

Youth Violence and Democracy in Latin America

**Notes for oral presentation by the
Independent Expert, Mr Paulo Sérgio Pinheiro,
– Alistair Berkley Memorial Lecture**

**Youth Violence in Latin America
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Ladies and gentlemen,

Colleagues and friends,

I would like to thank the Crisis State Research Centre of the LSE and particularly Professor Gareth Jones for kindly inviting me to deliver this prestigious Alistair Berkley Memorial Lecture which has allowed me to return to this great center of critical thought and learning, and for your efforts in organizing this international workshop. This meeting provides an important opportunity for us to reflect upon and evaluate how violence is affecting Latin America democracies today, as well to discuss the implications of this situation for the future of the region. Pierre Bourdieu once said that everyday violence is a solvent of human integrity. The levels of violence that are found today in almost every Latin American country, in particular targeting its impoverished youth constitute a true demonstration of Bourdieu's statement and testify to devastating effect of everyday violence.

About two decades after the fall of many dictatorships in the Latin American region, a phenomenon that raised so many hopes and allowed those of us who fought to establish democracy to dream, there is a bitter sense in the air. Campaigns for harsh repressive measures against the poor, disguised as justified wars against crime, paradoxically find consistent and wide support among the local population. In this context, those who support human rights are confronted with considerable skepticism, if not threats and rejection from many sectors of society. It is not very difficult to understand why. Despite improvements in the juridical sphere, despite the relatively calm and fair electoral processes brought by the democratization process, a *un-rule of law* continues to be a daily reality to the vast majority of the population. Economic inequality has also increased, and the already fragile welfare state has shrunk to a minimum. Perhaps most disturbingly, the levels of violence in Latin American are the among highest in the world, so much so that they sometimes surpass those in armed conflict areas.

The situation faced by children and youth especially critical. Data on homicides drawn from the 2002 WHO Report on Violence and Health, for instance, shows that Latin American youth are the group most targeted for violence in world. About 29 per cent of homicides in Latin America are among children and youth from 10 to 19 years of age. Available figures indicate that homicide is the second leading cause of death for this age group in 10 of the 21 countries of the region which have populations of over 1 million inhabitants. Youth homicide rates can be up to three times higher than national homicide rates. In Venezuela, for example, 95 per cent of homicide victims were male and 54 per cent of them were younger than 25. Media coverage, as well as the issues which feature in the political agenda of countries, also indicate that the involvement of youth in criminal activities and gangs is a particular preoccupation in the countries of the region. In my remarks today, I would to explore the reasons for this situation and outline the responses that have been implemented, and suggest that this violence and those responses are directly linked to the weakness of the democratization process in those countries.

This troubling levels of youth violence are also very much present in Central America. In that region, one of the currently most discussed issues concerning public security is the presence of youth gangs known as maras or pandillas, a theme that is very much at the centre of this conference. Concerns about maras were amongst the key issues debated during in the last electoral processes and led local governments to elaborate ultra-tough anti-gang strategies which attracted international attention, especially from many human rights organizations. The phenomenon of maras or pandillas sheds an important light on the problem of youth violence in Latin America, in particular as organized and armed gangs expand, and allows us to reflect on the common problems found in the State response to those groups.

One year ago, in March of 2004 during the Inter American Commission's March sessions, I attended a very impressive hearing with several NGOs that work in Guatemala, El Salvador and Honduras which focused on the maras situation and the anti-maras plans in the region. The situation described during the hearing seriously disturbed my fellow Commissioners and myself, not only because it revealed the level

and breadth of violence faced by maras members and their victims, but also because it highlighted the very repressive nature of the State responses which had been marketed as anti-maras plans and laws.

As a consequence of this hearing and other subsequent meetings, between mid-November and December, jointly with the IACHR and UNICEF TACRO, in my capacity as the independent expert appointed by the Secretary-General to lead his study on violence against children, I traveled on mission to El Salvador, Guatemala and Honduras to gather information on the situation of the maras and of the anti-maras plans. I presume my function as the Secretary-General's independent expert is amongst the reasons that I was invited to attend this prestigious conference, particularly as I see many more eminent experts on the subject of Youth Violence and Social Justice in Latin America in the room today. I would like to recall that the Secretary-General's study result from a request made by the Committee on the Rights of the Child, the expert body which monitors the implementation of the Convention on the Rights of the Child, the most widely accepted human rights treaty, which in 2001 called on the UN General Assembly to ask the Secretary-General to conduct an in-depth study on all forms of violence against children. Preparations for this study, which will cover violence against children in all contexts, except in armed conflict, a topic brilliantly surveyed by Graca Machel in her study on child soldiers now the subject addressed by my colleague Olara Otunu, the Secretary-General's representative who reports to the Security Council on this matter, have been ongoing since late 2003. The study aims to provide an in-depth global picture of violence against children and will propose clear recommendations for the improvement of legislation, policy and programmes relating to the prevention of and responses to violence against children. Violence against children in conflict with the law, which I am addressing today, is one of the most obvious and relevant core topics of the study.

WHAT ARE MARAS AND WHY THEY ILLUSTRATE THE SITUATION OF LATIN AMERICAN YOUTH

It is not easy to discuss the tough and complex realities which adolescents and youth face in Central America. Before my mission, I was of course aware of violence in that region, through the commentaries of many of the authors and researchers, some of whom are participating in this workshop, but it is one thing to have some information, to read reports, to know the statistics, and another to meet with all the players of in the tragedy - the mareros, their families, the police, the human right activists, the judges and the authorities, including President Maduro, of Honduras, one of the initiators of the mano dura (hard hand) approach. I was honoured that President Maduro graciously received me and my team for one hour and half, and engaged with us in a candid and helpful discussion, although we were fully aware of his role, let us say, muy comprometido, in the hunting of mareros.

After seeing in those countries, as well as in my own country – Brazil - the degrading and devastating effects of violence inflicted against stigmatized populations it is difficult to talk about the poor and the oppressed in an accurate and realistic way without appearing either to crush them as perpetrators or to exalt them for their resistance and resilience. I am aware that scholars conclude that “the inclination to violence that is engendered by early and constant exposure to violence” and is “one of the most tragic effects of the condition” of poor communities through Latin America and the Caribbean.¹

The maras, as other youth gangs, have several common characteristics. They are formed through the common experience of their members, and, as such, form a community; and they change their behaviour and objectives in accordance with the context to which they are exposed. The emergence of the first maras occurred perhaps more than two decades ago, but the transformation of those groups into a key public security issue is a more recent development.

According to existing research and information gathered during our visits, the maras are formed mostly by young people with between 16 and 25 years old. They establish and implement clear codes of loyalty

¹ Bourdieu, Pierre. *Pascalian Meditations*. Stanford, Stanford University Press, 1997, p. 233, cit, by Bourgois, [University of California, San Francisco]” The Power of Violence in War and Peace: Post-cold War lessons from El Salvador, paper, bourgoi@itsa.ucsf.edu

and conduct. The majority of them display external symbols such as tattoos, exhibit specific body language and wear distinctive clothing, thereby establishing clear territories of control and rivalries among different gangs. In many cases, mara members get involved in armed violence. The number of mara members and the real impact of maras in public security are motifs for many creative (and absolutely unreliable) governmental data. Indeed, in some instances during our mission, the figures we were quoted in the same ministry changed by 200%.

I am aware that definition of gang membership is something that has plagued gang researchers since this phenomenon has began to be studied and that the very concept of the gang is frequently is : this can be very convenient for those who wish to use the term in a discriminatory way. One of the defining features that has separated benign organizations and groups from traditional street gangs has been involvement in criminal activity.² Another set of common defining elements encompasses the symbolic aspect of the gang, extremely relevant in the case of Central America gangs. All these characteristics reflect the internal structure of the gang, and serve as indicators of the degree of organization and cohesion that exist within an identified group³.

A survey of 1025 gang mem in the great metropolitan area of San Salvador found that 75% of the respondents were unemployed and among those employed only half of them had stable jobs. Only 32.5% of the same sample had finished high-school and about 76% of those surveyed had dropped out of school⁴

Our discussions with adolescents during our visits clearly demonstrated that some factors are common to the life histories of maras members, pointing to some root causes for their engagement in these sorts of groups. The majority of group members came from the poorest sectors of the population, and had no

² Bjerregaard, Beth, "Self-definitons of gang membership and involvement in delinquent activites", *Youth and Society*, vol 34,1, September 2002,31-54.

³ Ibidem.

⁴ This survey was made by the Public Opinion Institute , IUDOP, at the Central American University, 1997 cit. Vasquez, Manuel A. Vasquez [Associate Porfessor of Religion, University of Florida], "Saving Souls Transnationally: Pentecostalism and Gangs in El Salkvador and the United States" paper.

access to a proper education, having been abandoned or expelled from local schools. Many came from disrupted families, with some having faced domestic violence within their homes. Many had absolutely no expectations of finding any sort of employment. The majority of mareros were involved with petty crime around the areas they dominated and had severe conflicts with their main rival counter-parts.

One tragic reality in Latin America, is that violence is often directed by the disposed against their companions in misfortune. Youth gangs often use violence to meet their economic and social and economic needs, further adding to already high levels of violence in their communities. For example, in my own country, the absolute majority of homicides in Sao Paulo or Rio de Janeiro are committed amongst the working class, very few of my white and elite compatriots are murdered and even less are the object of state violence.

This is no accident: the violence exerted everyday in families, factories, workshops, banks, offices, police stations, prisons, is in the last analysis an effect of the inherent violence of economic structures, income concentration, structural racism, which is manifested sooner or later in the form of crime and delinquency, drug addiction, alcoholism, involvement criminal gangs, a whole host of minor and major everyday acts of violence.⁵ Policies of economic stabilization aggravating the situation of the majority of families and their children, are assiduously implemented by Governments, including those described as leftist, immediately they take power.

The “multiple marginalities”⁶ that affect mareros are certainly aggravated by global processes like economic restructuring and democratic transitions after war and regional peace processes. Frequently, during my conversations with mareros, I heard the background echo of violence as the reproduction of violent patterns internalized during the civil war.

⁵ Bourdieu, Pierre. *Acts of Resistance: Against the Tyranny of the Market*. New York, The New Press, 1998, p.40 cit Bourgois, op.cit. p. 18

⁶ This expression is from Vigil, James. *Barrio Gangs: Street Life and Identity in Southern California*. Austin, University of Texas Press, 1998, cit: Vasquez, op.cit

The regional conflicts during the 1980s and the mass migration from the region, mainly to the United States, and the subsequent deportation of large groups of people back to Central America, appear to have created a generation of youth and adolescents who do not have clear ties either to North American communities (where most lived in very marginalized areas and were sometimes the victims of discrimination) or to their communities in El Salvador or Honduras. The end result of these upheavals was the dismantling of the local webs that constituted family and community life, the terrain where their daily interactions were sustained.”⁷

Out of these dynamics, an inner-city culture - una cultura callejera - that seeks to fill the vacuum left by lack of education, non- or under-employment and lack of social investment has emerged.⁸ In this context, the maras in a certain way are a reconstruction of those elements that were lost and that cannot be recovered, but this reconstruction and particularly the attempt on the part of adolescents to replicate past roles constitute a terrible burden for these young people, which at the same time has required enormous inventive capacities.

The growth of the number of gangs has coincided with easy access to small arms. The years of regional conflict has facilitated the spread of small arms in the region, identified by the World Health Report as a key factor leading to the escalation of lethal violence in the Latin America region. In Brazil, for example, homicides among youths increased by 77 per cent during the past ten years, mostly because violence has involved firearms⁹

WHAT THE ANTI MARAS PLANS AND WHAT THE ANTI MARA LANGUAGE REVEALS

⁷ Vasquez , op.cit

⁸ Bourgois, op.cit., p.18

⁹ FROM THE UN-HABITAT REPORT *THE STATE OF THE WORLD S CITIES -2004*

The Central American States' responses to the maras issue have had an important and negative impact and, at the same time, are extremely revealing about the Latin American repressive tendency vis-à-vis youth violence.

As mentioned, during the most recent electoral processes public security has been one of the top issues in campaigns, with strident anti-maras policies, including planned legislation and programmes being leitmotifs for the existing administrations and throughout campaigns. In El Salvador and Honduras respectively, laws and reform of the penal code created specific penal measures for those who were considered to be mara members or committing the crime of illicit association. These legal instruments went so as to provide that the mere existence of indicia such as tattoos, clothes or graffiti would be sufficient for the detention of youngsters for long periods. Legal reforms in this area also called into question the recently established codes for children and adolescents, and provided that mara members of less than eighteen years old could be tried as in adult courts as adults.

The legal reforms introduced in respect of the maras contradicted the existing national, regional and international standards and guidelines, including the prescriptions of the Convention on the Rights of the Child. The concrete results of the measures were also appalling: during our mission we received frequent allegations of abusive and sometimes arbitrary detention of hundreds of suspected maras members, with the result that detention were rapidly filled and became increasingly violent. In Honduras for example, two of the major riots between the end of 2003 and beginning of 2004 resulted in 1500 casualties. Violence was reproduced behind bars, as the maras members were imprisoned, and the level of violence perpetrated by some maras appeared to have increased. Certainly, the rivalries between the opponent maras groups increased and the linkages between some potential members and their maras were certainly enhanced .

Media and rhetoric

The approaches introduced in the context of the maras reflected a very sharp rhetoric. In El Salvador the first version was called Mano Dura and the second Super Mano Dura (heavy hand and super heavy hand). Anti Maras Squads were created (mixing police and army – one Latin America’s favoured approaches) and you would even see reference to what is described as the beginning of ‘Mara hunting season’ – some of those hunts including the President as the convoy leader. Expressions found frequently in the first pages of newspapers reproduced the linkage between maras and the vast majority of crimes on a daily basis.

These phenomenon were not an unfortunate exclusivity of Central Americans. “Public frustration with crime, fear of the recent rise in youth violence in all continents and the racial characteristics of violent young offenders fuel the desire “to get tough” and provide political impetus to prosecute larger number of youths as adults”¹⁰. In similar scenarios in the region and outside, the media and members of the political establishment publicized exaggerated claims of danger posed by unconventional youths; in turn, inflammatory rhetoric is used to justify enhanced police powers and greater investment in the traditional criminal apparatus.”¹¹ Nevertheless, it is relevant to acknowledge that the moral panic created by the maras is not sheer paranoia (even paranoids have real enemies), but touches on bona fide social ills that democratic governance must seriously address.

“Still rather than enlightening the public toward an informed understanding of the problem, in the case of the mano dura rhetoric and in other Latin American wars against gangs, the media and politicians pander to popular fear, resulting in renewed hostility toward people who are easy to identify and dislike”: the “torturable” classes as described by Graham Greene. “Panic over child violence symbolizes not only a threat to society at large but also to a prevailing political economy that thrives on racial and economic inequality”, in the South and in the Northwest. **(where are the quotes from??? It is hard to work out where they begin and end)**

¹⁰ Feld, Barry C. *Juvenile and Criminal Justice Systems’ Responses to Youth Violence*. University of Chicago, 1998*

¹¹ Welch, Michael E.; Price, Eric A.; Yankey, Nana, “Moral Panic over Youth violence: Wilding and Manufacture of Menace in Media”, *Youth and Society*, vol34 no1, September 2002, p. 5 and 6

Juvenile justice

The fragile implementation of the reforms of the juvenile justice system also exhibit a daily contradictions. Despite some good efforts, the “new” never replaces quite replaces the old in the region. Discourses of protection, restoration, punishment, responsibility, rehabilitation, welfare, retribution, diversion, human rights continue to exist alongside each other in some perpetually uneasy and tremendously contradictory manner.¹² Sentences clouded in layers of rhetoric on the best interest of the child are spoken alongside the practice of incarceration of youth [condemning the young to possible abuse, torture and sexual assaults], for their alleged education and training. The justice system as implemented in many countries in Latin America (including the three countries most affected by maras) reproduce the same problems that you may find in the adult. These include slow response to cases and a extremely high number of non-processed detainees and a chaotic situation within detention centres for offenders.

In this context, one perceives that the juvenile justice system is as bad as the one designed to adults, but is weaker in providing detention measures. Therefore, it is not very surprising to see also a very high popular support for ideas directed at reducing the age of criminal responsibility or to create exceptions that would allow children to be tried as adults, as proposed in the *mano dura* plans.

PERVERSE SYNCRONIES: FAILURE OF BASIC DEMOCRATIC PROMISES AND CRIME RAISING

As I mentioned in the opening, the tragic linkage between the limited democratization process and the rise of violence in the region has deep consequences in the way democracy is perceived today and may help us to understand the current scenario.

¹² Muncie, John. *Youth Crime*. London, Sage Publications, 2004, p. 248

The Latin American Region has undergone a democratization process with important achievements restricted mostly to the institutional level.¹³ A recent UNDP Report on the region notes that at present, established electoral mechanisms exist throughout the region and that it is moving towards a juridical and institutional adaptation to the principle international human rights standards. At the same time, this progress has not been replicated in the social and economic situation of the population. The entire region is marked by remarkable social and economic inequality. That is clearly the case of the three countries I visited: In Honduras, for example, 79.1% of the population is considered to live in poverty; in El Salvador the underground market is considered to employ 42% of the local workforce; in Guatemala access to the educational system is very difficult for the rural population - only 24% of the schools are in the rural areas, where 60% of the county's school-age population are concentrated).¹⁴

As mentioned, despite democracy, the rule of law – particularly for the majority of poor Latin American children and adolescents rights continues to be elusive. The region is still struggling with seemingly intractable problems: abusive use of lethal force by the police forces, extra-judicial killings, lynching, torture, abominable prison conditions, corruption in the criminal justice system persist. These phenomena continue to occur despite the numerous attempts to eradicate them by legislative reforms and institution building. Most of the countries have ratified all core human rights conventions and comply with the international and regional human rights regimes, designed special policies (National Human Rights Program), and promoted accountability by introducing national human rights institutions, including Police Ombudsman offices. The Convention on the Rights of the Child has ratified by all the states of the American continent except one that you will I hopefully not force me to indicate, although this State has accepted the optional protocols to this Convention. Also civil society has been encouraged to organize and has extraordinarily expanded. Though at first all measures flourish, we see that within a few years each one of the measures and policies adopted seems to lose efficacy and credibility¹⁵. Those forces

¹³ As reported by the UNDP in the report in “Democracy in Latin America”(2004)

¹⁴ In the Central American Special Report, the UNDP ? VERIFIQUE ISSO

¹⁵ Similar process of resistance to democratic change has been identified in Guatemala and El Salvador (Dodson and Jackson, 2003).

within the State apparatuses and in the political arena that resist change seem to prevail¹⁶. This trend is precisely the opposite of what is forecasted by democratic transition theories: it was expected that as democratic political systems developed there would be clear reduction in human rights violations. Among those human rights violations, none is more pervasive than the violence against children and adolescents perpetrated or condoned by democratic governments.

This unfortunate dynamic is helping to create a perverse linkage between the adoption of modern international human rights standards and the growing violence. In the region and throughout Latin America there is a spreading incapacity or unwillingness of government to guarantee the right to life of their populations: on the contrary on the pretext of making wars against crime in reality governments undermine the rule of law and weaken the support of their societies to the concept of democracy.¹⁷

This situation provides important insights into how widely and deeply the democratization process has become entrenched: unfortunately the anti-maras measures with their very repressive rhetoric are hardly promising in this context, and may even worsen the situation to the extent that they appear to ignore the root causes of this phenomenon.

POSSIBLE SOLUTIONS?

How can we prevent conventional youth and teen groups becoming violent? How can we make violent communities become safer and stable? How can we break the cycle of violence and reintegrate back into society those that decided to engage in illicit activities? What are the root causes that need to be urgently addressed to produce effects in this scenario? Those are concerns that the UN SG Study on Violence against Children will try to address.

¹⁶ Affonso (2004) studied the efficiency of the legislation that removed from the Military Police the privilege of trial by Military courts in cases of homicide of civilians in São Paulo. Affonso's research shows that impunity continues to reign as public prosecutors (the members of the Ministério Público) do not pressure the police forces to carry out proper investigations and in fact seem to be in collision with the police forces to drop charges.

¹⁷ Forter, Alexandre A., » Youth Gangs, Violence and Human Rights in Central America : a Comparative Study on Policy and Law », draft, alexandraforter @yahoo.com

These are not easy questions. As everyone is aware: there is no easy and fast solution. No “prêt-a porter” plans that can be developed and replicated everywhere disregarding context specificities – we are working with problems that have deep connections with communities and their recent histories.

I am convinced that the Study that I am privileged to lead can build on the international human rights standards, also considering public health and protection approaches emphasizing the importance of prevention and early intervention, considering strategies to minimize the chances and the seriousness of offending and reoffending. “However, it is by no means easy to achieve the right balance in terms of preventing crime, meeting the needs of the victims, protecting society and dealing with young offenders. But an emphasis that recognizes that much juvenile crime is transitory, that highlights prevention, and that minimizes formal intervention as much as possible – yet respects the rights of victims as well as the needs of the child, their family and the community- would appear to hold the most hope for how we effectively deal with juvenile offenders into the future.”¹⁸

We must repeat as a mantra that prevention is possible, I believe that we have already some knowledge about what may work and what generally doesn’t work well. Easy access to small arms, the recurrent and banalized use of institutionalization measures are clear warning signs. Well-structured public culture and leisure facilities and schools integrated with their communities are essential. One evident problem that will be faced by every government is the fact that appropriate measures will require time to promote durable and sustained impact.

In this aspect I must say that almost as the repressive hype is alarming, the fragmented and sometimes very superficial preventive responses that are already in place in the region may produce even more adverse effects. Even in El Salvador, after the *mano dura*, they tried to attenuate things with a *mano estendida*, which is until now just a gesture of good intentions. Since the spreading of the preventive mantras, many fragmented programmes (sponsored by national and international, governmental and non

¹⁸ O’Mahony, David. *Young People, Crime, and Criminal Justice – Patterns and Prospects for the future*. Youth and Society, Vol. 32 n’1. September 2000 p.78

governmental organizations) were developed in Latin America. Although I acknowledge the great importance of mobilizing and empowering communities, of promoting human rights education, I believe that if those programmes are not accompanied by consistent improvement in the State apparatuses. Without this and a radical change in the functioning of the public security and judicial system, those efforts will not be successful and may even increase frustration and scepticism of democracy.

It is imperative that the security and judicial system be rendered not only more efficient, but more credible, accessible and accountable. An improved level of safety and conflict resolution requires both systems to be credible and accessible to the marginalized population that requires them the most (and that is normally distant from and fearful of the State's security and justice systems). All repressive policies must be conceived with total respect to human rights standards.

It is also crucial to develop a more reliable data bank on security issues. The absence of information renders effective responses by states more difficult and any form of evaluation impossible.

It is important to discuss the disproportionate media attention to the situation, for example.

But it is particularly important to ensure that all of the measures taken are viewed not only as security issues, but also as human right issues – even if we are speaking about specific preventive measures, we are dealing with basic rights that have to be respected for the full development of human beings. In this respect, the proper functioning of the education system is not only essential because it reduces the vulnerability of children to violence, but because is a fundamental right of every child. Also in this sense, is very important that the basic social policies that focus upon youth are properly funded and professionally coordinated.

Today, more than ever, it is clear that democracy and human rights are inseparable (Bobbio, 1990). For democracy to prosper human rights must be implemented, citizens must feel protected not only from

arbitrary behavior by powerful groups in society (right to physical integrity) but must also share in the wealth that is generated in this society (social, economic and cultural rights). This perspective demands that at the same time that we assess the development of democracy, sound research in the field of human rights must be produced. (Anderson et al, 2004; Altman and Pérez-Liñán, 2002; Hofferbert and Klingmann, 1999).

Democracy demands the participation of children and adolescents and their recognition as full citizens (and not as mini-human being with mini-human rights) (Beetham, 2002). Translated into rights it means the right to express opinions and to have these heard, to be informed.. Access to economic, social and cultural rights are being increasingly interpreted as key elements for the exercise of children's rights since if children lack access to health and education and of secure livelihood they cannot enjoy in their future their civil and political rights (Beetham, 2002). Democracy and the protection of the human rights, and among them children's rights are "works in progress" (Morlino, 2004; Beetham, 2002), at national and international level (Montgomery, 1999). The repressive measures criminalizing the younger generation that was born during the beginning of the redemocratization process in Latin America is surely not inspiring and we must exercise our best efforts to ensure they are dismantled.