

Editorials

Overview of the Issue

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IN THIS SPECIAL ISSUE ON “LATIN AMERICAN PERSPECTIVES ON CRIME AND SOCIAL Justice” we are pleased to offer a sampling of articles that put forward new definitions and approaches to the causes of violence and its control particular to that region. We hope that this issue will contribute to the further development of the critical criminology movement that first emerged in the 1970s in this region and has developed parallel to the current Central America Peace Initiative. The latter initiative has been both a product of, and a catalyst for, a process of change not only in Central America but also in Latin America as a whole.

The simultaneous maturation of these developments is not accidental. Both reflect a growing nationalism and assertion of sovereignty by Third World countries in this hemisphere. Both are manifestations of a desire for political pluralism and share a common concern with charting a different course from that imposed until recently by the West, especially the United States. Esquipulas II, as the Central America Peace Initiative is called in Central America, represents a breakthrough for relatively autonomous regional conflict resolution that signals a long-term structural shift in Central and Latin American relations with the United States, a redefinition of the terms of U.S. hegemony. Similarly, critical criminology represents a fundamental departure from the methods of scientific inquiry transplanted to Latin American realities from Western criminology via United Nations and other funding agencies.

Although the still unresolved process of redefinition of U.S. hegemony is unquestionably a positive development, the domestic implications for the countries involved remains ambiguous. The contradictory role of the military, which has been overwhelmingly repressive in its domestic policies, leaves it a question how these changes will manifest themselves at the level of human rights, justice systems, penal functioning, and power relations between the Right and the Left. In the shorter run at the international level, however, the peace agreement could promote a renewed respect for the United Nations’ peacekeeping functions and for the observance of international law.

This “Editorial Overview” seeks to provide a context for the articles in the issue by outlining the main features of the Peace Initiative and of Latin American critical

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criminology. Likewise, background information on specific countries is provided, in some cases to reflect changes resulting from the Peace Initiative. We have also emphasized significant themes and political issues which merit further investigation, and linked them with a broad outline of an emergent critical criminology movement.

The Peace Initiative

Whatever the ultimate outcome and the calculations of powerful military leaders behind the thrones, a milestone was reached when in August 1987, five Central American presidents, José Napoleón Duarte (El Salvador), Oscar Arias Sanchez (Costa Rica), Daniel Ortega Saavedra (Nicaragua), Vinicio Cerezo Arévalo (Guatemala), and José Azcona Hoyo (Honduras) signed the Esquipulas II peace accord entitled "A Procedure for Establishing a Firm and Lasting Peace in Central America." It followed in principle from their declaration in May 1986 in Esquipulas which stated in part:

Peace in Central America can only be the fruit of an authentic democratic process that implies the promotion of social justice, respect for human rights, territorial sovereignty and integrity of the states and the right of all nations, without foreign interference of any kind, to freely determine their economic, political, and social model, understanding this determination as the product of a will freely expressed by their peoples.

Esquipulas II required four conditions to be met simultaneously with the imposition of cease-fires:

1. Governments in conflict were to offer amnesty for those convicted of political crimes and for guerrillas who laid down their arms. Insurgent forces would be obliged to free their prisoners.
2. Unarmed opposition groups and insurgents who accepted the amnesty would be invited to start talks with their respective governments on democratic reforms, including a commitment to a democratic, pluralist, and participatory process with elections held according to the schedule defined by the laws of each country. All such groups would enjoy freedom of assembly and access to the news media. Emergency laws were to be lifted, and a National Reconciliation Commission was to be established in each country.
3. Governments inside and outside the region were to stop all military, financial, and propaganda aid to Central American irregular forces or insurrectionary movements.
4. All governments also were to stop allowing insurgents to use their territory to attack or destabilize any other country in Central America. The crisis of refugees and displaced peoples was to be addressed. Ongoing

negotiations on matters of national security were called for as was an International Verification Commission that would evaluate the compliance of each country with these provisions.

Such compliance with the peace plan has had different ramifications for each country party to the plan and has initiated a series of changes in each, some of which we will discuss more fully below. For the peoples of many Central American countries—in El Salvador, Honduras, Guatemala, Costa Rica, and Nicaragua—living conditions and wages have fallen to the levels of a decade ago as they have been beset by the worst economic crisis of this century. This follows six straight years of recession, devaluation, and political instability. For the governments of these countries, the plan presents an opportunity to increase regional trade relations and generate an economic revival to spur their debt-ridden economies.

For its part, although the Reagan administration has been forced to postpone a request for further military funding of the *contras*, it has reacted with hostility to the plan and has viewed compliance exclusively in terms of political concessions by Nicaragua. In retaliation against Costa Rica for its role in the peace process, the administration temporarily suspended all economic assistance and exerted pressure to block international bank credits and trade relations.

Latin American Critical Criminology

Since its founding *Crime and Social Justice* has supported the development of a Latin American critical criminology. In 1975, we published Rosa del Olmo's article, "Limitations for the Prevention of Violence: The Latin American Reality and Its Criminological Theory." In it, four types of violence were outlined: *individual violence* (certain types of crime); *structural violence* (poverty, hunger, unemployment, and exploitation); its corollary, *institutional violence* (repression via police activities and torture); and *guerrilla violence*.

Despite the fact that the social realities of almost all Latin American countries are characterized by the determinant role of structural violence, according to professional criminologists (and often public opinion) only crime and guerrilla actions have been considered *illegitimate* violence. Critical criminology called upon Latin American criminologists to abandon their disdain for the *totality* of social reality and to break with scientific and cultural dependency. Such dependency has manifested itself in copying and translating models produced for other realities, thus blocking the development of theory corresponding to real needs and, thereby, any real hope of preventing violence in Latin America.

The further development of this tendency has been given impetus by the organization of the Latin American Critical Criminology Group (see Dod, 1986: 62; and Dod and Shank, p. 113, in this issue), as well as received validation from the awards conferred upon Latin American criminologists, including Vilma Nuñez (Nicaragua), Rosa del Olmo (Venezuela), and Margarita Viera (Cuba), by the American

Sociological Association (see the following “Editorial”). The group is working to broaden the scope of inquiry to include violence within Third World countries, crimes within the core capitalist countries to the extent they are reproduced in Latin America (e.g., drug-related problems), and relations between the capitalist core and “less developed” countries (in terms of capital accumulation) of the periphery.

Further, critical criminology in Latin America seeks to define crime and criminology not only within the context of its socioeconomic realities, but also with regard to the right to national sovereignty, respect for human rights and international law, and the process of change to a more just social order. Among their concerns has been identifying as international crimes conduct that has systematically victimized their peoples. This includes the international crimes of U.S.-directed state terrorism that has aimed to destabilize and overthrow the government of Nicaragua; the usurious practices of international creditors (Western bankers and their allies in governments and international lending institutions) which have particularly since the 19th century foreclosed the possibility of real economic development for indebted Third World nations and imposed massive reductions in the standards of living of those countries; and the transnational criminality of the Reagan administration’s hypocritical “War on Drugs,” a program that emphasizes the use of dangerous aerofumigation techniques to eradicate marijuana and coca crops in Third World countries using deadly chemical toxins.

Another tendency emphasizes the existing limits on the achievement of true liberation in Latin America. The “critical social control” theory of Lolita Aniyar de Castro includes areas otherwise neglected by critical criminology: education, religion, economics, philosophy, history, and politics. Among these limiting factors are domination by a foreign culture, i.e., Western cultural imperialism; the class structure which reserves privileges to a few at the expense of the majority; traditional history, which is used as an instrument of class domination and interpreted in such a way as to justify colonialism; the mass media, controlled and manipulated by a powerful elite which diffuses and imposes its ideology; and a technology that reinforces Latin America’s dependency on foreign markets.

As Esther Madriz points out in her review of de Castro’s book in this issue, Emiro Sandoval Huertas—the Colombian criminologist assassinated in 1985 in the Palace of Justice in Colombia—maintains that despite divergent interpretations, there are at least four common points supported by most critical criminologists:

1. Criminology, rather than focusing on the etiology of crime and deviance, should focus on the analysis of the process of criminalization;
2. The criminalization process is part of a broader phenomenon, namely social control. This is defined as the sum of social institutions, normative and value systems, which play a fundamental role in the preservation of the status quo;
3. Critical criminology tries to identify harmful social behaviors or condi-

tions which affect the lives of the majority of the people; and

4. The above factors should be analyzed within the material and historical conditions existing in Latin and Central American societies.

The critical and liberation approaches intersect to the extent that they both envision their science to be concerned, probing, conscious, and militant, a tool of daily life. Criminology should be capable of countering conceptions and activities at the margin of the law, as well as opposing those who use violence and force as an expeditious means of solving international conflicts, thereby preventing genuine self-determination that would benefit the majority of the peoples of Latin America. As such, this approach necessitates scientific inquiry into, and the practical condemnation of, international crimes that are themselves forms of violence and violations of peace in the region.

Implications of the Peace Initiative and Current Events in Nicaragua, El Salvador, and Panama

The peace initiative brings to the fore several issues relevant for the continued development of the critical criminology movement. Of particular importance to the fulfillment of obligations under international law and respect for the norms established by the Nuremberg Tribunals is the current implementation of the amnesty provision. We discuss the human rights implications of this issue more fully below with respect to Nicaragua and El Salvador, but it is relevant to countries throughout the hemisphere.

At issue is the bestowing of retroactive immunity upon military and police officials who organized and carried out mass killings and atrocities against the civilian populations in El Salvador, Guatemala, Argentina, Uruguay, and other countries. The creation of a state-terror apparatus and use of the legal and criminal justice systems, police, and judiciary by right-wing military regimes to carry out large-scale programs of torture, disappearances, and assassination have resulted in war crimes, crimes against humanity, and a consistent pattern of violations of fundamental human rights as well as violations of the Geneva Conventions of 1949.

International law also stipulates that all military officers or civilian officials who knew or *should have known* that troops or other individuals subject to their control were about to commit or have committed war crimes are fully responsible themselves for those crimes and can be punished as war criminals. The CIA's creation and U.S. financing of the Nicaraguan *contra* force (whose atrocities have been abundantly documented) and the role of U.S. aid in supporting Central and Latin American state-terrorist structures as part of a larger counterinsurgency plan should be considered in this light.

The winning of peace requires the forging of a new social pact in Central America, and this in turn requires a settling of accounts. Although the pragmatism of the moment in Central America demands peace, the survivors in each country

and history will also call for justice. Implementation of the Central American peace agreement raises the immediate need for precision in formulating criteria for “political prisoners” and “political crimes.” As noted below, the U.S. State Department has made “political prisoners” out of common criminals in Nicaragua to achieve ideological ends while rightly protesting the release under the amnesty of two Salvadoran national guardsmen convicted of assassinating two U.S. AIFLD agricultural advisors. Although U.S. diplomats supported the legislation under which the two assassins were released—indeed, in practice the U.S. overwhelmingly stands behind the pro-military amnesty measures throughout the region—the State Department now objects that this crime was not a “political” one, and therefore the guardsmen were not entitled to amnesty under the Central American peace agreement. Captured *contra* terrorists, on the other hand, they would most certainly consider to be “political prisoners.” Because of these inconsistencies and the belligerent role of the U.S. itself in the region, verifying compliance with the peace initiative could not be left to the U.S. any more than could defining the content of “democratization”—for Nicaragua or for any other country in the region.

Nicaragua and the Peace Accord

The Sandinista government in Nicaragua has made implementation of the peace plan the national priority. The war had compelled them to emphasize defense over the initial goals of dramatically increasing the levels of literacy and health care for Nicaraguans. The war cost thousands of people dead, wounded, mutilated, kidnapped, or orphaned—and the conflict displaced over 300,000 people. The methods of low-intensity warfare employed in the U.S. destabilization strategy include sabotage, terror, and selective assassination that targets social activity in peasant regions. Thus, the *contras* have assassinated health brigade workers, literacy teachers, technicians and professionals, agricultural workers and cooperative members. Almost a dozen international volunteers have been killed in an effort to intimidate and deter those who offer international solidarity, those who have come to rebuild what Reagan’s mercenary force has destroyed (Nuñez, 1986).

Since 1983 the *contra* war has emphasized destruction of the economic infrastructure; in combination with the U.S. trade embargo, this has imposed a high cost on the Nicaraguan economy. In 1987, the inflation rate was running at 700%-1,000% while wages increased only 100%; the trade gap continues to grow as the value of Nicaragua’s exports declined from \$646 million in 1978 to \$218 million in 1986, while imports rose from \$594 million to approximately \$839 million over the same period. At the same time, Nicaragua’s foreign debt reached \$6.4 billion, which is the equivalent of 50 years of exports. Indeed, Nicaragua has ceased paying back the debt and has adopted the policy that payments would only be made in exchange for more loans. Few creditors are willing to make loans under these circumstances; and in the face of a shortage of oil, only the Soviet Union has been

willing to provide Nicaragua with this precious commodity—at levels 50% less than Nicaragua's actual annual needs.

Similar to other Central American countries, then, Nicaragua—the second poorest country in Latin America, just above Haiti—must surmount the regional economic crisis. The peace accord became viable in part for this reason, but also because the *contras* have been exposed as a corrupt, antidemocratic, and unviable mercenary force that has failed to develop a significant domestic popular base. Internal democratization is a prerequisite for compliance with the peace accord, but the ongoing war and the political legacy of the past—*Somocismo*—have presented serious problems for the pluralist project of the Nicaraguan Revolution. Perhaps in recognition of the latter dimension, on the eve of accepting the Nobel Peace Prize, President Oscar Arias Sanchez of Costa Rica identified the U.S. supported and financed *contra* insurgency “as the main obstacle to realizing the goals of the peace accord and stated that as long as there is that aggression, you cannot ask Nicaragua to democratize.” If we are to apply regional standards, it is also pertinent to ask whether the “counterinsurgency democracies” of El Salvador and Guatemala or the government of U.S.-occupied Honduras are genuinely democratic.

In this context, the Sandinista government has made major efforts towards compliance. It immediately opened negotiations with opposition forces, established a reconciliation commission, and later declared a cease-fire, declared its intention to lift the state of emergency when the Reagan administration ends all support for the *contras*, expanded civil liberties and press freedoms, and declared another amnesty. (Nicaragua has had an amnesty program in operation since 1983 under which nearly 5,000 *contras* have returned to Nicaragua. Another 4,800 people who had fled to Costa Rica and Honduras have returned, and by mid-1987, approximately 11,200 Miskito Indians returned to their homes.)

Implementation of the amnesty raises many complex issues of interest to criminologists that range from the international standards of justice for war crimes and atrocities committed during the Somoza dictatorship; to punishment for the terrorist assassinations committed in the last six years by the *contras*; to the limits on dissent and political and human rights in this context.

For example, with the signing of the peace accord in August 1987, the political opposition to the Sandinistas deliberately provoked confrontations with the police and in the process pushed for a complete amnesty. After an opposition rally in Managua, two lawyers, Lino Hernandez (director of the antigovernment Permanent Commission for Human Rights in Managua), and another critic of the Sandinistas, Alberto Saborio (president of the Nicaraguan Bar Association), were detained for not having a rally permit. They were subsequently released to visiting U.S. Senator Tom Harkin (D-Iowa) in September 1987 after serving 24 days of a 30-day sentence.

These pro-*contra* lawyers utilized the incident to make a provocative call for a complete amnesty for “everyone tried by the people's tribunals, along with everyone who is detained for violating state security laws or committing related acts.” This

call has been controversial in Nicaragua because of public opposition towards freeing known and convicted assassins. Yet, in November 1987, Nicaragua freed nearly 1,000 prisoners, including some former members of Somoza's National Guard.

Moreover, who are Nicaragua's prisoners? Are Nicaragua's prisons filled with "political prisoners"? Should the 8,000 prisoners according to government statistics, or the 10,000 prisoners estimated by Abel Reyes, the organizer of the January 22 Movement (made up of relatives of prisoners), be covered by the amnesty? In this issue of *Crime and Social Justice*, Benedict Alper takes a look "Inside Nicaragua's Prisons" and finds that of the approximately 9,000 persons in confinement, 5,000 are serving time for violations of the criminal law, 2,100 are former members of Somoza's National Guard, and 2,000 are *contras* (for a rate of 330 prisoners per 100,000 out of Nicaragua's three million inhabitants, compared with 500,000 prisoners, or 480 per 100,000 in the U.S.). Gerda Ray's "Report on the First Seminar on Penitentiary Systems of the Americas" in this issue discusses a February 1987 Americas Watch Report entitled *Human Rights in Nicaragua 1986* which dissects how the U.S. State Department literally invented two categories of prisoners in Nicaragua, those "convicted" and those "detained" on "trumped up charges," to justify its absurdly high estimates of the number of political prisoners:

Either the State Department believes that everyone accused of common crimes in Nicaragua is really a political prisoner, or these two categories are drawn out of thin air and designed exclusively to make the total numbers match the exaggerated figures given by the Country Reports (Americas Watch, 1987: 162).

The report concludes that Nicaragua does not have a policy of imprisoning people for political beliefs and does not engage in torture, deaths, or disappearances. The number of security-related detentions increased markedly in 1986, but they were concentrated in areas of *contra* activity and do not represent a policy of using the counterinsurgency statute (Decree 1074, the Law of the Maintenance of Order and Public Security) against political opponents.

As with the composition of the émigré Cuban "Marielitos" (over 45% had criminal backgrounds) who recently rioted after nearly seven years in U.S. penitentiaries, the United States would object if Nicaragua were to transfer its "political prisoners" to Miami. Both Ray and Alper as well as Muñoz Gómez touch upon the question of what role prisons should play in societies such as Nicaragua or Cuba, and also upon the propriety of granting amnesty to the *contras*, 42% of whose civilian victims are children.

Peace will have to come to Nicaragua before some of these contradictions can be fully resolved, although Nicaragua has made impressive and courageous strides in addressing them in the midst of a war.

El Salvador

The Peace Initiative has unleashed an entirely different process in El Salvador. It is useful to refer again to the determinant role of structural violence in the region—elements also central to a lasting peace, such as overcoming economic stagnation and indebtedness, the grinding poverty issuing from social inequalities, and the disregard for human and political rights by the weak state mechanisms controlled directly by oligarchic-military elites and indirectly by their foreign business partners. The corollary to these forms of violence is institutional violence: the parastatal death squads, the police torture apparatus, and the counterinsurgency apparatus.

The article “Justice and the Penal System in El Salvador” by Atilio Ramírez Amaya et al. in this issue discusses how the economically dispossessed classes in El Salvador (this is true for Guatemala as well) were moved toward a radicalization of their political options after participation in electoral processes in the 1960s and 1970s which not only turned out to be fraudulent but also resulted in the assassination of hundreds of their leaders. The article details the role played by the judicial apparatus in the generation of an insurmountable spiral of institutionalized violence which was grounded in the police force, the armed forces, and other powerful groups united in a counterinsurgency plan that was dictated from abroad and expressed via the regime of President José Napoleón Duarte. In the carnage, since 1980, 62,000 civilians have been murdered mainly by the death squads and security forces (over one percent of El Salvador’s population of 5.2 million), at a rate of as many as 1,000 opposition and union activists per month in 1984; over 500,000 people have been internally displaced; 1.4 million people (25% of the total population) have fled the country largely as a result the army’s destruction of villages in the war.

The peace accord has had far-reaching implications for El Salvador. Salvadoran President José Napoleón Duarte has attempted to bolster his extremely weak domestic political position by embracing the peace accord. On the one hand, he has used it to promote self-serving parallels between the mercenary *contra* terrorists in Nicaragua and the revolutionary violence of the FMLN (Farabundo Martí National Liberation Front), which has both a substantial social and military domestic base. On the other hand, the October 1987 “amnesty” approved by the National Assembly prohibits the investigation or prosecution of members of death squads or members of the military suspected of taking part in massacres of civilians, allowing Duarte to sidestep a confrontation with army officers. Although this amnesty was justified as an attempt to comply with the conditions of the peace plan, it is a heated issue that goes beyond El Salvador and precedes the peace plan. Similar amnesties have been introduced in Argentina, Brazil, Guatemala, and Uruguay *as a condition for civilian governments to govern*. (See the Nora Strejilevich article on disappearances in this issue, which points to the important precedent set by Argentina’s Alfonsín government—by holding the military and police accountable

for these crimes—that was eventually undermined by pressure from the military.) For El Salvador, the amnesty not only destroys any hope of prosecutions, it also shatters any expectation of the nascent growth of an independent judicial system.

Despite President Duarte's repeated promises to bring the authors of the death squad murders and military atrocities to justice, intervention by the Catholic church alone excluded those responsible for the murder of Salvadoran Archbishop Arnulfo Romero in March of 1980 from the amnesty. Thus, it is not a measure of Duarte's political courage that he has sought to prosecute the commander-in-chief of the death squads, Roberto D'Aubuisson, for the assassination of Monsignor Romero, but rather a smoke screen with which to conceal his hypocrisy from his American benefactors as he has continued to allow the death squads to gun down respected human rights activists (including the head of the nongovernmental Human Rights Commission) in September and December 1987, thus sabotaging the peace talks.

El Salvador remains the third largest recipient of U.S. aid in the world (that aid could climb to a record \$770 million in fiscal year 1988). Building up counter-revolutionary forces and attempting to annihilate revolutionary ones in El Salvador have already cost U.S. taxpayers over \$2 billion in direct military and economic aid, funds which guarantee that the war keeps raging. Since the U.S. now provides most of El Salvador's national budget, few decisions are made without U.S. approval. Not only has the U.S. Congress funded military grants of \$115 million for military equipment, it has also provided \$7.4 million for police training and "professionalization" for the fiscal year ending September 1987, and another \$9.1 million for police and security assistance was designated after the peace plan was signed and despite protests of ongoing human-rights abuses by the police. The congressional ban on such police funds was lifted on the basis of the necessity of countering terrorism. In 1985, Duarte used U.S.-trained counterterrorist units to break a strike by hospital workers.

Further, the U.S. Agency for International Development (AID) administers the pacification and "democratization" programs in El Salvador. The former include non-lethal resources and techniques to reduce support for the FMLN and to more tightly control the rural population, and range from agrarian reform, civic action, food distribution, and rural reconstruction to refugee programs. The latter include stabilization through institution building: the judicial system, the security forces, U.S.-associated labor unions, and the electoral system (Barry and Preusch, 1987: 32).

The North American population may also more directly reap the harvest of the Central American war. An estimated 350,000 Salvadorans and 150,000 Guatemalans now live in and around Los Angeles. In 1987, two kidnappings and over 30 death threats to Central American activists have raised fears that transplanted Salvadoran death squads are now operating in Los Angeles, a phenomenon which should be of interest to American criminologists (see Jamail and Loucky, 1987: 4).

Panama

Although Panama, with her two million inhabitants, is not one of the countries involved in the Central America Peace Initiative (but is involved in Contadora), it is safe to say that any changes in U.S.-Central America relations must have repercussions in daily Panamanian-American relations at the local level. Panama is the home of the U.S. military's Southern Command (SOUTHCOM), which since the 1960s has been pivotal to region-wide intelligence sharing and command and control systems for support of counterinsurgency operations in Central America. SOUTHCOM's civic action planners worked jointly with U.S. military advisors stationed in El Salvador to develop the counterinsurgency pacification plan called "United to Reconstruct" by the Salvadoran Armed Forces.

The role of Panamanian General Manuel Antonio Noriega—the head of Panama's military intelligence service for 13 years prior to becoming armed forces commander-in-chief—in Central American politics came under scrutiny during the Iran-*contra* hearings, which identified Noriega as the source of an offer to undertake sabotage operations and possibly assassinations in Nicaragua on behalf of the Reagan administration. Contradictorily, Noriega has publicly supported Nicaragua and the Contadora process.

In her "Critical Analysis of the Panamanian Penal Law" in this issue, along with a critique of the control functions of the penal code, Carmen Antony provides valuable background on the political currents which were manifest first in the coup d'état which brought populist-nationalist General Omar Torrijos Herrera to power, and after his death, the country's current military leadership. Antony expresses the hope that the rapidly changing historical events in Central America—particularly the U.S.-led war against Nicaragua, with its fierce anticommunist campaign, and political, economic, and military pressure against all of its countries—will allow the very necessary research, of which this article forms a part, to be completed.

Events have unfolded dramatically in Panama itself in 1987. After allegations by Noriega's former second-in-command, Colonel Roberto Diaz Herrera, to the effect that Noriega had conspired with the CIA to assassinate Gen. Omar Torrijos, rigged the 1984 elections, and ordered the 1985 torture and murder of Hugo Spadafora (a friend of Torrijos who accused Noriega of drug trafficking and promised to produce evidence), riots broke out through the summer calling for Noriega to resign. A state of emergency was declared in July and in August 50,000 people affiliated with the opposition National Civic Crusade (in which the Chamber of Commerce plays an active role) rallied against Noriega and a two-day general strike closed 90% of all businesses in Panama City. Riot squads known as Dobermans dispersed university demonstrators with tear gas and birdshot, and police raided the offices of the National Civic Crusade.

News accounts emphasize the U.S. State Department's desire to force Noriega out and to set Panama along the "path to real democracy." The U.S. Senate passed

a resolution calling on Noriega to step down. State Department and Pentagon officials have stated that the broad thrust of U.S. policy toward Panama is to professionalize the Panama Defense Forces by removing them from politics. Moreover, they say, “We think Panama needs civilian rule, and we would vastly prefer to hand the Canal over to a functioning civil democracy.” With statements like these and the Reagan administration’s traditional antipathy to the Panama Canal Treaty, it is not surprising that Noriega has charged the U.S. with interfering in Panamanian affairs and with seeking to renege on the treaty, which returns the Canal, currently occupied by 10,000 U.S. troops, to Panama in the year 2,000.

Objectively, the Reagan administration has turned on its alleged former CIA asset by suspending \$26 million in economic and military aid (Panama has received over \$150 million in the past four years). In addition, federal grand juries in Miami and Tampa, Florida, are investigating charges that Noriega has received payoffs from a major international drug cartel to provide protection for illegal drug loads shipped through Panama. Involved in the investigations are the Drug Enforcement Administration (DEA), the U.S. attorney’s office in Miami, the FBI, and the U.S. Customs Service. The DEA’s chief of financial intelligence, referring to money collected from Colombian cocaine sales to the U.S., has referred to Panama as “the world capital for cocaine laundering.” U.S. Customs Commissioner William von Raab, an outspoken Noriega critic, has stated that the compartmentalized Panamanian military—which some federal officials are calling a “corporate Mafia”—is hampering the investigation. Faced with these pressures, the Panamanian Legislative Assembly voted to suspend the visas of U.S. military personnel and to consider negotiations to withdraw the Southern Military Command from Panama. Subsequently, Noriega ordered USAID officials to leave the country.

Current events in Panama clearly respond to a complex domestic situation, to a regional process, and to Panama’s particular relationship with the United States. We do not presume here to present an analysis either of Panama’s role in Central America or of the forces at work in its tempestuous domestic affairs. Nonetheless, this is the context in which the Panamanian penal and procedural codes will ultimately be implemented. The articles by Carmen Antony and Jesús Antonio Muñoz Gómez in this issue respectively speak to the persistence of cultural dependency in the development of Panama’s and Colombia’s penal systems and to the limitations imposed upon the elaboration of alternative approaches.

Colombia

Not unlike the countries of Central America, Colombia—the third largest country in South America behind Brazil and Argentina, with a population of 27 million people—is currently experiencing one of the worst crises in its history. Like Panama, Colombia is a member of the Contadora group, which has sought to bring peace to the region. Internally, however, a “dirty war” is raging: Amnesty International has implicated the military in extrajudicial executions, disappearances, and support of

death squad activities; and the military has rejected the possibility of investigating charges made against them or of submitting to trials in civilian courts (Ponce de León, 1987: 6). U.S. press coverage on Colombia, however, is dominated by drug-related violence and issues, and most recently has centered on pressures brought to bear on Colombia's president, Virgilio Barco Vargas, because of the release from prison of Jorge Luis Ochoa, who has been sought by U.S. law-enforcement officials on drug-trafficking charges.

As a cumulative effect of these forces, in the words of Carlos Lleras Restrepo, a former president of Colombia and current Liberal Party leader not known for hyperbole, the lack of security and the proven inefficiency of Colombia's judicial system are reaching terrible new heights (*Ibid.*: 4). In this issue, the historical background on the development of Colombia's penal system is the topic of Jesús Antonio Muñoz Gómez' fascinating and controversial article. Muñoz Gómez takes seriously Georg Rusche and Otto Kirchheimer's thesis on the motive force in the history of punishment, that is, that systems of punishment tend to correspond to the development of the productive forces, insofar as the society is in a position to incorporate them as integrated parts of the whole social and economic system. As such, his work represents a study of the development of dependent capitalism in Colombia from the period of Spanish colonial domination to the present.

The article argues that the prison, which was introduced in Europe as a punishment fitting conditions of nascent capitalism, was a foreign institution superimposed on the Colombian reality, motivated by cultural dependency. There, coercive forms of labor power predominated (the *encomienda* and slavery), which, along with the Catholic church, constituted the primary instruments of social control. In the *encomienda*, the axis of control and power rested in the direct, physical control over people. In the *hacienda* system that supplanted the *encomienda*, the exercise of power shifted to territorial control over the *hacienda* to which all labor was attached and therefore dependent upon for survival. Social control with spatial assignment as its fulcrum lasted until the capitalist organization of work was introduced, that is, until a productive system based upon the factory and assembly line production—where control over labor time assumes greatest importance—became enthroned.

For Muñoz Gómez, this latter period did not begin to unfold until the 1930s, and the expanded use of the prison—which is better suited to controlling urban populations than rural ones—accompanies the process of industrialization. Nonetheless, in dependent capitalist societies, prisons become the depository for only a limited part of the surplus population for a variety of reasons, including the practice of extrajudicial executions.

In a thoughtful review essay about Colombia, E.J. Hobsbawm (1986) has explored how that country has historically demonstrated a proclivity toward homicide, with 15,000 deaths from that cause in 1986 alone. According to the Americas Watch report of September 1986 on human rights in Colombia, homicide was the leading cause of death for males between the ages of 15 and 44, and the 4th ranking cause

of death for all ages (cited in Hobsbawm, 1986: 27). Historically, Colombia has suffered from “pandemics of violence,” most notable during the 20 years from 1946 to 1966, a period known as “*La Violencia*,” in which 200,000 people were murdered.

The *Violencia* set off a major wave of out-migration from the city to the land where families could meet their survival needs far from the interference of the government and the powerful rich. Nevertheless, as Muñoz Gómez points out, the overwhelming trend has been toward urbanization. In 1938, 29.1% of the Colombian population was urban and 70.9% was rural; in the 25 years after 1950, Colombia changed from a two-thirds rural population to a 70% urban one. At the same time, the old oligarchy was undermined by new kinds of wealth and influence: marijuana and cocaine money, tourism, and the auto industry.

Belisario Betancur was a representative of this new wealth and became president between 1982 and 1986. He was the first to recognize that Colombia’s problems required major new approaches, including the initiation of a “peace process” by first opening a dialogue and ultimately signing a truce with all major guerrilla groups that had operated in the countryside for 20 years. By the end of his presidency, however, his administration foundered in blood. His Minister of Justice was killed by the drug barons (one of 57 judges assassinated during his term in office). The tragic and highly publicized April 19 (M-19) guerrilla organization’s November 1985 seizure of the Supreme Court, a publicity coup gone awry, ended in the massacre of 100 people—including 12 Supreme Court magistrates and members of the Council of State who earlier that year had ruled that Defense Minister Miguel Vega Uribe was guilty of torture during a previous administration—and discredited the army, the guerrillas, and the president himself.

Internationally, Betancur’s foreign-policy initiatives had shifted Colombia from its former steady backing of the U.S. to a position of nonalignment. Virgilio Barco, the new Liberal president who overwhelmed an ultra-right Conservative contender, deliberately maintains Betancur’s policies. The transition, however, has been marked by a sharp rise in political homicide and by “disappearances,” the latter a novelty for Colombia. In 1986, extrajudicial executions exceeded 1,000 instances.

The steady growth of right-wing terror has taken the form of threats against and murders of labor leaders and activists of the Patriotic Union (U.P., the electoral wing of the largest guerrilla organization to sign the truce), who, during September 1986 were falling at the rate of about one each day. In addition, “unknown” death squads which, in “defense” of morality and social order, have operated in cities like Cali and Medellín (the third and second largest cities in Colombia, respectively), indiscriminately killing “anti-social” elements such as petty criminals, homosexuals, prostitutes, or beggars and bums. In 1985, a total of 762 people in Cali alone were killed.

In the cases of the 850 reported “disappeared” up to 1986, the central fact about the death squads and paramilitary forces is that nobody, least of all persons associated with the armed forces, has been arrested, prosecuted, let alone convicted.

This has led to fears that there is about to take place either the Argentinization of the country or its Salvadorization: military terror or civil war. President Barco has admitted that there is “a macabre plan to destabilize the country,” while others have stressed that this violence is unheard of in Colombian politics, with its annihilation and extermination of a leftist third party and of all people who have denounced fascism, McCarthyism, militarism and the “dirty war” (Ponce de León, 1987: 5).

The War on Drugs

For the Reagan administration, the public condemnation of drug trafficking is demonstrably more important than the suppression of human rights violations and elimination of institutional violence. It is not the growing incidence of extrajudicial executions but rather the release of Jorge Luis Ochoa from Bogotá's La Picota prison that led the State Department to issue a protest and U.S. law-enforcement officials to threaten to disrupt Colombian exports to the United States. From the Latin American perspective, cynicism guides a U.S. policy which harms the economies and ecologies of Third World countries targeted by U.S. drug eradication programs, while not similarly affecting producers in the U.S. itself; and which tolerates, perhaps even promotes, the lucrative drug traffic to the extent that it forwards U.S. foreign policy objectives, as appears to be the case with Colombian drug money used to prosecute the *contra* war against Nicaragua after the U.S. Congress had cut off aid.

The drug traffic is unquestionably central to Colombia's political economy. For the Colombian peasant, the coca crop has no competition as a profit maker, especially after 1984 when efforts of the national government to control the narco-traffic caused prices to stabilize at a high level. In 1986, the industry provided Colombia with more export earnings than coffee, and led to corruption of judges, the army, the police, and, some argue, the guerrillas as well.

As a result, legalization of the drug trade is widely and seriously suggested as the only way to eliminate the superprofits and graft. This perspective assumes cocaine to be a cash crop similar to sugar or tobacco, i.e., a commodity to be exported as in any other business. It is a business that exists because the U.S. market creates a demand for enormous quantities.

Hobsbawm (1986: 35) argues that the consortia of Medellín investors in coca crops would no more see themselves as criminals than did the Dutch or English venturers into the Indies trade (which included opium), who organized their speculative cargoes in much the same way. Further, the trade resents being called a mafia. It is quite unlike the Italian or the Italo-American mafias either structurally or sociologically. From the viewpoint of the Colombians, it is basically an ordinary business that has been criminalized by a U.S. that cannot manage its own affairs.

Some of the biggest operators, who now have moved from trading to cargo insurance, suggest that if the Reagan administration is as serious about the drug danger as it claims, why doesn't it dose Mendocino County marijuana crops with paraquat

as they do in Guajira and send U.S. troops through Georgia as they do in Bolivia (actions declared by Colombia's president to be inconceivable on Colombian soil)?

The same question arises in Rosa del Olmo's article in this issue, "Aerobiology and the War on Drugs: A Transnational Crime." Her article addresses the relationship between the Latin American continent, which is a major producer of marijuana and the only producer of cocaine, and the United States, which creates the greatest demand for both substances and constitutes the fundamental reason for their production and commercialization.

Del Olmo discusses a transnational crime that has arisen in the last few years in Third World countries as a result of the demand for these substances. The article covers new theoretical ground by detailing how a new type of crime, eco-bio-genocide, is being committed on the pretext of preventing another crime, the trafficking in drugs. The policy of the U.S. is to eradicate the production of drug crops at their place of origin. The weapons in the eradication war are toxic chemicals, especially herbicides like paraquat, glyphosphate, and agent orange whose use is prohibited in the U.S. for causing poisoning, contamination of food, and serious environmental problems. Using them in Third World countries constitutes criminality against the environment, and implementation of this policy violates existing international agreements against ecocide and biocide.

The article discusses the double standard involved in the Reagan administration's use of aerobiology, a new type of war that employs airborne toxins to alter the metabolism of plants. The Drug Enforcement Administration's campaigns in Mexico and especially in Colombia are contrasted with similar efforts in the U.S. that were halted when challenged with legal protections, especially of the Environmental Protection Agency. Recent newspaper articles in the United States proclaiming the "War on Drugs" launched in late 1986 to be a sham can only support the idea that "Just Say No!" applies only to the Third World.

The interplay of the drug issue and the peace process merits further attention. In 1984, for instance, when the U.S. ambassador to Colombia, Lewis Tambs, coined the term *narco-guerrilla*, it was understood as an affront and boycott of Betancur's peace plan negotiations, which included a broad amnesty for the rebels, a cease-fire, and the promise of economic reforms (Ponce de León, 1987: 4). Later, as ambassador to Costa Rica Tambs came to play a strong logistical role in aiding the *contras* and was aware of allegations that *contra* leaders were involved in drug trafficking. He resigned his post under the shadow of the Iran-*Contra* scandal.

In a report on the "*Contra-Drug Connection*," the Christic Institute (1987) compiles evidence from congressional hearings, investigative journalists working with major daily newspapers, and their own suit brought on behalf of journalists Martha Honey and Tony Avirgan on allegations:

1. That a major "guns-for-drugs" operation has existed between North, Central, and South America (particularly Colombia) that has helped finance the *contra* war;

2. That the *contra* leadership has received direct funding and other support from major narcotics traffickers (including Jorge Ochoa);
3. That some of the *contra* leaders themselves have been involved in drug trafficking; and
4. That United States government funds for the *contras* have gone to narcotics dealers.

The report concludes that at a minimum, the Reagan administration has tolerated association with drug smugglers as a price for backing the *contras*. At worst, individuals and agencies can be charged with shielding from justice or actively assisting *contra* drug trafficking as a component of the secret program to fund the *contras* after congressional aid had been cut off. In 1986, former Ambassador Robert White charged that the Reagan administration had attempted to kill an FBI investigation into the “assertions that cocaine was smuggled [into the United States] to help finance the rebels’ war effort” (*New York Times*, April 11, 1986). The House Judiciary Subcommittee on Crime, chaired by Representative William Hughes (D-NJ), is currently looking into allegations that the Justice Department under Edwin Meese has obstructed investigations into the *contra* arms-and-drugs network. Peace in the region and efforts to curb drug abuse domestically would be well served if the integrity of U.S. law-enforcement agencies could be assured on this issue.

The Debt Crisis

If the Peace Initiative is an indication of a long-term structural shift in Central and Latin American relations with the United States in the realm of politics, the foreign debt will surely be a major arena for addressing the question of social justice in the realm of economics. It is no accident that in November 1987 the presidents of Argentina, Brazil, Colombia, Mexico, Panama, Peru, Uruguay, and Venezuela called for a sweeping reform of the principal diplomatic forum for inter-American affairs, the Organization of American States; demanded a ceiling on repayment of their foreign debts; and decided to “reflect on the proper opportunity” to reintegrate Cuba into the OAS and other hemispheric forums after a 25-year period of exclusion.

Collective reprisals were not threatened against creditors, but the creation of an international emergency program (granting preferential export terms and technical assistance) to assist the five Central American countries to sign the peace treaty indicates a higher level of joint Latin and Central American action in resolving regional economic problems.

The following month, in December 1987, a plan was floated by the U.S. Treasury, the Morgan Guaranty Trust Company (one of the biggest and strongest banks in the U.S.), and the Mexican government that would lead banks to forgive billions of dollars on their loans to Mexico. This represented a major shift and admission that some part of the more than one trillion dollars in outstanding Third-World loans

will not be paid. The county-by-country approach also minimized the possibility of collective action on the part of debtor nations.

The Latin American debt crisis initially surfaced in 1982 when Mexico announced its inability to make interest payments on its outstanding debt of \$90 billion. In 1985, Latin America had to use 40% of its export income to pay the interest on the debt. Today the total debt for Latin American nations stands at almost \$400 billion, with Mexico and Brazil owing nearly \$100 billion each, and Argentina following as the third largest debtor. Unless new terms are negotiated, the interest to be paid on the debt of 15 countries in the region for 1986–1988 alone will be nearly \$130 billion.

The austerity policy of the International Monetary Fund (IMF) imposed on these debtor nations in exchange for further credit calls for privatization of public enterprises, sharp reductions in government subsidies and deficit spending, the weakening of cost-of-living allowances, and the decontrolling of prices and exchange rates. With it, the standard of living of the working population has fallen: most dramatically, in the period 1981–1984 real wages fell by 28% in Mexico and 43% in Brazil (Pollin and Zepeda, 1987: 4). With the current crisis in Latin American debt, international bankers and their allies in governments and international lending institutions have shown a willingness to make concessions in exchange for a basic restructuring of Latin American economies: free market capitalism, minimal government, and open borders for multinational corporations.

It was these free-market economics, however, that accompanied the terror of military dictatorships in Chile and Argentina, which left those economies in shambles. In response to the lack of long-term viability of this IMF program, elite U.S. policymakers such as Henry Kissinger, former Federal Reserve Vice Chairman Preston Martin, and Felix Rohatyn, began to argue for the need to ease the terms of the loans. The U.S. Catholic bishops have argued for a substantial moratorium or even a cancellation of the debt. Cuba has played an especially dynamic role throughout Latin America in urging an indefinite moratorium. The article by Juan Vega Vega in this issue, “The International Crime of Usury: The Third World’s Foreign Debt,” is an expression of that initiative.

Vega Vega casts the mechanisms of the foreign debt as an international crime, the crime of usury. The article traces early Christian prohibitions against usury and examines the historical evolution of legislation that has regulated the lending of money for interest, including criminal forms of usury such as loan sharking. In these instances, the act of usurious exploitation takes place against an individual within a specific country.

Vega Vega raises the issue of conceptualizing such acts when they occur between countries and against whole peoples, as is the case with the systematic plunder that has evolved with “usurious imperialism” which first appeared in the 19th century and became a central feature of the 20th century. Chronic instability has characterized Latin American economies because a major portion of the surplus generated by these economies has been shipped back in the form of profits and interest to the home

offices of Western enterprises operating there. The resulting balance-of-payments deficits have been an important source of the borrowing that turned Latin America into a block of debtor nations. The mechanisms which assure plunder—unequal exchange, manipulations of the value of key currencies in world trade, dumping, and the protectionism of the developed countries—have institutionalized underdevelopment and should be considered crimes: crimes against humanity.

Conclusions

The critical criminology movement in Latin and Central America has made important strides toward developing a theoretical basis for practically preventing violence in the hemisphere. A “human rights” definition of crime has been essential to overcoming the statist bias of Western criminology. Margarita Viera’s article in this issue, “Cuban Perspectives on Crime and Criminal Justice,” elaborates the theoretical basis of human rights in this context, and speaks to the obligation of criminologists to approach their work as *scientists* who address the interrelationship between crime, criminal justice, and society; as *practitioners* who work for the transformation of policy; and as *intellectuals* who exchange ideas with progressives through the hemisphere.

The Peace Initiative may afford a more open atmosphere for this interchange to take place. It attempts to set a tone of openness and dialogue over national concerns. Cuba’s 26-year experience of attempting to build a society along lines that prioritize social justice includes among its achievements the elimination of both the drug trade and prostitution and sharp reductions in violent and property crime rates. However, for critical thinkers in the United States or the countries under its hegemony in this hemisphere, legal, social, and economic conditions have demanded less an emphasis on prevention and have necessitated more of a focus on the obstacles to liberation. The coexistence of these two perspectives has served as a counterweight to a cynicism which expresses itself in rising crime rates and increasing alienation in the face of failed policies.

This special issue highlights the necessity to expand our future coverage to many countries in the hemisphere, each with a different and specific set of social processes and institutions. The experiences of Brazil, Mexico, Guatemala, Paraguay, Uruguay, Bolivia, Chile, Peru, Ecuador, Venezuela, Puerto Rico, Haiti, and more—all will contribute to an understanding of the processes of civilian control and democratization versus the erosion of judicial independence via the amnesty of death squad members and institutionalization of U.S. military and police assistance programs; and of the larger redefinition of social harms, from ecocide to debt peonage, as violations of human rights and crimes against humanity.

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