

POLICING AND CRIME

Malcolm Deas

St Antony's College, Oxford University

Criminality, Public Security, and the Challenge to Democracy in Latin America. Edited by Marcelo Bergman and Laurence Whitehead. Notre Dame, IN: University of Notre Dame Press, 2009. Pp. xiv + 344. \$40.00 paper. ISBN: 9780268022136.

The Economics of Crime: Lessons for and from Latin America. Edited by Rafael Di Tella, Sebastian Galiani, and Ernesto Schargrotsky. Chicago: University of Chicago Press, 2010. Pp. ix + 472. \$110.00 cloth. ISBN: 9780226153742.

No Place to Hide: Gang, State, and Clandestine Violence in El Salvador. By Laura Pedraza Fariña, Spring Miller, and James L. Cavallaro. Cambridge, MA: International Human Rights Clinic, Human Rights Program, Harvard Law School; distributed by Harvard University Press, 2010. Pp. xii + 224. \$14.95 paper. ISBN: 9780979639531.

Policing Insecurity: Police Reform, Security, and Human Rights in Latin America. Edited by Niels Uildriks. Lanham, MD: Lexington Books, 2009. Pp. ix + 262. \$70.00 cloth. ISBN: 9780739132289.

Policing Democracy: Overcoming Obstacles to Citizen Security in Latin America. By Mark Ungar. Washington, DC: Woodrow Wilson Center Press; Baltimore, MD: Johns Hopkins University Press, 2011. Pp. 336. \$60.00 cloth. \$30.00 paper. ISBN: 9780801898020.

The themes of policing, crime, and punishment have attracted relatively few scholars as far as Latin America is concerned. Violence is quite another matter, of course, and conflict studies flourish. Crime and punishment have for some time attracted the attention of social historians under the varied inspirations of the Warwick school of E. P. Thompson and Douglas Hay; of Michel Foucault; and of subaltern, postcolonial, and gender theories. Those interested in narcotics and their consequences have produced a vast literature. Legal systems have also received some extralegal academic attention, from the old formal analysis of *historia del derecho* and *derecho indiano* to burgeoning studies of democratization and human rights, and new theories of transitional and retributive justice inspired by postauthoritarian “closing the books.” Policing comes in a very poor last. All in all, scholarship is thin and patchy in this area, and it is worth speculating as to why.

Policing is a depressing subject in most places, particularly when the focus is contemporary. Police forces are inevitably the most liable of all state institutions to be inefficient, corrupt, and abusive. Few, if any, police forces welcome study; few

have the capacity to study themselves. They are commonly hardened to criticism and expect little understanding from outsiders: the feeling is that “no one loves us except our mothers,” and perhaps not even them. Much essential information is inaccessible, and looking for it can be dangerous. Anyone familiar with criminology also knows how difficult it is, even in other areas of the world that have much better statistics, to interpret data in this field to reach sound practical conclusions. In short, policing is a hard row to hoe, as the books under review show in their different ways.

Some scholarly difficulties are perhaps particular to Latin America, or to the study of Latin America. In all the works examined—even in *The Economics of Crime*, which promises some lessons for Latin America from elsewhere—there is scant reference to the experiences of other parts of the world. For example, none of the works mentions the outstanding series of historical studies of British and European policing by Clive Emsley, which, if used, would at least show that Latin America’s policing problems are not unique.

Another factor affecting scholarship is the feebleness of the region’s legal traditions in producing a usable empirical criminology. As Elvira María Restrepo states, “very little is actually known about the real quantity and nature of criminality in Colombia, with the possible exception of homicide and car theft” (Bergman and Whitehead, 181). Long influenced by Cesare Lombroso and his successors, or by more recent musings on crime as a product of law, lawyers have preferred to focus on the philosophical variants of the discipline. Neither school has much practical application, although both have contributed to strikingly indulgent policies in some circles. For example, the influence of Enrico Ferri in Colombia—felt there long before he taught his famous disciple Jorge Eliécer Gaitán—bears some responsibility for light sentencing: the penal code of 1899 fixed the penalty for assassinating the president at six to ten years of imprisonment, or four to eight years if the president was not in office at the time. The tradition persists. Laws of evidence generally favor the accused, and in the few cases in which heavy sentences are given, they are subsequently reduced on all sorts of pretexts; drug traffickers, for example, have had years knocked off their sentences for taking courses in business administration.

Recent judicial reforms, notably the change to quasi-adversarial systems, have in large part been designed and carried out in an atmosphere of practical innocence, with little or no regard for the roles of police or for their capacity to fulfill the basic tasks of gathering evidence and producing it in court, for example. The word *detective* is rarely found on the lips of lawyers, who are everywhere legion. I recall a two-day seminar on law reform in Medellín, Colombia, attended almost entirely by lawyers; neither that term, nor its local equivalent *policía judicial*, was ever uttered. Countries with a great many lawyers always have great difficulty in reforming judicial procedures. As one policeman complained to Mark Ungar, the government “changes laws like socks” (29).

The studies of crime and policing reviewed in these pages are in the main inspired by a concern for the quality of democratization and of human rights. This is legitimate enough, yet it makes for incompleteness. A heightened awareness that democratization has been followed by an increase in crime—in some coun-

tries by a spectacular increase—has given urgency to reform, which can make for haste in the essential first step of analyzing why things are as they are. With definite exceptions, these studies show little curiosity for institutional detail: budgets, recruitment, qualifications, promotions, the relationship of higher to lower ranks, where police officers live, and the like. To be effective, police must balance intimacy with, and distance from, the people policed. As a result, where police officers live is no small matter, and it is an issue that the police chiefs themselves frequently raise.

Homicide is also a predominant concern. This is not surprising, as Latin America's homicide rate is more than twice that of any other part of the world for which such rates are available. In the fraught field of crime statistics, those for homicides are accepted as the most reliable and thus are best suited to comparisons and correlations. All the same, policing is not just about murder; its everyday business deserves more attention than it has thus far received.

Police studies are an innovation of the past two decades in Latin America. The end of the Cold War and of authoritarian regimes made a redefinition of security necessary in many republics. In Colombia—the pioneer in reform—confrontations between the state and the Medellín Cartel had, together with a spectacular rise in the homicide rate, made internal security the foremost anxiety of both citizens and government by 1990.¹ The books under review provide an excellent introduction to the current state of learning in this field.

An essential overview, and the most thorough analysis of the five, is Ungar's *Policing Democracy*, in which a lengthy introduction is followed by country studies of Honduras, Bolivia, and Argentina. Even readers who lack the patience to follow, say, the vagaries of repeated attempts to introduce community policing in Mendoza must admire Ungar's extraordinary commitment and industry. There are few themes that escape him and on which he does not have something useful to say. Ungar's intent is avowedly reformist but much broader than those he categorizes as "more concerned with human rights than with governance." He explains: "this book focuses not on what the police are doing wrong—which dominates scholarship and policy—but what the police are doing" (16). This practical, refreshing, and important focus is shared (albeit with more pronounced emphasis on errors and shortcomings) by many pages in the collection edited by Niels Uildriks, *Policing Insecurity: Police Reform, Security, and Human Rights in Latin America*.² All too many critics and policy makers are confident that they know how to police, just as others are sure that they know how to make war and how to make peace.

1. María Victoria Llorente, "Demilitarization in Times of War? Police Reform in Colombia," in *Public Security and Police Reform in the Americas*, ed. John Bailey and Lucía Dammert (Pittsburgh: University of Pittsburgh Press, 2005), 111–131; Juan Carlos Ruiz Vásquez, "Colombian Police Policy: Police and Urban Policing, 1991–2006" (D. Phil. thesis, Department of Politics and International Relations, Oxford University, 2009).

2. Niels Uildriks is also author, with Nelia Tello Peón, of *Mexico's Unruly Law: Implementing Human Rights in Police and Judicial Reform under Democratization* (Lanham, MD: Rowman and Littlefield Publishers, 2010), reviewed by Jon Shefner, "Development and Democracy in Mexico," *Latin American Research Review* 47, no. 1 (2012): 196.

An example of this naïveté is the common call for *la mano dura*, hard policing inside and outside the region. Ungar is rightly critical of the facile views of those who espouse zero tolerance, “broken windows,” and other simple nostrums, whose only result is yet another expensive invitation to Mayor Rudolph Giuliani, as Ungar also argues in his contribution to *Criminality, Public Security, and the Challenge to Democracy in Latin America*, edited by Marcelo Bergman and Laurence Whitehead. Uildriks makes the same point: “In the face of an ill-equipped and demoralized police force, any notion of zero tolerance being meaningful in a Mexican context is highly naïve” (201). Take also the issues of centralization or decentralization, of a military or civilian pattern of internal organization, or of community policing itself. Would-be reformers often have little time or patience to listen to the views of police officers, to try to understand unfamiliar rationalities and why things are as they are. This accounts in part for the notorious obstinacy of police forces in the face of reform, a characteristic by no means confined to Latin America; indeed, it is hard to think of any police force in the world that has a satisfactory procedure for complaints.

Calls for more local control are common, but evidence hardly favors this solution. Mexico and Venezuela, countries in which security is now a notorious problem, both have fragmented forces. Mexico has five different types of police, including federal, state, and municipal forces, a confusing scenario, given its 2,430 municipalities. No wonder that its previous two presidents have had to resort to the army, a poor remedy though it is. Venezuela, where homicides have risen sharply in the past two decades and are still on the increase, against the trend of moderate declines in much of the region, likewise has separate state and municipal forces. According to Ungar, some 105 new forces have indeed been created since 1990.

Ungar is right to remind the reader that there is no automatic correlation of decentralization with democracy. One reason Colombia has had a national security force since the 1950s, when the first steps were taken by the short-lived military government of General Gustavo Rojas Pinilla, is that politicians easily corrupted and manipulated the old departmental and municipal forces. As a result of this national force, Columbia was much better prepared to face the threat of drug cartels than Mexico is today. Ungar is also right to have reservations about civil society, whose views are not always enlightened and whose reactions to a perceived rise in crime at times go beyond the usual cries for more police and heavier sentences to include vigilantism, paramilitarism, and *limpieza social* (social cleansing).

Much the same can be said of the common demand to make internal police structures more civilian and less military. According to the much-cited *Latino-barómetro*, the two forces that enjoy the most public confidence are Chile’s *carabineros* and Colombia’s national police, both of which are organized along military lines. Colombians often criticize that police are subsidiary to the Ministry of Defense, but they rarely have any idea as to where else they should be put: the dire experience of political interference does not indicate that they should be under the Ministry of Government, and the Ministry of Justice has quite enough on its plate without assuming the additional responsibility of managing the police.

The persistence of guerrillas and paramilitaries makes essential a high degree of coordination with other armed forces.

This points to one obvious limitation to community policing. Where threats to security from organized crime and drug-related violence are particularly virulent—as they are in parts of Mexico, Colombia, and Central America, and in parts of Kingston, Rio, and São Paulo—something else is clearly indicated. Mafias have to be confronted by forces of special design and training, as Italy's experience makes clear.³ This is a particular instance of the reluctance of both governments and their critics in Latin America to learn from elsewhere.

Nor is it easy to find precise definitions of community policing. It is obviously desirable to improve communication and trust between police and citizens: most people want public security, a condition more important for the poor than for the rich, as the poor live on precarious budgets that can be vitally threatened by theft or injury, and the rich can usually afford to look after themselves. Most people want police, though not perhaps the police they have got. Only the permanent and consistent presence of reliable police enables cooperation by ordinary people—as Myriam Jimeno showed in an important study of Bogotá in 1995.⁴ Not collaborating with intermittently present police is essentially a strategy to avoid violence rather than an indication of perversity or lack of the right values.⁵

Achieving reforms is difficult, and the books under review can be mined for the difficulties. If reforms are not just window dressing, as they often have been, they must be realistic. Police are drawn from the relatively poor and uneducated, their working hours are frequently excessive, their pay and conditions poor. Some forces demand higher qualifications—Colombia requires the *bachillerato*—but in many countries the level of education remains low in a job that, as in most of the rest of the world, is rarely a vocation but instead just a means to earn a modest living. In 2003, only 55 percent of police in Mexico had a basic education. As Uildriks shows, lower-ranking police officers are much more skeptical about community policing than their superiors, and he strikes another note of realism in finding that Mexican police officers sent to attend courses commonly fail to recall even the subject of study.⁶ Also, higher officers are frequently not much convinced by community policing, and an additional obstacle is their distance from the agents under them. This distance is often made wider by distinctions in recruitment and training. In Colombia, cadets in the officers' school even have to pay substantial fees. In Brazil, some experiments in community policing have been made by the

3. Alexander Stille, *Excellent Cadavers: The Mafia and the Death of the First Italian Republic* (London: Vintage, 1996), details how antimafia squads were organized in Sicily and on occasion betrayed by corrupt judicial authorities in Rome.

4. Myriam Jimeno, Ismael Roldán, David Ospina, Luis Eduardo Jaramillo, José María Calvo, and Sonia Chaparro, *Las sombras arbitrarias: Violencia y autoridad en Colombia* (Bogotá: Editorial Universidad Nacional, 1996).

5. *Ibid.*

6. A similar note is sounded by Ungar and Ana Laura Magaloni in regard to the results of recent judicial reforms: "When asked who was in charge of the court hearings, only 8 percent of [prison] inmates identified the judge (51 percent chose the court clerk, 20 percent the prosecutor, and 21 percent the typist)" (Bergman and Whitehead, 243).

policía militar (the confusing designation of the ordinary Brazilian police); nevertheless, these have been enfeebled by poor coordination with the *policía civil* (the investigative branch), low investment, and a lack of continuity among those in charge.

Effective community policing demands clear aims, careful design, adequate resources in manpower and infrastructure, stability in command, independent assessment, and great patience. Reform is never easy. Few of these attempts, one concludes, have followed the proven Benthamite-Victorian sequence: definition of the ill, investigation with a wide trawl of evidence, legislation, inspection of what is implemented, and patient monitoring of the results.

Uildriks, the most overtly reformist of the writers under review, is also the most critical of reforms made hitherto because of their inadequate studies of feasibility; short-term, naive, and selective foreign advice and pressure; and administrative purges that not only violate the rights of the purged but also merely shift offenders to other areas of criminal activity. His collection is unusual in containing two pessimistic chapters on Jamaica, which will disabuse anyone who still thinks that problems in the hemisphere are exclusively "Latin." Receiving particular criticism are the narrow operational focus of most outside assistance, which is overly confined to the interests of the assisting country, and—a surprise for reforming lawyers—the "inefficient British-type of accusatorial criminal justice system that is easily manipulated and subverted by key players and that is incapable of responding in any systematic and coherent way to the sheer number of cases it has to deal with" (115). Elsewhere, overambitious grand designs merely confirm the conclusion of a Mexican informant, Claudio Beato: "the best way not to change anything is to change everything" (206).

The Economics of Crime: Lessons for and from Latin America, edited by Rafael Di Tella, Sebastian Galiani, and Ernesto Schargrotsky, highlights what economists have to offer. Chapters by economists are sometimes tough going for the general reader, given economists' love of writing to each other in algebra; here, however, all the contributors are careful to state at least their main arguments and conclusions in ordinary language. Some of these are more important, and less banal, than others. Among the more banal is the conclusion to the study of Buenos Aires by Di Tella, Sebastian Galiani, and Schargrotsky: the poor suffered more than the rich from rising crime (particularly burglary, theft, and mugging) in the early years of this century. The poor usually do suffer more. More insightful, but perhaps not requiring the exhaustive statistical analysis that it receives here, is the demonstration by Ana María Ibañez and Andrés Moya that displaced persons in Colombia suffer a loss of assets and are liable to be trapped in poverty.

Being economists, all authors in *The Economics of Crime* are also concerned for the costs of insecurity, whose impacts are not uniform. Estimates of such losses as a percentage of gross domestic product and of income per capita indeed vary a good deal, but none is low. Rony Pshisva and Gustavo A. Suárez show that "firms invest less when kidnappings directly target them, while there is no effect when there are other forms of violent crime that do not explicitly target firms—homicides, guerrilla attacks and general kidnappings" (7). This finding echoes Stephen Haber's conclusion that investors in mines during an earlier era of inse-

curity in Mexico were concerned with their own property rights, not with property rights in general.⁷

The Economics of Crime succeeds in provoking thought. Nevertheless, the editors signal the dispassionate approach of economists in finding that rates of crime in Latin America are “not exceptionally high,” given the region’s high inequality, low rates of incarceration, and small police forces (5). This is a *consuelo de bobos*, a consolation for fools. Alejandro Gaviria is right to comment that these statistics do not cover exceptional surges, such as those stemming from the high numbers of homicides in Colombia in the 1980s and in Mexico recently, which are clearly drug related (57–58). Rodrigo R. Soares and Joana Naritomi conclude, however: “We do not believe that [drugs] are a major factor determining the high rate of violence observed in Latin America or explain the bulk of the distribution of crime in the region. Our analysis suggests that one can go a very long way toward understanding the incidence of common crime and violence in Latin America without resorting to the role of drugs” (22). “A very long way” is perhaps an exaggeration, and it does depend on how you define “common crime and violence.”

Readers interested in policing should be attracted by the debate in *The Economics of Crime* over the causes of the dramatic decline of more than 70 percent in homicides in São Paulo, city and state, from 1999 to 2005. Were the array of measures taken by government authorities and police effective, or does the cause lie elsewhere? The same question is raised by similar declines in Bogotá, where homicides fell from eighty per hundred thousand in 1993 to twenty-one per hundred thousand in 2004, and Medellín. The explanations given in *The Economics of Crime* will be familiar to US readers from debates on the supposedly unique achievements of New York City. One school of thought, here represented by João M. P. de Mello and Alexandre Schneider, wishes to attribute the decline seen in São Paulo to demographic change. Those who favor this argument—which is based on the premise that the age cohort most highly correlated with homicide, young males between the ages of fifteen and twenty-four, peaks at the same time as homicides and then falls as homicides decline—point to a similar pattern, with a short lag, in other Brazilian cities, which did not implement any measures similar to those of São Paulo, or any new policies at all. Other scholars who do not favor it, such as Lucas Llach, say that this pattern is based on statistical legerdemain, as relatively small changes in the age pyramid cannot account for the declines seen and that levels of crisis vary (235–237). This difference of opinion perhaps explains why conclusions in *The Economics of Crime* are a bit lame: “The interaction of the demographic change with the wide host of policies adopted seems to provide a reasonable explanation for the remarkable performance of the homicide rates in the State of São Paulo” (53).

This example shows how difficult it is to identify effective responses to crime. Governments have to act; most types of crime present moving targets that have to be attacked in an experimental spirit. Measures whose direct effect may be hard

7. Stephen Haber, Noel Maurer, and Armando Razo, *The Politics of Property Rights: Political Instability, Credible Commitments and Economic Growth in Mexico, 1876–1929* (Cambridge: Cambridge University Press, 2003), 10.

to prove with a high degree of statistical certainty may still be worth taking, and they can have a positive impact on citizens' perceptions. They can also lose their effectiveness over time.

Studies of policing also show that political will is not entirely absent, that democracies may be able to react with something better than *mano dura*, and that the situation is much worse in some places than in others. Chile does not have acute problems in policing. As General Augusto Pinochet remarked, Chile is an easy country to govern, and its principal police force receives a high level of approval. Despite much more mediocre forces and a growing domestic drug problem, as in so many other countries, Argentina's homicide rate is still in that range regarded as "acceptable" in international comparisons. Colombia's rate remains very high, but it has progressively declined in the past two decades. Security is very much on the political agenda and is the subject of increasingly sophisticated public analysis. City mayors are judged by their record in this area: public safety, real or perceived, affects the vote.

A crisis in policing presently exists in various nations of Latin America: Venezuela, Mexico, Guatemala, Honduras, and El Salvador. Focusing on the latter, Laura Pedraza Fariña, Spring Miller, and James L. Cavallaro expose the abuses of *mano dura* and take a realistic look at the street gang commonly known as the Maras (Mara Salvatrucha) in particular. However, like most human rights studies, their *No Place to Hide: Gang, State, and Clandestine Violence in El Salvador* is short on remedies, especially as concerns governance, to repeat Mark Ungar's stricture. This is problematic, for levels of crime in Latin America as a whole remain exceptional. Although Africa, where reliable statistics are even harder to come by, appears to have rates close to those of Latin America, levels of crime in the latter exceed those of the former communist bloc, and are well above those of the United States, Europe, Asia, and other regions affected by illicit drugs. The books under review naturally stress the dimensions of this problem and the urgency of police reform. The conclusions to be drawn from them should not be fatalistic. Julio César Turbay, president of Colombia from 1978 to 1982, was unfairly mocked by his countrymen for declaring his intention to reduce corruption to its due proportions. Realism can be an antidote to panic, and it is best to bear in mind that most police forces have inevitable defects. Indeed, five out of six of Sir Robert Peel's original London recruits had to be sacked within four years for corruption or drink. Crime is always with us, and most of the ills troubling Latin America have precedents elsewhere; a salutary reading is Henry Fielding's pioneering tract *An Enquiry into the Causes of the Late Increase of Robbers* (1751). Things must be done, and can be done, to remedy the situation.