

The Audacity of Guilt: The U.S. and the UNODC's Report on Organized Crime

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Riassunto

Come previsto l'anno scorso in questa rivista, il cancro dei cartelli di droga messicani si è diffuso unitamente, anche se in modo discreto, ai discorsi impolitici sul « fallimento dello stato » e sulle sue ramificazioni con la politica americana estera ed interna.

Di rado, tuttavia, nelle considerazioni sulle allarmanti prospettive della crescente e orribile violenza messicana – inclusi i dibattiti che accompagnarono il varo del rapporto di Antonio Maria Costa “UNODC’s 2010 Drug and Organized Crime Reports” a New York e a Washington, D.C., la scorsa estate – viene puntato il dito contro la causa principale della guerra fallita contro i cartelli criminali, ovvero la domanda statunitense di cocaina, di marijuana, di oppiacei e di droghe sintetiche ed i suoi corollari: approvvigionamento illegale, riciclaggio di denaro e armi.

Questo articolo cerca di approfondire le analisi sulla situazione critica del Messico rivelando l'ampiezza, la profondità e la diffusione dell'uso illegale di droga e degli altri reati ad essa connessi nella società statunitense, tanto a livello pubblico che privato.

Gli standard per i controlli e le autorizzazioni di sicurezza federale, durante gli ultimi venticinque anni, sono stati allentati a tal punto che un passato “senza droga” è l'eccezione e non la regola per l'operato dei servizi pubblici governativi.

Le peggiori e le più critiche rivelazioni sono quelle che riguardano quei funzionari, eletti e nominati ad alto livello, che hanno corrotto le regole della legge negli Stati Uniti giustificando e/o mentendo sulle proprie colpe passate e presenti. È solamente grazie al “governo trasparente, il miglior disinfettante” (“*sunshine government, the best disinfectant*”) che il presente del Messico non diverrà il futuro degli Stati Uniti e che entrambi i sistemi americani potranno ripristinare l'inviolabilità della supremazia della legge.

Résumé

Comme cela avait été prédit l'an dernier dans cette revue, le cancer des cartels de la drogue mexicains s'est métastaté et des discours impolitiques sur la « faillite de l'état » et sur son impact concernant la politique étrangère et intérieure américaine se sont répandus, bien que restants encore relativement discrets.

Parmi ces considérations et discours sur les perspectives effrayantes de la violence toujours croissante et terrifiante au Mexique – et même dans les débats qui ont entouré le lancement du rapport de Antonio Maria Costa « UNODC's 2010 Drug and Organized Crime Reports » à New York et à Washington, D.C., l'été dernier – rares sont pourtant ceux qui pointent du doigt vers la cause première de la guerre perdue contre les drogues illégales, à savoir la demande américaine de cocaïne, de marijuana, d'opiacés et de drogues synthétiques et ses corollaires : approvisionnement et distribution criminels ; blanchiment d'argent et armes.

Cet article cherche à enrichir les analyses sur la situation critique du Mexique en soulignant l'étendue et l'ancrage profond de l'usage illégal de stupéfiants et des autres délits liés aux drogues dans la société américaine, tant au niveau public que privé.

Par exemple, au niveau fédéral, les standards en matière d'enquête préalables et de délivrance des habilitations de sécurité ont été, pendant les vingt-cinq dernières années, assouplis à un point tel qu'un passé « *drug-free* » (sans drogue) est l'exception et non pas la règle pour l'emploi dans les services publics gouvernementaux.

Les révélations les pires et les plus critiques sont celles qui concernent ces fonctionnaires de haut niveau, élus et/ou nommés, qui ont corrompu l'état de droit aux Etats-Unis en justifiant et/ou en mentant sur leurs propres culpabilités passées et présentes. C'est seulement au travers de la mise en œuvre de la formule « *sunshine government, the best disinfectant* » (qui signifie que le meilleur remède vient du développement de la transparence au niveau gouvernemental) que le présent du Mexique ne deviendra pas l'avenir des États-Unis et que les deux systèmes américains seront en mesure de rétablir le caractère sacré et inviolable de la règle de droit.

Abstract

As predicted in this journal last year, the cancer of Mexico's drug cartels has metastasized and impolitic discussions of “failed state” and its ramifications for U.S. foreign and domestic policy are taking place, albeit quietly. Rarely in

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considerations of the frightening prospects of Mexico's ever increasing, horrific violence, however, including the discussions which surrounded Antonio Maria Costa's launching of the UNODC's 2010 Drug and Organized Crime Reports in New York and Washington, D.C. last Summer, are fingers rightfully pointed at the root cause of the failed War against Illegal Drugs, that is, the U.S. demand for cocaine, marijuana, opiates and synthetic drugs and its criminal supply and laundering of money and weapons.

This article seeks to expand the discussions of Mexico's plight by disclosing the breadth, depth and height of illegal drug use and other drug-related crimes in U.S. society, at both public and private levels. Standards for federal security "vetting" or clearance have been relaxed over the last twenty-five years to such an extent that a drug-free past is the exception, not the rule for government employment. The worst and most critical disclosures must come from those very high elected and appointed officials who have corrupted the rule of law in the U.S. by excusing and/or lying about their own past and present culpabilities. It is only by "sunshine government, the best disinfectant" that Mexico's present will not become the U.S. future and that both American systems may restore the sanctity of the rule of law.

"Bringing the rule of law to the international flow of goods and services is essential if the problems of organized crime are to be uprooted"¹.

"One reason for the drug-related violence in Mexico is that cartels are fighting over a shrinking market. This in-fighting is a blessing for America, as the resulting cocaine drought is causing lower addiction rates, higher prices and lesser purity of doses"².

Citing suspect statistics from the United States which underplay the extent of undeclared illegal drug use at every level of public and private society, including the highest and most privileged, the United Nations' Drug Czar Antonio Maria Costa launched in New York City on June 17, 2010, the UN Office on Drugs and Crime's (UNODC) first report on "The Globalization of Crime: A Transnational Organized Crime Assessment" (TOCTA) and in Washington, D.C.

on June 23, 2010, its annual "World Drug Report".

The first report is a welcome, excellent ten-year undertaking which attempts to give substance to the UN Convention against Transnational Organized Crime, adopted in 2000. It expands a new focus in the third chapter of the 2010 Drug Report on "The destabilizing influence of drug trafficking on transit countries: The case of cocaine," a focus in keeping with the Security Council's expression on several occasions, particularly in February 2010, of its "concern [for] the serious threats posed in some cases by drug trafficking and transnational organized crime to international security in different regions of the world"³.

Mr. Costa acknowledges with some regret the suffering of Mexicans since Calderon took office in 2006, and the now more than 28,000, many horrific fatalities⁴. He also elaborates the implications and costs of organized drug cartel

¹ United Nations Office on Drugs and Crime (UNODC), *The Globalization of Crime. A Transnational Organized Crime Threat Assessment (TOCTA)*, United Nations Publication, 2010, p. 18 (available at: http://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf)

² Costa A. M., UN Under-Secretary and Executive Director, Office on Drugs and Crime, UN Information Service, Vienna, June 22, 2010, p. 1 (website: http://www.unis.unvienna.org/unis/en/press_releases.html).

³ United Nations Security Council, *Statement by the President of the Security Council*, 24 February 2010, p. 1, available at: www.securitycouncilreport.org/atf/cf/.../DT%20SPRST%202010%204.pdf

⁴ United Nations Office on Drugs and Crime, *op. cit.*, pp. 238-240.

See generally: Olson E. L., Shirk D. A., Selee A. (eds.), *Shared Responsibility: U.S.-Mexico Policy Options for Confronting Organized Crime*, Woodrow Wilson

violence and corruption throughout the Central American region⁵. However, without confronting the reliability of efforts and figures provided by the real culprit, their northern neighbor, the United States, the most important “demand” country in the world, the TOCTA seems to avert the blame for the current state crises to Guatemala, Honduras and El Salvador which Mr. Costa explains are “even more badly affected, with murder rates much higher than Mexico,” and to West Africa where “traffickers have been able to co-opt top figures in some authoritarian societies”⁶.

Absent from the UNODC’s analyses is confrontation of the unreported, endemic corruption in the permissive “democratic society” of the United States where drug crimes are committed by persons at the highest levels of government with the express or implicit permission and sometimes even participation of law enforcement and other public authorities. Speaking of countries other than the U.S. and Europe, Mr. Costa warns at pages 34-35 of the Report that: “Some of the areas most afflicted by organized crime have very low levels of violence, just as some authoritarian societies have very low crime rates. Typically, the better organized the crime, the less violence associated with it. *The groups concerned have paid off the appropriate officials, resolved intra- and inter-group tensions, and terrified the public to the extent that very little additional violence is required*” (emphasis added). It is this problem of lying, hypocrisy and corruption in still drug-infested America which I

seek to address in this short article, beginning with the now publicly reported trafficking of illegal drugs in the 1980’s from Nicaragua to Mena, Arkansas, governed then by Bill Clinton, and elsewhere in the U.S., with the complicity of the Arkansas and Alabama National Guards, as well as others, using a CIA-affiliated carrier named “Southern Air Transport”. These U.S.-sponsored “organized” and “classified” crimes were committed under the cloak of national security secrecy and were only indirectly acknowledged by then CIA Director John Deutch after public confrontation at a Los Angeles press conference held by the now deceased Congresswoman Juanita McDonald and Congressman Julian Dixon late in the 1990’s. The facts concerning the covered-up illegal drug trafficking of the Reagan/Bush and Clinton Administrations, withheld from the American people, were described among other sources in the book Dark Alliances by an investigative journalist named Gary Webb⁷ who died of two gunshot wounds to his head. His tragic death in Sacramento, California, was implausibly ruled “suicide”.

The current and immediate past strategy of Mexican drug cartels as described by Mr. Costa⁸ is to run their candidates for political office, something the underground, often silent illicit U.S. “drug lobby” has been doing for some years now. Addressing the problem of illegal drugs is still considered to be the “third rail” of U.S. politics, according to a comment made to this author by a legal counsel for the U.S. House Foreign Affairs Committee one day before Obama

Center and University of San Diego Trans-Border Institute, Oct. 22, 2010.

⁵ *Ibidem*, pp. 240-242.

⁶ *Ibidem*, pp. 34-36, 86-89, 105, 233-236.

⁷ Webb G., *Dark Alliance: The CIA, the Contras, and the Crack Cocaine Explosion*, Seven Stories Press, New York, 1998, 1999.

⁸ United Nations Office on Drugs and Crime, *op. cit.*, p. 239.

was elected; that is, the issue will bring certain mobilization and “subterranean” organization against you if you seriously challenge the corruption or public crime rampant in illegal drug-tolerant U.S. society.

The last time illegal drug use was made a public issue in U.S. political discourse was in 1987, on the occasion of the nomination by Ronald Reagan of Harvard Law Professor and U.S. Court of Appeals Judge for the District of Columbia Douglas H. Ginsburg to the U.S. Supreme Court. Ginsburg withdrew his name from Senate consideration on November 7, 1987, after it was disclosed that he had smoked marijuana as a member of the Harvard Law Faculty.

The hypocrisy of “just say no” Reagan nominating an unconvicted drug criminal to the highest court in the nation who could not use the evasive excuse of “youthful indiscretion” (which Harvard Law graduate Obama has used so duplicitously), or for that matter his appointment to the U.S. Court of Appeals, evidences a systemic problem of corruption at the highest levels in the U.S. Government. Another rare case involved the 1996 race of a member of Congress who lost her re-election bid in a blue-collar Republican district when her illegal drug use in college was disclosed. The question of illegal drug use was not raised in the public Supreme Court confirmation hearings after the Douglas Ginsburg defeat, specifically in the cases of Roberts, Breyer, R.B. Ginsburg, Sotomayer and Kagan, to the great detriment of the public and to that of the institution of the Supreme Court itself, and of all courts beneath it.

In a tape recording aired by CBS Nightly News Anchor Dan Rather in February 2005, some two

or three weeks before he was fired, George W. Bush confessed in a recorded phone conversation his frequent marijuana use and inartfully avoided the question concerning cocaine. Albert Gore, a known illegal drug abuser before and after assuming public office in Tennessee in 1978, successfully deflected a similar question by ABC Morning Show Host Diane Sawyer concerning his illegal “habit.” When asked, he turned to his wife who said to the viewing audience: “What, my boy scout husband?”

Contrary to the findings in the UNODC 2010 Drug Report which are based on Member States’ data, the use of illegal drugs is likely much more prevalent now in the United States as compared to the standards of the early 1980’s when usage could bar entry into government and private sector jobs, including the FBI, the CIA or the DEA, and lying about usage certainly would. In 2007, the FBI required Special Agent recruits to take an oath that they had not “recently” used or consumed illegal drugs, that is to say, in the last three years for marijuana and the last six for other controlled substances. The same year, the CIA standard was that agents not have consumed illegal drugs in the last year. Drug Enforcement Agency recruits were admitted during 2007, only if their drug usage was confined to marijuana which was taken only experimentally and only as a youth⁹.

Obama admitted only to youthful, indiscreet and experimental use of illegal drugs before he reformed his life during his tenure as an undergraduate student at Columbia University in

⁹ See Dominick M., « La guerre contre les drogues illicites: Est-ce qu’elle est perdue ? », *Rivista di Criminologia, Vittimologia e Sicurezza*, Vol. III, No. 2, May-August 2009, pp. 98-102.

New York, but there are many now who believe that he has lied, as have Al Gore, Bill and Hillary Clinton, Joe Biden and George W. Bush, as well as current members of the U.S. Supreme Court. These and other politicians' "confidential" statements made during the classified vetting processes are kept secret so that the public cannot check the veracity of their drug experiences and hold them accountable. Many members of the press, often users themselves, simply do not care to report about the important issue of illegal drug use, even as an integrity or veracity issue.

On a personal note, I was an innocent victim of drug crime committed by Howell Heflin, the Chair of the U.S. Senate Ethics Committee and of the Judiciary Committee's Subcommittee on the Courts the last Sunday in April 1987, on the secured premises of the Select Iran-Contra Committee. Heflin himself, Select Committee Legal Counsels Arthur Liman and Paul Barbadoro, later Senator Richard Shelby Chief of Staff Tom Young, Security Chief Ben Marshall and others present illegally conspired and gave me a cup of coffee laced with what Heflin called a "\$7 steel hammer," then street names for PCP or LSD. The FBI under William Sessions and all Attorneys General from Edwin Meese onward refused to investigate that crime and the concomitant transport of illegal drugs to members of the Reagan/Bush White House and their Republican Administration (including, I believe, George W. Bush, Blair Downing and others) and to Democrats on Capitol Hill (including, I believe, members of Heflin's staff, Al Gore and his staff, Alabamian(s) and perhaps others on Joseph Biden's staff, Richard Shelby's staff, and others) in Washington, D.C. through a car packed in

Alabama which I unwittingly drove from Atlanta, Georgia, the last week of February 1987. The covers-up of those two drug crimes, committed with the complicity of still unknown federal authorities, resulted directly in the murders in 1989, of 11th Circuit Court of Appeals Judge Robert Vance, in Birmingham, Alabama, and of civil rights attorney Robert Robinson in Savannah, Georgia, through an unpardonable conspiracy covered-up by public officials, including George H.W. Bush, William Rehnquist, Richard Thornburgh, Louis Freeh, Jeff Sessions, and others responsible for bringing the perpetrators to justice. Organized drug criminals from Alabama and New Orleans, one can even say Mafia, were responsible with public officials and other private persons for a cascade of still unresolved outrages committed by persons at the highest levels of the U.S. Government, and subsequent murders of other persons who also tried to expose the truth, including, I believe, White House Counsel Vincent Foster, Narcotics Sergeant John Rye of the Birmingham, Alabama Police, Professor Gennady Danilenko of Wayne State Law School in Detroit, Michigan (formerly of the Soviet Academy of Sciences), and now many others.

In the mid-1990's, I myself was falsely imprisoned and tortured, including an attempt to murder me in a Manhattan detention cell by someone who placed cellophane down my throat as I tried to phone the FBI. I was illegally arrested and forced into custody by the order of New York City District Attorney Robert Morgenthau himself immediately after and because I put my suspicions of the Vance/Robinson murder conspiracy in writing to Senate Select Iran-Contra Committee

Legal Counsel Arthur Liman. They charged me, falsely, with “criminal nuisance” and after pleading innocent at the arraignment, I was illegally detained first at the infamous Riker’s Island and then on a criminal psychiatric ward without trial for some three months even though the false charge was dropped by Liman. During that time I was drugged daily with psychotropics, denied the right to defend myself by being given additional drugs which rendered me unable to speak, beaten twice on the face and raped by a prison guard, and subjected to other torture including acid placed on my private parts by prison authorities.

Unlike the cases of the August 2008 “Operation Cleanup” in Mexico or the purges in Guatemala, Honduras and El Salvador described in the TOCTA¹⁰, the U.S. has never punished high level illegal drug-related corruption. We need to heed Justice Louis D. Brandeis admonishment that: “sunshine is the best disinfectant”. Rather than pointing the finger at others, the U.S. needs to expiate its own guilt, establishing a Truth and Reconciliation Commission, naming names of those responsible.

The UNODC is not, of course, a police or law enforcement agency, yet it is in a unique position to challenge the data fed it by U.S. Administrations, especially since the reported “precipitous decline” by half in U.S. cocaine use from 2006¹¹. I suggest that as with the revised environmental carbon emission statistics and other figures used by the U.S. in Copenhagen in 2009, it is possible that the new U.S. illegal drug usage

statistics are unreliable. A necessary United States *mea culpa* or at least self-examination of conscience was not part of the UNODC’s two major June 2010 reports on Drugs and Organized Crime.

Until the debate focuses on full transparency in the chief consuming countries of North America and Europe, especially use and abuse of illegal drugs by its leaders and financial crimes committed at all levels of the domestic and international drug chains, the supplier nations in Latin America, Afghanistan, Pakistan, West Africa and elsewhere cannot and should not be expected to resolve their own crises of corruption and violence. Failure of consuming countries to enforce the UN Conventions on Illegal Drugs, on Organized Crime and on Corruption while blaming the producing countries not only undermines the latter’s security but also their own. In no way is Mexico’s current nightmare a “blessing” for the United States, as Mr. Costa stated publicly in Washington, D.C., on June 23, 2010, and in the June 22, 2010 UN Information Service Press Release quoted above¹²; rather it is an indictment.

In conclusion, Mr. Costa warns that “conflict zones are not the only places where transnational organized crime can pose a threat to the state. There are a number of areas around the world where criminals have become so powerful that, rather than seeking to evade the government, they begin to confront it. In these cases, a pattern of symptoms is typically manifest. Investigators, prosecutors, and judges who pursue organized

¹⁰ United Nations Office on Drugs and Crime, *op. cit.*, p. 241.

¹¹ See United Nations Office on Drugs and Crime, *op. cit.*, at pp. 5, 82, 86, and 105.

¹² Costa A. M., UN Under-Secretary and Executive Director, Office on Drugs and Crime, UN Information Service, Vienna, June 22, 2010 (website: http://www.unis.unvienna.org/unis/en/press_releases.html).

criminals are threatened and killed. Journalists and activists may also be targeted. Corruption is detected at the highest levels of government, and law enforcement can become paralyzed by mistrust”¹³. He was talking about parts of Central America and West Africa, but he could have been talking about the U.S.A. and its “audacity of guilt”.

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¹³ United Nations Office on Drugs and Crime, *op. cit.*, p. 221.