LATIN AMERICAN CRIMINAL COURT AGAINST TRANSNATIONAL ORGANIZED CRIME

Latin America is not only the most socially unequal region in the world, but has also become the region with highest levels of criminal violence on the planet: according to the United Nations Office on Drugs and Crime (UNODC), from a total of 157,000 violent crimes committed in 2013, Latin America is responsible for 36%. The current situation in Mexico, the spread of “maras” in Central America, governments and vast political sectors being co-opted by organized crime, alongside the rise of criminal violence, arms and drug trafficking, and people forced into sexual and labor slavery, are all regional problems with negative impacts on the lives of Latin American citizens.

Certainly, the proliferation of groups involved in transnational organized crime is becoming the regions’ main social problem, on top of a threat to democracy and economic development. Unfortunately, criminals are the only ones who seem to have understood the global nature of the world we live in, and have managed to structure their organizations with a logic that goes beyond national boundaries. International nets that hide and protect fugitives from prosecution in other countries, cooperation systems between global criminal organizations, regionally and globally interconnected mafias and globalized exchange of drugs, weapons and information are just some of the strategies that erode the effectiveness of national systems in the persecution and prosecution of organized crime syndicates. Therefore, criminal violence and its social consequences have currently become a central issue in our regions’ political agenda.

The main factor of discrimination is the inequality in terms of security, and organized crime is the most important source of conflict and the greatest threat for human rights. Due to the proliferation of regionally structured criminal organizations powerfully connected around the world, national security mechanisms are increasingly inadequate and subordinate to ineffective and corrupt national political powers. Rather than being an advantage in terms of efficiency, the closeness of
courts and security forces to the places where crimes are committed leaves them at the mercy of corruption and to direct threats from organized crime. National judicial and police forces are occupied prosecuting misdemeanors, while the heads of regional criminal organizations remain at large.

The problem of organized transnational crime is not national, but regional. Therefore, regional problems require regional policies. And regional policies require regional institutions in order to overcome succumbing to the inefficiency and arbitrariness of power imbalances between states, or at the mercy of inability of local powers. A LATIN AMERICAN AND CARIBBEAN CRIMINAL COURT AGAINST TRANSNATIONAL ORGANIZED CRIME (COPLA), effective in persecuting those crimes which are organized and implemented transnationally does not mean in any way, a limitation on national sovereignty or the powers of Latin American governments. Instead, its success could strengthen national governments’ power, currently eroded by criminal networks over which they are progressively losing control. A COPLA could also increase levels of autonomy and self determination of Latin America and its citizens in regional terms, showing that Latin Americans are capable of dealing with the problems of our region.

It is precisely because of the gap created by the inefficiency of Latin American governments to deal with organized crime, especially with regards to drug trafficking, where the intervention of extra-regional agencies occurs. The creation of the COPLA should reinforce national and regional capabilities to manage their own problems, and could set a limit to extra-regional interference. On the other hand, and as it demonstrated by the process of creation and adhesion to the International Criminal Court, almost all constitutions and Latin American governments recognize International Law as part of their corpus of obligations. The creation of a COPLA should be placed in that same legal context, reinforced by the United Nations Convention against Transnational Organized Crime and its annexed Protocols which almost all of Latin American countries have signed, where crimes
that are defined as inherently transnational are defined, with the objective to apply the same principles used in international law to resolve Latin Americas’ main problem. For these reasons that become more apparent every day, a global strategy to confront regionally organized crime is urgently necessary; a strategy that also should provide the base for regional integration processes, which in turn are necessary in order to deal with other economic, political and social challenges that Latin American countries must face. A multilateral, pluralistic and efficient LATIN AMERICAN COURT AGAINST TRANSNATIONAL ORGANIZED CRIME can become the key to prevent a future determined by underdevelopment and crime. We summon organizations, governments and democratic citizens of Latin America and the world to actively participate in its conformation.