Criminality, Public Security, and the Challenge to Democracy in Latin America

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Among the most striking developments in Latin America in recent years have been the dramatic rise in reported criminality and changing perceptions of crime, even as new democratic regimes have taken root. It seems that over the last fifteen years, homicides have more than doubled in some places, and property crime has (at times) tripled. There are major differences within and between Latin American countries, but this crime surge is a regional phenomenon. Juvenile gangs have become much more visible and threatening, and drug-related crime has captured the headlines as never before. Shocking forms of violence have generated widespread public alarm and insecurity, prompting citizen demands for state intervention. Indeed, voters in most of these recently democratized countries are coming to view crime and citizen insecurity as central issues of political concern, and are beginning to evaluate their political leaders accordingly. This can lower public confidence in state institutions (especially the justice system) and can weaken support for the
human rights standards that emerged in the course of the struggle for democratization. It may even allow authoritarian practices to return under the guise of mano dura policies purporting to correct weaknesses in the democratic approach to crime control.

Why has the increase in crime become such a salient political issue in the region? Why are police and courts so ineffectual in most Latin American countries? What can we expect from the judicial and penal reforms currently underway? How have the failings of crime fighting institutions affected the quality of incipient democracy in the region? Can the rule of law work with such constraints in place? Despite these important social and political questions, there is a surprising scarcity of academic research on the subject. There are few studies that engage in an in-depth analysis of the rise in criminal activity and thus often drastic deterioration in perceptions of public security. More importantly, scholars have not yet produced sound research to support proposals on how state authorities—which lack the necessary credibility among citizens—can forge a set of institutional responses to rising crime.

The chapters in this book examine the perceived and actual rise in criminality from an empirical perspective. The contributors also address the impact of rising crime rates on the quality of institutional performance in Latin America, and the challenges that crime fighting pose to the consolidation of democracy and the rule of law in the region. The book addresses three critical aspects of the problem: it documents empirically new trends in criminality; it analyzes major components of the criminal justice system in the region; and it exposes the strengths and weaknesses of Latin American democracies in their attempts to combat the surge in crime.

CRIMINALITY AND CITIZEN SECURITY: ALTERNATIVE SCHOLARSHIP

Most of the literature on crime and institutional responses to it in Latin America has emerged from the legal area, so the focus tends to be normative, lacks rigorous empirical backing, and does not often study how new laws work in practice. The collection of data on crime and crime-related statistics in most countries is recent. The aim of this book, a result of a project initiated in 2002, is twofold: to examine crime using the new em-
empirical data that is available, and to examine the impact of crime on democratization and the rule of law in Latin America. Prominent scholars from different Latin American countries experiencing similar patterns of criminality and erratic state responses, analyze the issue from a strongly empirical comparative perspective, offering the “state of the art” in what is an incipient field of study in the region. The contributors describe the trends and scope of crime in Latin America empirically, taking into account recent, rigorous social science analyses of the problem. Chapters are based on the most up-to-date data and literature to explain criminal trends in specific geographical areas and contribute substantially to current debates. The empirical and regional comparative focus bypasses the lack of perspective and sensationalism typical of a more parochial coverage of the topic (the kind that leads people in various Latin American countries to claim that “we have the highest homicide rate in the world”).

Some chapters refer to alternative explanations given for the crime wave in the region, such as the breakdown of social networks and of the extended family, which have traditionally served to contain criminality and weak states. The goal here, however, is to explore state institutional responses and the limits of “getting tough on crime” policies as the cornerstone to combat public insecurity and criminality, especially when not accompanied by a concerted effort to deal with the structural causes of crime, brought about by the deep social transformations of the 1980s and 1990s. We hope that the book will show that focusing only on repressive responses to crime is inadequate. In addition to providing proper empirical analyses of the crime problem, the goal of this volume is to examine the challenge that crime poses to the consolidation of democracy and the rule of law in the region.

**ON DATA AND METHODS**

The failure to make significant progress in the study and evaluation of crime, and to recommend policies to combat crime and promote public security in Latin America, is partly a result of the dearth of data. Sources are scant, organization is poor, and the quality of data substandard. This is a field in dire need of systematization and diversification of data and sources, and investment in the collection of strong data. The reasons for
the poor quality of information range from a lack of tradition in a field of study dominated by scholars averse to quantitative approaches, to the unwillingness of state officials to invest in data collection. However, as the data used in this volume shows, new sources of information have become available over the last two decades. The quality of information for the preceding period, between the 1950s and 1980s, is very bad, so there are few references to the populist and authoritarian periods. There are some good historical accounts that tend to suggest that “nothing new” is going on, but the fact is that there have been changes, which this book attempts to describe.2

There are typically three sources of data for crime and citizen security: official data collected by state agencies like the police, courts, or morgues, among other institutions;3 self-reports such as victimization or inmate surveys; and qualitative data in the form of personal observations and interviews. Official data on crime in Latin America is for the most part unreliable and raises serious validity questions. The (correct) assumption is that the general public vastly underreports crime to authorities. But this is not the main problem—the major concerns are the complete collapse of the auditing process and the lack of a systematization of records. There are serious biases in the way officials record crimes reported by members of the public, there are no clear guidelines about how to code information, and there are no proper standards to judge the quality of information. All this poses various questions regarding validity, not least since the number of homicides reported do not necessarily account for all the bodies presumed to result from intentional murders, the number of violent aggressions are not good proxies of levels of violence, and the number of thefts is not a good measure of property crimes. What Gottfredson says about the U.S. is perhaps even more valid for Latin America: “Crime statistics might be measuring the conduct of officials rather than real crime.”4

The chapters in this book rely on the best data available in the context of these shortcomings, and they are the product of a lively debate throughout the duration of the project about different qualitative and quantitative studies and on different methodological approaches. The authors are careful to indicate when interpretations are tentative. Most chapters are descriptive because causal models cannot be seriously tested in light of the nature and quality of information and the reliability of sources.
THE SCOPE OF THE PROBLEM

As illustrated by tables I.1 and I.2, although the dates are rough, it is probable that there is an objective basis for the widespread perception of a strong rise in crime over the past two decades in most of Latin America.

Not only has recorded crime risen sharply over more than a decade, but the rate of increase is higher than the sharp rise in crime in the U.S. during the “bad” decade of the 1980s. In some cases, the trend may have been distorted by improvements in reporting the data, but the extent and consistency of these increases confirm what the public believes is true and what victimization surveys also show: that Latin America and the Caribbean are experiencing a massive crime wave. Since this has occurred in the context of regional democratization and a freer and more competitive mass media, it has generated massive public outcry. Citizens are demanding that governments should fulfill their primary task: the

<table>
<thead>
<tr>
<th>Total male (%)</th>
<th>Male 15–24 yrs old (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina⁹</td>
<td>46</td>
</tr>
<tr>
<td>Brazil</td>
<td>84</td>
</tr>
<tr>
<td>Chile⁶</td>
<td>72</td>
</tr>
<tr>
<td>Colombia⁵</td>
<td>50</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>28</td>
</tr>
<tr>
<td>Ecuador</td>
<td>101</td>
</tr>
<tr>
<td>El Salvador</td>
<td>6</td>
</tr>
<tr>
<td>Guatemala⁶</td>
<td>506</td>
</tr>
<tr>
<td>Mexico</td>
<td>-43</td>
</tr>
<tr>
<td>Panama</td>
<td>86</td>
</tr>
<tr>
<td>Paraguay</td>
<td>118</td>
</tr>
<tr>
<td>Uruguay</td>
<td>76</td>
</tr>
<tr>
<td>Venezuela</td>
<td>187</td>
</tr>
</tbody>
</table>

*Source: WHO Mortality Database, World Health Organization, 2005.*

provision of domestic security. They want the police to catch delinquents, the courts to deal with them expeditiously, and prisons to lock them up so that delinquents are taken off the streets. Public opinion polls also indicate that there is a great level of dissatisfaction with the performance of institutions and justice systems in Latin America. As table I.3 shows, in only a few countries are citizens moderately satisfied with the ability of authorities to provide a modicum of security.

Perceptions of lack of public security have an obvious impact on the quality of life and on institutional trust. Large areas of major Latin American cities have become “security free” zones or “law and order free” areas, where the only recognized authorities may be drug lords or gangs. In many poor areas, and even in city centers, streets have become less safe, and the middle classes in many countries now avoid them. Gated communities have sprung up everywhere, while private security is in high demand and available only to those who can afford it. In smaller towns and rural areas there may be no such escape. Although the real danger is concentrated in a limited part of Latin America’s hinterland, the fear of crime is widely diffused. Hence, the feeling of “danger” is greater today than twenty years ago.5

Table I.2 Increase in Property Crime in Selected Cities

<table>
<thead>
<tr>
<th>Rate of Change (%)(^a)</th>
</tr>
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<tbody>
<tr>
<td>Buenos Aires 165</td>
</tr>
<tr>
<td>Caracas 46</td>
</tr>
<tr>
<td>Mexico City 141</td>
</tr>
<tr>
<td>Quito(^b) 71</td>
</tr>
<tr>
<td>Rio de Janeiro 122</td>
</tr>
<tr>
<td>Santiago 49</td>
</tr>
</tbody>
</table>


\(^b\) Data for the whole province of Pichincha where Quito is located

There have been different responses to this perception of insecurity. The rich have been able to “buy” private security, but the poor remain largely unprotected. This weakens the social fabric, widening the gap between social classes and deepening ethnic cleavages in some countries. It elicits a range of different self-defense strategies, from gated communities among the wealthy to justicieros, community patrols, and even lynching among the poor. Explanations also differ: whereas some blame a new underclass or family disruption, others point the finger at corrupt policing and other institutions. Scholarly accounts tend to report multiple overlapping factors and cumulative causation.

Table I.3 Trust in Institutions in Latin America

<table>
<thead>
<tr>
<th>Country</th>
<th>Police Mistrust (%)&lt;sup&gt;a&lt;/sup&gt;</th>
<th>Lack of trust in the Penal System (%)&lt;sup&gt;b&lt;/sup&gt;</th>
<th>Trust in Government (%)&lt;sup&gt;c&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>77</td>
<td>84</td>
<td>10</td>
</tr>
<tr>
<td>Bolivia</td>
<td>84</td>
<td>69</td>
<td>11</td>
</tr>
<tr>
<td>Brazil</td>
<td>63</td>
<td>49</td>
<td>21</td>
</tr>
<tr>
<td>Colombia</td>
<td>64</td>
<td>68</td>
<td>14</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>64</td>
<td>63</td>
<td>7</td>
</tr>
<tr>
<td>Chile</td>
<td>51</td>
<td>69</td>
<td>17</td>
</tr>
<tr>
<td>Ecuador</td>
<td>82</td>
<td>71</td>
<td>4</td>
</tr>
<tr>
<td>El Salvador</td>
<td>64</td>
<td>63</td>
<td>8</td>
</tr>
<tr>
<td>Guatemala</td>
<td>78</td>
<td>64</td>
<td>5</td>
</tr>
<tr>
<td>Honduras</td>
<td>67</td>
<td>53</td>
<td>23</td>
</tr>
<tr>
<td>Mexico</td>
<td>83</td>
<td>69</td>
<td>4</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>72</td>
<td>51</td>
<td>9</td>
</tr>
<tr>
<td>Panama</td>
<td>63</td>
<td>66</td>
<td>5</td>
</tr>
<tr>
<td>Paraguay</td>
<td>76</td>
<td>85</td>
<td>5</td>
</tr>
<tr>
<td>Peru</td>
<td>77</td>
<td>63</td>
<td>5</td>
</tr>
<tr>
<td>Uruguay</td>
<td>49</td>
<td>49</td>
<td>5</td>
</tr>
<tr>
<td>Venezuela</td>
<td>73</td>
<td>56</td>
<td>12</td>
</tr>
</tbody>
</table>

<sup>a</sup> Percentage of valid responses from those who responded “little or no trust” to the question “How much do you trust the police? Would you say that you trust the police a lot, a little, or not at all?”

<sup>b</sup> Percentage of valid responses from those who disagree or strongly disagree with the statement “the judicial system punishes delinquents.”

<sup>c</sup> Percentage of respondents who responded spontaneously to the question “Who do you trust in this country? (Multiple responses allowed).

Political responses have also varied. Those calling for a mano dura approach often win at the polls, because the public mood has become less tolerant, particularly among those who cannot afford private security arrangements and can no longer rely on neighbors’ solidarity. Institutional responses have varied as well, but the main tendency has been to embrace “tough on crime” postures. Legislative reforms are frequent, but effective implementation of well-judged reform measures is rare, and, when elected politicians have failed to deliver real security improvements, public disenchantment has followed.

INSTITUTIONAL RESPONSES

This book examines reform measures, and the conditions under which some have succeeded and others failed. The causes of crime are many, of course: social, demographic, economic, technological, and other variables come into play. The rise in crime has structural causes that outstrip governmental capacities. As some of the chapters in this volume show, major social and economic transformations of the 1980s and 1990s—including rising unemployment, community breakdown, widening income gaps, and growing poverty—correlate with the recent rise in crime. In this volume, the focus is on the political response of the state, how political actors have reacted to the new challenges, on institutional responses to the crime epidemic, and on the limits on the ability of institutions to fight and reduce crime in the region.

Institutional performance varies a great deal across the region, of course: some countries have managed to establish credible law enforcement institutions that operate according to the rule of law. But most are struggling to achieve even limited levels of deterrence. The contributors to this volume show that, in light of the available literature and various methodological instruments, legal changes have not produced great results. Since the state is the key for the development of credible, rule of law–based crime fighting institutions, countries with strong state traditions have tended to address the challenge much better than weak states, which have grappled un成功lessly with the problem. Weak states have also been less successful (or more unwilling) to address some of the structural correlates of crime such as unemployment, declining health and education, and community breakdown.
All of the above intertwines with the quality of democracy. Citizen demands for tougher anticrime policies may be at odds with democratic values. There have been many calls to bring back tough law and order governments, even at the expense of civil and political rights, in a context of regional redemocratization. Although there have not been any direct challenges to free elections, democracy may be at risk when citizens consent to the abrogation of basic rights.

DEMOCRACY, ACCOUNTABILITY, AND CRIME

One of the most flourishing subthemes in the comparative study of new democracies has been “accountability” (an English language term with no direct Spanish equivalent, although the usual translation is rendición de cuentas). The key assumption is that subjects of authoritarian regimes cannot hold those regimes accountable, whereas in a high quality democracy citizens do indeed possess the means to exercise such vigilance over their elected representatives and the public institutions for which they are responsible. In new democracies, where the institutions and the expectations required for effective accountability are either absent or incipient, it is conventional to assume or assert that one of the key reforms required to stabilize and deepen a new regime is to build up appropriate mechanisms of accountability. This line of argument requires more careful examination and disaggregation at the comparative and conceptual levels; it is particularly in need of scrutiny as it applies to crime control, the reform of justice systems, and the reinforcement of citizen security.

Taking the broader comparative issues first, there are indeed some key areas where this approach is convincing. Among other things, electoral processes have to be insulated from manipulation by the contending parties; candidates for public office need to learn that they will be held to account for the fulfillment (or otherwise) of their election provinces; those in control of taxpayer funds need to disburse them in accordance with the public purposes for which they are legally authorized. A broad conception of “accountability” may encompass all these aspects, and all constitute signature issues differentiating democratic and constitutional principles from those said to characterize authoritarian rule. However, it would be a mistake to overgeneralize from these important
yet restricted spheres of governmental activity. Under stable forms of authoritarian rule it may well be that quite effective systems of vertical governmental accountability are developed—after all, the ruling elite may wish to monitor and control the activities of its subordinates quite as much as (or perhaps even more than) a typical democratic electorate does. The Chilean Controlaría exercised considerable powers of investigation and control under the Pinochet dictatorship (although not over the authoritarian ruler himself), and the Mexican Secretaría de Programación y Presupuesto (SPP) was arguably more successful in holding other sectors of the federal bureaucracy to account for its spending than its democratic successor institution (Secodam). On the other side of the ledger, we need to question just how much real accountability there is, even in the most well-regarded and long-established democracies. This question is particularly pertinent when national security, some political areas of criminal justice, or immigration controls are at stake. It could be a mistake to jettison established structures of vertical accountability just because of their authoritarian antecedents (reshaping authoritarian institutions to make them more subject to democratic accountability is another matter); and it would perhaps be inappropriate—even naive—to insist that fragile new democracies must embrace overgeneralized and impractical forms of public policy accountability that are not the norm even in advanced democracies.

If these caveats are applicable to the accountability debate in general, they may be of greater significance when we turn to the specific policy area of crime control and justice system reform in most new democracies, since the obstacles to improvement are so interlocking and the scope for dislocation is so great. Let us start with the criminal justice system in a typical Latin American new democracy. There is a huge backlog of cases; a high level of impunity; the police are not held in high public esteem, nor are they trained or equipped to inspire collective trust and respect; prisons house many social failures and petty villains but few major criminals; with scant access to justice it may be the ombudsman or the human rights community who articulates legal grievances rather than the (often hugely politicized) public prosecutors; the best lawyers are rewarded for delaying and obstructing the prosecution of their well-heeled clients; judges often owe their appointment to political patrons, and may risk serious personal liability if they step outside the status quo. Democ-
ratization has opened the way to more competitive elections and the emergence of new political demands, but this only adds to the uncertainties and anxieties surrounding the activities of this inflexible, unwieldy, and low quality system of justice. What happens if one injects the fashionable nostrum “reforms to promote democratic accountability” into this system?

In such a context, it must be apparent that, for a considerable period of time, the inherited institutions will not be capable of delivering the full panoply of crime control and citizen security services that citizens in a modern democracy are entitled to expect. Democratic theory offers at least two channels connecting justice systems to regime types. To ensure free expression and peaceful dialogue over political alternatives, a democratic regime will undertake to provide some minimum standards of public order and security. And if citizens and voters come to the conclusion that this feature of a democratic system is seriously underprovided, they can exert strong pressure on their rulers to reform the justice system and provide better crime control by making this demand a central criterion for electoral success. So here we find both a linkage between a democratic political system and the provision of citizen security and an accountability mechanism to underpin the linkage. However, our concern here is with the transitional democracies that face an interregnum—perhaps indefinitely extended—where minimum standards of public order and security cannot be reliably provided to the satisfaction of the electorate (because of the institutional inertia and decisional disorders of the democratization process), and where the relevant accountability mechanisms are either too weak or too erratic to remove this issue from the forefront of citizen concerns.

In this context, we need a closer examination of the principles and practices of democratic accountability as they apply in the specific policy realm of policing and criminal justice provision. A core feature of democracy is that political officeholders (presidents, governors, and congressmen, among others) are subject to electoral accountability. But in Latin America, judges, public prosecutors, police chiefs, and prison directors (all the key figures in the justice system) are appointed, not elected. In principle, they should be appointed for their professional skills and left free to serve so long as they act legally and competently. But this is not what much of public opinion has come to believe. Under
authoritarian conditions, it was standard for these post-holders to owe their tenure to their acceptability to the ruling clique, but under democratic conditions they should be entitled to more professional autonomy and security of appointment (so that politicians can only dismiss them for a publicly justified “cause,” rather than “at will”). Professional standing may indeed be more likely to influence promotions, with organizations like the Consejo de la Judicatura or the Ordem dos Advogados better placed to resist political or interest based placements, if necessary by appealing to public opinion.

However, these are only tendency statements, and the actual patterns observable are quite diverse. There have been “pacted” democratizations in which the protégés of the outgoing authoritarian regime benefitted from a high degree of continuity and impunity for past acts of undemocratic complicity. There are “democratic ruptures,” in which most of the old guard is abruptly replaced by a new cohort strongly associated with the opposition and the human rights community. There are highly politicized arrangements where party quotas determine the allocation of public posts. And there are cases of insulated institution-building where professionalism trumps other considerations in the running of the justice system. All these variants share a high degree of contestability. The post-transition status of the justice system is likely to be a focus of disagreement and dissatisfaction, not least if questions of transitional justice are unresolved or if citizen security fails to improve under the new regime.

Different components of the justice system need to be distinguished here. The Supreme Court is likely to experience substantial new demands, not necessarily because of its role in controlling crime and insecurity but more because of its enhanced constitutional autonomy in a “separation of powers” system. These new demands may even deflect its energies away from the core functions of the criminal justice system. Public prosecutors are likely to find themselves at the heart of controversies over the handling of transitional justice issues. This important additional function may divert energies from the good functioning of the current justice system. Such problems are not insurmountable, but they add to the obstacles impeding constructive reform. Typically, public security agencies are divided into rival corporations, each of which may be aligned with a different ministry or level of government. Under authoritarian rule, these divisions may perhaps have been contained by “top
down” methods of control (often through the command structure of the armed forces or the secret police); but under more democratic conditions the military and the intelligence services are likely to be curbed, and the regular police forces will assume a more independent role. While this shift could permit more democratic and accountable policing, it can also entrench dysfunctional practices. Bureaucratic and budgetary rivalries and the plurality of political interests involved often impede coordination between these corporations. Again, therefore, a democratic transition can add to problems impeding unified and effective crime control. Finally, in nearly all of Latin America prisons are the poor relations of the justice system. This is true both of authoritarian and democratic regimes. It is hard to judge whether the manifold deficiencies of the region’s penitentiary systems, which become visible under the scrutiny of democratic publicity, have in fact worsened because of regime change, or have merely seen the light of day for the first time.

The cumulative effect of these changes to the justice system, which can all be associated with a democratic transition, is to unsettle public opinion about its stability. This can be costly for democracy, especially when it is associated with the perception that crime is out of control and citizens are not secure. Press freedom tends to facilitate the emergence of sensationalist reporting of these issues; and in a more open climate, there is also more “inside” information about key institutions. Thus, it is not uncommon to be told that a high proportion of congressmen are themselves guilty of felonies; that many judges and prosecutors are either bribed or intimidated to pervert their functions; that ministers use the justice system to persecute their political rivals and cover up their own financial misdeeds; that police forces collude with both petty criminals and organized crime; and that prisons are controlled not by their directors but by their most powerful inmates. In this kind of environment, voters may seek shortcuts to bring so much disorder back under control. It becomes possible for candidates with a reputation for advocating harsh discipline and with few “rule of law inhibitions” to secure strong electoral support. Their mano dura policies are likely to accentuate the climate of violence and distrust, separating suspect sectors of the community from those that are better off. There have even been decisions to sacrifice national sovereignty on the grounds that it is only through extradition that the worst offenders can be punished.
Such dysfunctional features of the criminal justice system have the potential to feed back to undermine the “quality” of these new democracies and even eventually to jeopardize their legitimacy. This is possible simply because of public fears about common crime and the insecurities that can accompany a democratic transition. If, in addition, there are larger forces at work—drug-trafficking, political insurgency, and even terrorism—it is not difficult to see how such negative feedback loops can become entrenched and self-reinforcing. Our comparative evidence so far suggests that there is no simple democratic accountability method that can be relied on to block such possibilities. And yet, in the long-run, a well-ordered democracy should enable the electorate to reward and sanction rulers according to their performance in crime control and the provisions of justice.

THE STRUCTURE OF THE BOOK

The overall theme of this book is the problem of criminality and institutional responses to it in the context of democratization processes and in the light of rule of law requirements. Authors were asked to identify how the specific problems or issues they assess might undermine or strengthen the region’s democratic institutions and the successful implantation of the rule of law, as well as how far state capacities have developed to cope with crime. Furthermore, the contributors to this volume were encouraged to address two basic issues: the impact of rising crime on the quality of institutional performance in Latin America, and the challenge that rising crime poses to the quality of democracy and to the rule of law in the region.

The book is divided into three parts. In the first two, each chapter presents a case study, usually about a single country. Some of the chapters are comparative, typically focusing on two cases. One of the major tasks for the authors was to identify general trends and problems within each country. They sought to answer questions such as whether the available evidence allowed them to reach reliable conclusions, what they were unable to determine based on available information, what was singular about their case study, and what could be identified as part of a general trend. The third and final part includes two chapters that address this comparative aspect from a theoretical perspective.
Crimes and Criminals

The “story” told in this book starts with analyses of crime in Mexico City and Argentina, in Chile and in Brazil. On Brazil, Claudio Beato and Federico Marinho look at the incidence of homicides committed with firearms and the differences between regions as an explanation of homicide rate variations. They record important changes in the evolution of violence and in the homicide dynamic over the past two decades, and argue that variations in crime are the result of varying cultural traits and patterns of conflict and control specific to each region. They reject the “subcultures of violence” argument, and focus instead on theories of social disorganization and traditional control mechanisms that come into play when formal ones are absent. The authors call for more research on various social and institutional issues to understand the cause of crime, including informal control networks operating alongside formal external control institutions to understand how social life has become governed by a private logic that rules the lives of the young inhabitants of urban centers.

Lucia Dammert then analyzes new trends in criminality in Chile and problems of data collection in that country. Although Chile has a solid police force and an adequate judicial system, and has had a successful economic record, crime has risen sharply, leading to a public outcry. Levels of victimization in violent crimes are much lower than those in neighboring countries, but property crimes (particularly “minor” ones) claim many victims. She examines reported crime rates and “fear” of crime using the first national urban victimization survey (NUVS) undertaken at the beginning of 2004 and the “fear index” developed by the Fundación Paz Ciudadana. She argues that it is necessary to develop more accurate data collection tools, notably an integrated information system to allow cross-referencing of data on reported crimes, detentions, penal population, and judicial process, and victimization surveys. She concludes that reported crimes have tended to rise, signaling a worsening crime situation nationally from the mid-1990s onwards, coinciding with a bad economic crisis, and only improving from 2005 onwards, and that a high proportion of the population is fearful, so that policies to address fear are necessary since lowering the crime rate does not necessarily improve citizens’ sense of security.
Marcelo Bergman then compares crime in Buenos Aires and Mexico City. The author notes that there are no comprehensive explanations about the steep rise in crime in both cities. After reviewing a number of theories that attempt to explain rising crime the author notes that there are major sociostructural transformations in Argentina and Mexico that have an impact on crime, such as the abrupt transformation of the labor market as well as the institutional eclipse of the state. The widespread incorporation of women into the work force, the scarcity of jobs for youths and males, changing patterns of control and child rearing practices, family disruption, and dramatic shifts in the labor market have all contributed to higher crime rates. He calls for more research on the profound change in social institutions and on the link between “marginality,” the “underclass,” unemployment, drugs, and crime. Unregulated and unprotected economic growth, and the poor performance of institutions that are meant to detect, prevent, and punish crime are also major elements explaining rising crime rates.

Fighting Crime and Police Reform

The story continues with a look at police forces of the region. Mark Ungar shows in his comparative study how governments throughout Latin America have enacted various reforms to make the police more effective and accountable, curb a sharp rise in violent crime, and boost public faith in police probity. He looks at structural reorganization, criminal justice reform, and community policing. He claims that while many of these reforms are too new to have produced substantial results, most of them have already been weakened and undermined—even those that have been carefully designed and that gained broad support—because of three interrelated obstacles: political pressures to crack down on record crime rates; police force resistance to reform, or an inability to take on new regulations and implement oversight instrument; and “zero tolerance” laws based on preventative detention, which discourage officers from respecting due process and civil rights. He also claims that even when governments are able to enact legislation, better strategies are necessary to ensure that penal codes, oversight agencies, restructuring, and other changes survive long enough to overcome political and institutional obstruction.
Hugo Frühling looks at Chile, using various surveys to explain high public support for the police. Like Dammert, he notes that crime rates, particularly of property crimes, have risen significantly since the reestablishment of democracy in 1990, but shows that Chileans still trust the Carabineros de Chile (CC), which is responsible for preventative public safety, because of their high levels of institutionalization and professionalization, their successful adjustment to democratic rule, the quality of public service they offer, and the polite and disciplined way they deal with the public and with crime. The author points out that levels of support vary according to socioeconomic status, with lower income sectors more critical and less trusting of the Carabineros, which they view as offering them less protection. Despite public backing, the Carabineros face significant challenges in large part as a result from a distance between the force and the population. Further, the police would benefit from decentralization, since the problems vary according to social class or sector.

Elena Azaola examines the state of the preventative police in Mexico City. The contrast with Chile could not be greater: the seventy-six thousand strong police force is underfunded, underequipped, and rife with corruption; officers are mistreated by superiors and by civilians alike, and self-image and morale is very low; and various problems emerge as a result of constant changes in police leadership, lack of expertise in police reform, and the absence of a strategic plan to combat the culture of corruption and the predominance of a paralegal regime. According to one testimony, “we [the police] are the scum of the earth for society because they say we are evil and corrupt and it does not occur to them that we are part of that same society and we are as corrupt as it is. The whole of society has lost its values . . . It is not worth talking to a society that is more corrupt than we are.” The author argues that while there have been improvements over the last quarter century, rising crime has made the deficiencies of the police more obvious, “human rights” is only just making an appearance on the institutional police agenda, and the required organizational changes have yet to be implemented and to bear fruit.

Punishing Crime: The Criminal Justice System

The story then continues with a look at criminal justice and police reforms. Elvira Restrepo looks at the case of Colombia, which has a striking
record in terms of the number of substantial reforms to the system of
criminal justice. She compares the old inquisitorial criminal justice sys-
tem with the new “semi-accusatorial” system headed by an Attorney
General (Fiscalía General de la Nación; or FGN). The author argues that
the enormous powers of the FGN and the semi-accusatorial system may
leave the way open for greater efficiency (compared to the old system)
but also for greater arbitrariness. The new system performs better (more
cases are terminated in shorter periods of time), but this has not trans-
lated into trust among the general public, nor is it having an impact on
deterrence or impunity. She concludes that society may have to choose
between quantity and quality, as it seems doubtful that the new system
will achieve both.

The chapter by Luis Pásara offers a regional overview, focusing on the
question of whether the reform of criminal trial systems has improved
citizen security. The author says that in some cases (albeit a minority)
crimes are dealt with faster and are in fact solved by the new system, and
that legal rights are more effectively guaranteed as a result of better pro-
visions for the rights of defendants, but he notes that these achievements
are not causally related with how successfully criminality is combated
nor do they contribute to improved citizen security, either objectively or
subjectively. Thus, while reforms increase and expedite the process of
punishment, thus raising the cost of crime and reducing criminality, it is
nonetheless the case that penal reforms cannot resolve the social prob-
lems that transcend the criminal justice system. In his view, there are so-
cial variables at play so that criminal justice reform cannot be expected to
resolve criminality on its own. Thus, it is necessary to understand the
limited sphere of action of the criminal justice system and the scope of
improvements that can arise from reform. This raises the issue of how to
measure “success” given the dearth of qualitative evaluations of judicial
decisions. The author concludes that it is necessary to distinguish be-
tween security and prevention on the one hand, and the punishment of
crimes on the other. This involves looking at public policies on growth
and employment and social investment as generators of security or insec-
urity. It also involves increasing crime prevention programs. He sug-
gests that it is necessary to develop a crime fighting policy that focuses on
organized crime and crimes with a high social cost or impact, among
them economic crimes. In addition, it is important to address crimes in
such a way as to address the legitimate demands for justice of the victims.
This would go far beyond the changes wrought by the criminal justice reform thus far.

**Containing the Criminals: The Prison System**

The story ends in a “Mexican jail,” so to speak, with a chapter by Mark Ungar and Ana Laura Magaloni on Latin America’s prison system. They argue that patterns of discrimination are entrenched, criminal justice systems are in disarray, and tolerance of human rights abuse is an ongoing reality. As they add, “Killings, overcrowding, disease, torture, hunger, corruption, and the abuse of due process that occurs under the twenty-four-hour watch of the state belie the principles underlying contemporary Latin American democracy.” The authors focus on three possible justifications for the penitentiary system, and show that none appears to work in Latin America. One goal is deterrence (which is apparently a still distant one); another is to prevent crimes by simply keeping criminals locked up. As most prisons systems house a large percentage of petty offenders, the incapacitating argument is weak. Indeed, minor offenders often are so brutalized by imprisonment that they are more likely to become hardened offenders once they are released. A third justification for penitentiary systems is rehabilitation. As their chapter documents, however, conditions in Latin American prisons are not likely to rehabilitate anyone. A final justification is just punishment, social vengeance, or retribution. The authors say that Latin American prisons may be fulfilling this objective to some extent, but as long as penal institutions remain open to corruption, and as long as only a small percentage of real offenders are actually incarcerated, punishment remains selective and biased against the weakest and least protected segments of society. Consequently, punishment as just desserts is undermined. The authors conclude that, to the extent that penitentiary systems in Latin America are filled overwhelmingly by minor offenders, overcrowded, and allow torture, corruption and abuse, it is hard to find any social justification for them.

**What Crime Does: Security Traps**

The book concludes with two analytical and comparative perspectives. The chapter by John Bailey describes the “security trap” that Latin
America finds itself in. The author asks why only some political units (cities, regions, countries)—and not others—fall into security traps in which crime, violence, and corruption become mutually reinforcing, thereby affecting civil society, state, and regime, and contributing to low-quality democracy. He adopts two models, one depicting a “positive equilibrium” set of relationships between public security and democratic governability, and another that depicts a “negative equilibrium,” or a security trap. A “negative equilibrium” exists when the components of public security, its linkages and feedback, remain unreformed and the overall legitimacy of the political unit is weak or absent. In it, the essential public-private differentiation is blurred or absent. In the worst cases, corruption filters down from the top, permeates regime and state institutions, and penetrates deep into the economy and society. In this negative equilibrium, regime and civil society are unable to correct themselves and therefore are also unable to correct problems of public security. The major feedback loop emanates from civil society in corrupt collusion with state and regime; the “corrective” feedback loop is relatively weaker. Civil society views the state bureaucracy and judicial apparatus as inefficient and ineffective. The negative equilibrium model, however, does not describe a “failed state” as it is more ordered and coherent; indeed, it is likely that “we shall find a range of positive and negative equilibriums, and it is more useful to think in terms of a unit’s falling into a (rather than the) security trap.” Bailey then goes on to explore the relationships between public security and democratic governability, and argues that the Schumpeter-Dahl model of democracy focused on access to power and accountability cannot account for the impact of public insecurity, widespread poverty, extreme inequality, and slow growth on socioeconomic development and public safety, which have a key impact on democracy. It is necessary to consider whether governments can effectively enforce laws that are accepted and shared by the community it rules. As the author concludes, “democratic governability encompasses not only how power is achieved and the rules of the game (democratic regime) but also the exercise of power within a legal framework (governability).”

Finally, in the concluding chapter, Laurence Whitehead addresses the broad underlying issue of the relationship between Latin America’s experience of democratization at the political level, and citizen experiences of insecurity and ineffective justice systems at the societal level. He sees
this as a “paradoxical configuration” with lasting implications for both
the “quality” of the region’s new democracies and the volatility of its citi-
zenship rights. Enough time has already elapsed since the major demo-
cratic transitions of the region to dispel the illusion that these are merely
temporary or fictional inconsistencies. The new democracies are mostly
reasonably durable, if of doubtful quality. The deficiencies of the justice
systems also seem highly embedded and unlikely to change drastically (at
least not for the better) in the near future. The coexistence of these two
parallel realities is therefore not transitional. Yet they do not operate in
self-contained compartments, and the interactions between them are
likely to produce powerful effects on both. This “paradoxical configura-
tion” is systematically at variance with the standard templates of main-
stream democratic theory (although not necessarily with the actual
practice of democracy in some longstanding instances, such as Sicily).
The author reflects on the main distinctive features of this configuration
and on the question of its ultimate stability. Distinguishing between
macro and micro levels of analysis may help to explain both how it can
persist and where to look for evidence of change. The potential clearly
exists for an accumulation of reforms and adjustments, which could pro-
gressively diminish citizen insecurity and improve the quality of democ-
incy (probably to the initial benefit of only some social sectors and
communities, with others left behind). But, as Bailey’s account of vicious
and virtuous circles also indicates, a darker alternative pattern is also
possible. It is only through careful comparative and empirical analysis
and in-depth contextual study that these emerging trends can be cali-
brated accurately.

A FINAL WORD

It is assumed throughout this volume that for democracy and the rule of
law to flourish they must “deliver” some minimal “goods.” So when the
institutionalized battle to contain crime shows such poor results, it is as-
sumed that the quality of democracy and the rule of law are endangered.
Does this failure contribute to public desencanto with democracy? To
what extent does a “tough on crime” approach undermine the values of
democracy and rule of law in Latin America? These are central issues for
this book. While the authors address a broad gamut of questions, many
others are left unanswered and should be the subject of future study. Topics such as race, ethnicity, and gender have not merited sufficient attention although they are related to crime and violence. It is also important to gain a more international comparative view of crime and crime fighting. There is no more than passing reference to the active role of the United States in developing policies to combat crime, particularly related to drug trading, as well as issues such as deportation, extradition, and arms and people trafficking. Future research should do justice to these and other important topics that require special treatment. This book is the product of studies by scholars who are interested in the current Latin American debates, and who are seeking to define the role that academic research should play in policy making in this field. Their hope is that they can participate in the building of epistemic communities that can contribute intelligently and responsively to the challenges of crime. These are scholars who hope to get beyond an *amarillista* or purely denunciative approach, and to develop a more consensual understanding of the problems of crime and crime fighting. There is a need to bridge the “pro rights” and “tough on crime” approaches so that the quality of democracy and the rule of law in the region are ultimately strengthened. We hope this volume makes a modest contribution to that goal, or represents a step in that direction.

**NOTES**

1. We would like to thank the anonymous reviewer for the University of Notre Dame Press for this insightful comment.


3. Because El Salvador is small and has compact communications and a well-developed administrative structure, it is easier to collate homicide statistics there than in most other places in Latin America. In 2000, however, three different agencies produced three quite different sets of figures. According to the Attorney General, the rate was 56.6 per 100,000, the Institute for Legal
Medicine put the number at 42.9, and the National Civilian Police at 37.3. The data comes from Fundación de Estudios para La Aplicación del Derecho Metodología para la Cuantificación del Delito (FESPAD), San Salvador, 2002; see http://felpad.org.sv/wordpress.


5. Civil war zones where violence was much higher, like Central America in the 1980s, are probably exceptions.

6. There are numerous accounts of lynching and “private justice.” See C. Vilas “Linchamiento: Venganza, castigo e injusticia en escenarios de inseguridad,” for a study of social transformation, rising crime, and lynching in Mexico.

7. New firearm technology has a significant impact on criminal activity, as do new channels for the distribution of illegal drugs, among other factors.