers» of weapons. Since 2006, more than 12 million common law crimes were reported, more than 10% of which were at gunpoint (Sánchez, 2009).

There are states in which criminal organizations are more present than in others, such as the states of Guerrero, Michoacán, Tamaulipas, Coahuila, Chihuahua and Sinaloa. The MDTOs operate primarily in areas that serve as strategic points for the flourishing of this lucrative war economy.¹⁴ Indeed, the diversification of the war economy in Mexico is entirely linked to the proliferation of *gray areas of non-physical presence* controlled by criminal organizations (Kouloglou, 2020).

The question of Mexico's common borders with the United States is also a particular one. During the Donald Trump administration, the North American Free Trade Agreement (NAFTA), signed in 1994, has been called into question because of the various cross-border trafficking activities occurring in the long borderline between the two countries. The cities of Tijuana, Juárez and Nuevo Laredo have been for several years, areas of disputes between the cartels, areas of passage for illicit goods, i.e. *gray areas of non-physical presence*. Since 2012, violence in Tijuana and Ciudad Juárez decreased. In 2006, when the MAF entered Ciudad Juárez, the area turned into a war zone. Between 2004 and 2005, the situation was practically the same in Tijuana, but less violent. The police chief

¹⁴ General of the Air Force, retired, anonymous, personal communication, November 6, 2016. General of the Air Force, retired, anonymous, personal communication, November 6, 2016.

of Tijuana, following the success obtained in reducing the level of violence, was transferred to Ciudad Juárez. As for the town of Nuevo Laredo, it was controlled by the MAF until 2014. The municipal police disappeared completely, and the Navy remained in charge of patrolling the town.¹⁵

Under Peña Nieto's administration, the war economy produced by illicit MDTOs activities remained constant and was diversified (Guerrero Gutiérrez, 2018a). Moreover, the extraction and illegal sale of hydrocarbons became the main emerging market between 2014-2018. Mexico already has a very large and efficient underground fuel distribution and sales network. Fuel theft is a booming business because the risk is minimal compared to the potential benefits, which explains the exponential growth observed in the size of the market –the clandestine detected seizures registered by PEMEX went from 1,361 in 2011 to 10,397 cases in 2017- (Guerrero Gutiérrez, 2018a). This activity resulted in the displacement of organized crime to areas where it had not previously a significant presence.

THE REPERCUSSIONS UPON CIVIL POPULATION AND THE RULE OF LAW

The militarization of Mexico, brought about in particular by the practices of the Zetas and the intra-cartel war and the open warfare of Felipe Calderón, has resulted in increase of violence and homicides rate in the country. Regarding to violence, a new phenomenon emerged: the *cockroach effect*, i.e. the displacement of violence from one state to another (Chabat, 2010). Indeed, the violence had not diminished as the Calderón administration claimed, but that there was an internal «migration» of violence linked to drug trafficking in areas less affected by drug-related economy.

In this line of thought, homicide rates also changed. During the period before Calderón, and more particularly between 1992 and 2007, both the national rate and the number of homicides declined systematically. The rate fell from a high of 19.72 in 1992 to a low of 8.04 in 2007 (Escalante, 2009). Nevertheless, the situation was distinct in some areas that maintained high rates during this period, such as *Tierra Caliente* in Guerrero, Michoacán, as well as the upper part of the *Sierra Madre Occidental* which is part of the Golden Triangle between the states of Sinaloa, Durango and Chihuahua. In these cases, the most significant factor contributing to the increased violence was the weak presence of the official state.

15 High-ranking official of the Executive Secretariat of the National Public Security System, anonymous, personal communication, November 23, 2016.

Ciudad Juárez was also a «victim» of the militarized security policies by Calderón and Peña Nieto administrations. The case of Ciudad Juárez, and the question of *feminicidio*¹⁶ are revealing examples of this phenomenon of lack of responsibility of public institutions and ineffectiveness in combating the roots of organized crime and the effects produced by drug trafficking. The recurrent homicides against women in Ciudad Juárez, at the time of the escalating clashes between the MAF and the MDTOs, as well as between the criminal organizations themselves, were part of the security crisis in the region during the period of the Calderón administration. The territorial dispute between the MDTOs for the control of this passage to the United States and the State of Texas has turned Ciudad Juárez into a war zone and a region of massive human rights violation (Limas, 2007; Vulliamy, 2012).

The case of the *Muertas de Juárez*, which refers to the series of assassinations of nearly 400 young girls and women in Ciudad Juárez in 2009 perfectly illustrates the condition of the vulnerability of this part of civil society and male violence against women (López de Lara E. & Aguirre Calleja, 2017). In the events of the phenomenon known as the case *Algodonero* or as *CoIDH, González y otras -Campo Algodonero- vs. México*, the Inter-American Court of Human Rights condemned the Mexican state for the torture and rape of women that took place between 1990 and 2003, after the investigation into the deaths of Claudia Ivette González, Esmeralda Herrera Monreal, and Laura Berenice Ramos Monárrez, the three young girls murdered in the Algodonero camp (CoIDH, Caso González y otras vs. México, 2009), and the Mexican state has partially assumed its responsibilities.

Indeed, the population became the victim of the war against drug trafficking and of the failure of the militarized security policies implemented to fight this phenomenon. Civilians have become victims of the intensity of the inter-cartel war -especially after 2006- and of the functioning of criminal organizations, since they have sometimes been led to enter the world of organized crime without having any other alternative.¹⁷

In particular, the emblematic case of this *state of terror* is the mass kidnapping of 43 students from the Rural Normal School of Ayotzinapa in the city of Iguala, in the state of Guerrero on September 26, 2014. The events of Iguala as mentioned by the journalist Anabel Hernández (2016) in her book *La verdadera noche de Iguala, la historia que el gobierno trató de ocultar* denounced the rule of law in Mexico, the administration of Enrique Peña Nieto, the human rights violation by state forces and therefore the «victimization» of the civil population who find

16 Translated in English by the author: The concept of «femicide» is just under construction. However, it is clear that it frames a series of phenomena that begin in the systematic violence given in the violation of the dignity, freedom and equality of women, passing through the silence of the victim, generated by the latter, by the acts of control and submission framed in discrimination. (Osorio Montoya, 2017, p. 28).

17 General of the Air Force, retired, anonymous, personal communication, November 6, 2016.

themselves during a situation where the organized crime has infiltrated the official state. These events, combined with numerous corruption cases, once again have questioned the political class and made it more difficult for the state to exercise power (Musset, 2017).

According to her investigation, elements of the state police of Guerrero, the municipal police of Iguala, the Federal Police, personnel of the office of the Attorney General of the Republic (PGR) and the 27th Infantry Battalion participated in a series of five attacks against the students (Hernández, 2016). The official version of the Peña Nieto administration, through the statements of the Attorney General of the Republic at the time, Jesús Murillo Karam, was based on the claim that the 43 students were murdered and burned by the group criminal *Guerreros Unidos* operating in the region with the help of the municipal police of Iguala and Cocula. Then their ashes were thrown into a river.

This official version was rejected by the investigation of Anabel Hernández and by the scientific opinions of the Interdisciplinary Group of Independent Experts (GIEI) that the Inter-American Commission of Human Rights (IACHR) sent to Mexico following petitions from the parents of the 43 missing students. In order to develop this official version, at least 33 key detainees were used by the Mexican government and systematically tortured by federal administration forces (Hernández, 2016).

Many of the obstacles Mexico faces in order to establish a democratic rule of law rely on impunity, perceived insecurity and a significant increase in crime and serious human rights violations, especially among populations most likely to be victims of violence, in vulnerable situations, such as young people, women, girls and migrants. Most of these problems have been persistent for a long time, but their relevance and notoriety has become preponderant in recent years, masking other social and institutional problems. The lack of access to justice constitutes one of the significant institutional issues. If this lack is remedied, Mexico would have a very effective antidote to deal with the crisis of violence and insecurity affecting the Mexican population (Acosta, 2012).

CONCLUSION

Alexis de Tocqueville (2002) in his theory on federal governance in *Democracy in America* wrote:

A government which should have no other means of exacting obedience than open war must be very near its ruin, for one of two alternatives would then

probably occur: if its authority was small and its character temperate, it would not resorted to violence till the last extremity, and it would connive at a number of partial acts of insubordination, in which case the state would gradually fall into anarchy; if it was enterprising and powerful, it would perpetually have recourse to its physical strength, and would speedily degenerate into a military despotism. So that its activity would not be less prejudicial to the community than its inaction. The great end of justice is to substitute the notion of right for that of violence, and to place a legal barrier between the power of the government and the use of physical force (p.160).

Based on this abstract of Tocqueville's theory, it is important to understand that both the administrations of Calderón (2006-2012) and of Peña Nieto (2002-2010) were the pure expression of the political philosopher's concern for the future of the democratic system governed by law. In both cases, the Mexican presidents used only force to restore the rule of law in areas controlled by the Mexican criminal organizations. The Mexican state found itself in a situation of extreme weakness and used force at *the last extremity*, as Alexis de Tocqueville points out.

Tocqueville's counterargument in his example of a *strong* state was to replace *physical strength* with a legal system based on the cult of laws to avoid *military despotism*. In the case of Mexico, Calderón's strategy of militarized fight against organized crime, i.e. direct involvement of the military in homeland security tasks and armed confrontations with MDTOs, initially succeeded in striking significant blows at criminals, but ultimately it led to the fragmentation of the cartels strengthening the expansion of «gray areas» in the majority of the federated states of the country. Indeed, the threat of «pure military despotism» highlighted by Tocqueville is also very present in the case of Mexico, as the security policies adopted for institutional changes have had no greater effect than the militarization of the state and unprecedented rates of violence.

These phenomena were further aggravated by the Peña Nieto administration threatening the already weak rule of law and internal sovereignty of the country. Mexico can be characterized as a *weak state*¹⁸ mainly because the violence created by the lucrative drug trafficking business has also reached the civilian population

18 According to Robert I. Rotberg (2003): «*weak states include a broad continuum of states that are: inherently weak because of geographical, physical, or fundamental economic constraints; basically strong, but temporarily or situationally weak because of internal antagonisms, management flaws, greed, despotism, or external attacks; and a mixture of the two. Weak states typically harbor ethnic, religious, linguistic, or other intercommunal tensions that have not yet, or not yet thoroughly, become overtly violent. Urban crime rates tend to be higher and increasing. In weak states, the ability to provide adequate measures of other political goods is diminished or diminishing. Physical infrastructural networks have deteriorated. Schools and hospitals show signs of neglect, particularly outside the main cities. GDP per capita and other critical economic indicators have fallen or are falling, sometimes dramatically; levels of venal corruption are embarrassingly high and escalating. Weak states usually honor rule of law precepts in the breach. They harass civil society. Weak states are often ruled by despots, elected or not.*

to such a level that the rule of law can no longer guarantee its security in the entire territory of the country. Further, state's presence is weak in entire areas where infrastructure and communications are very limited. Increased corruption is also one of the main causes of the strengthening the fragility of the Mexican state (Hammet, 2009).

The current government of Andrés Manuel López Obrador –representative of MORENA (Movement for National Regeneration)- has drawn up a program to combat organized crime and restore the rule of law in Mexico. The National Peace and Security Plan 2018-2024 will focus on reducing corruption and reactivating the enforcement of justice; building peace; the restoration and dignity of prisons and finally, public security, national security and peace (Presidencia de la República, Plan Nacional de Paz y de Seguridad 2018-2024).

López Obrador's strategy in security terms has not yet been clear whether militarization is to be continued or pacification is the main approach (Serrano, 2019). Even if the project of the National Guard¹⁹ -replacing the GNM- is pointing out that a different force than the police and the army is needed to counter organized crime activities, the new Mexican President focuses on fighting corruption and the reform of the country's justice system (Felbab-Brown, 2019).

In recent years, the criminal groups strive to exercise governance and strengthen their bonds mainly with the local population (UNODC, research brief, 2020). MDTOs are taking advantage of this situation to expand and diversify their activities in extortion and loansharking against civil population. Bigger organizations such as CJNG, are becoming more aggressive to the territorial conquest, benefiting from the current conditions due to their resistance to the effects for the global recession (Jones & Hale, 2020). Will López Obrador's new security policy have a major impact on these new forms of expansion and diversification of MDTOs, or his predecessors' failures will accompany him to the end of his presidential term?

19 For more insights: Hernández, G., & Romero-Arias, C.-A. (2019). La Guardia Nacional y la militarización de la seguridad pública en México. *URVIO. Revista Latinoamericana De Estudios De Seguridad*, (25), 87-106. <https://doi.org/10.17141/urvio.25.2019.3995>

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