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**EL CHAPO'S TRIAL AS LEGITIMATION OF
THE WAR ON DRUGS—A NEOLIBERAL MECHANISM OF
SOCIAL CONTROL AND IMPERIAL INTERVENTION**

by

MAURIZIO GUERRERO

A master's thesis submitted to the Graduate Faculty in Liberal Studies in partial fulfillment of the requirements for the degree of Master of Arts, The City University of New York

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This manuscript has been read and accepted for the Graduate Faculty in Liberal Studies in
satisfaction of the thesis requirement for the degree of Master of Arts.

December 20th, 2020

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ABSTRACT

El Chapo's trial as legitimization of the War on Drugs—A neoliberal mechanism of social control
and imperial intervention

by

Maurizio Guerrero

Advisor: David Brotherton

While it has been established in the academic literature that the War on Drugs is a mechanism deployed by the neoliberal state to control people of color in the United States and justify imperial interventions in Latin America, there's a lack of research on how this approach to the drug problem is legitimized in the public opinion. The 2018-2019 trial in a New York federal court of the drug trafficker Joaquin "El Chapo" Guzman, considered one of the most notorious criminals in history, was rendered into a spectacle by the media and, thus, provided a prime example of the discourses used by state actors to legitimize the War on Drugs. My analysis is based on the information I gathered after attending every court hearing of Guzman's judicial process. I also consider the vast amount of evidence used by the case prosecutors, the public information released by the Department of Justice concerning the case, and the trial's coverage by The New York Times' court reporter. Contrary to the common narrative consumed by the public opinion, that Guzman's trial contributed to counter corruption and violence in Mexico and to reduce the drug flow to the United States, I demonstrate that the process had different goals. Guzman's trial was a message-generating spectacle orchestrated by a neoliberal state to legitimize

the War on Drugs, a strategy that has utterly failed in reducing drug abuse, and whose real objective is to control people of color by linking them to crime and justify imperial interventions in Mexico by portraying the country as "hopelessly" corrupt.

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CHAPTER 1: INTRODUCTION

The Mexican national Joaquín Guzmán Loera, aka El Chapo, was tried as the most notorious drug kingpin in history in a New York federal court between November 2018 and February 2019. As the former leader of the Sinaloa Cartel, he was sentenced in June 2019 to life in prison plus 30 years after being found guilty of the ten charges he faced. The trial was largely viewed as the most critical judicial victory for the War on Drugs—which could be defined as the criminalization of drug consumption and the use of militarized means to curb supply. The trial meant that the "most notorious drug trafficker" in history, as the Drug Enforcement Administration (DEA) considered him, had been brought to justice.¹ My thesis would argue that Guzmán's prosecution was not merely a judicial process to hold a defendant accountable for his crimes and bring justice to victims. The trial was mainly a spectacle—a message-generating event that constructs a version of reality—that produced narratives that legitimized the War on Drugs. Unlike the mainstream media and the Department of Justice, which contended that prosecuting Guzmán was a step towards ending the drug trade, I would argue that the trial bolstered the case both for keeping poor people of color under control within the US and for intervening militarily in Mexico. Moreover, I would argue that the War on Drugs, as a disciplinary tool and justification for foreign armed intervention, fits squarely into the logic of neoliberalism, which could be understood as a political project, consolidated after the fall of the Soviet Union, in which the social protection programs of the state contract while the power of multinational corporations increases.

It's important to consider that the trial took place during the administration of President Donald Trump (2017–2021), which strived to portray Mexicans as a threat to the US. Since he launched his first presidential campaign in 2015, he claimed that Mexicans were bringing drugs

and crime to the US.² This depiction contributed to warrant all kinds of xenophobic policies, chief of all the expansion of the wall in the US Southern border. In this sense, the messages emitted throughout Guzmán's trial reinforced Trump's rhetoric.

Questions

The central question of my thesis is: *what was the real purpose of Guzmán's trial?* I aim to demonstrate that the trial was a message-producing spectacle orchestrated to legitimize the War on Drugs. Legitimation, for the purpose of this thesis, is defined as the generalized acceptance of an approach to a social phenomenon (i.e., that drug consumption is a crime and that drug trafficking is a national security threat). Thus, the trial created messages aiming to legitimize a strategy that has failed in all its conceivable metrics. The War on Drugs has not reduced drug consumption or drug trafficking in the US. In Mexico, the country where most of the US's illegal drugs come from, the War on Drugs has not reduced violence or government officials' corruption. My goal is to show that since the War on Drugs cannot be justified by empirical evidence, it has to be legitimized by a representation of reality, by a spectacle. The spectacle as a concept was developed in 1967 by the French Marxist theorist Guy Debord, who characterized postwar consumer capitalism as the "society of the spectacle." Debord defines the spectacle more specifically as a social relationship mediated by advertising and other mass media images.³

So, *how did the trial legitimized the War on Drugs?* It legitimized it by portraying Guzmán and his associates as the "most notorious" drug-traffickers in history and drug trafficking as an ongoing existential threat to the US. It also legitimized the War on Drugs by portraying Mexico and its ruling elites as utterly corrupt and, therefore, incapable of containing a scourge that could spill over to the US. According to the trial's official narrative, the adequate answer to this double

threat was to redouble the drug-combating efforts (criminalization and military intervention) launched by the US government since the 80s.

Why did the US need to legitimize what apparently is an unquestioned approach to the drug problem? Guzmán's prosecution was billed as the most significant judicial victory of the War on Drugs, a demonstration that the strategy had worked, according to the Department of Justice. The US justice system needed that triumph as a propaganda tool to cover up its utter failure on curbing drug consumption and overdoses in the US and the ever-increasing levels of violence and corruption in Mexico.

What are the objectives pursued by the War on Drugs, as analyzed critically through Guzmán's trial? First, to continue the criminalization of poor people of color associated in any way with drugs. The trial neatly showed how this strategy operates to criminalize

Mexicans, immigrants and Latinos. Criminalization—the effort to link an individual or individuals to criminal activity—serves as a social control strategy. In this thesis, social control is defined as the array of institutional mechanisms to establish and enforce norms by stigmatizing or restraining individuals or restricting their rights.⁴ The War on Drugs' second objective, as analyzed through Guzmán's prosecution, was to justify the US imperial reach in Mexico. Imperialism, for this thesis, is understood as the series of direct or indirect interventions to establish some degree of dominion over a foreign country.⁵ In this sense, the US legitimized its imperial ambitions by showcasing Mexican security forces as incapable of bringing drug kingpins to justice—Guzmán escaped twice from maximum-security prisons in Mexico. Thus, the US presented itself as necessary to control the threats posed by the Mexican cartels.

Literature review

Guzmán trial

Who is El Chapo Guzmán? There are three books written by fellow journalists who also covered Guzmán's trial in Brooklyn's federal court. Mexican reporters wrote two books: *El Chapo Guzmán: el juicio del siglo* (Aguilar, 2019), by Alejandra Ibarra, and *El Juicio: crónica de la caída del Chapo* (Grijalbo, 2019), by one of the leading experts on drug trafficking in Mexico, Jesús Esquivel. Both books reveal the frustration experienced by Mexican public opinion concerning the War on Drugs—nothing changed after Guzmán was arrested nor during his judicial process in the US. With or without Guzmán, drug trafficking, violence and corruption continued unabated in Mexico. Both books, though, adhere to a straightforward narrative of lawlessness. Guzmán's business and, even the Drug Enforcement Administration (DEA) deals with some of his associates, are characterized as criminal acts or instances of corruption. No ultimate motives are explored in the books. Guzmán trial was a process that truly served justice, according to the authors, although there were many things unexplained in the Brooklyn court. The books never intended to show a bigger picture of the War on Drugs. As judicial accounts of the court's proceedings, these books did not analyze the myriad messages produced by the trial, which helped to brace the criminalization of Mexicans and Mexico as a country.

The third book about the trial was written by Alan Feuer, The New York Times reporter that covered the process. In *El Jefe: The Stalking of Chapo Guzmán* (Flatiron, 2020), Feuer, as in his reporting, mirrors the narrative of the Department of Justice. Guzmán is "one of the most dangerous men in the world," wrote Feuer. With his book, he contributes to cementing the official narrative about Guzmán, the drug trade and Mexicans already prevalent in the US public opinion.

Feuer's account is the old story of good versus evil, the Manichean tale of cops chasing bad guys. His book bolsters the imperial interests of the US.

None of these books will be used as references in this thesis, although all of them deal directly with the trial. Their focus is very narrow as they conceive Guzmán solely as a criminal and the drug business only as an illegal activity that has to be confronted. They do not question the drug prohibition's ultimate intentions or the War on Drugs, which scholars have often understood as facades constructed to hide social control strategies and foreign military interventions. As far as I know, there's no analysis of the Guzmán trial as a message-generating spectacle in service of the US government interests.

War on Drugs as a social control mechanism of the neoliberal state

For this thesis, the most valuable book on the War on Drugs within the US is Michelle Alexander's *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New Press, 2012). Alexander frames the War on Drugs as a method of segregating the African-American population in the US through a system that, in many ways, represents the continuation of the Jim Crow era policies. This war converted the US into the country with the largest number of incarcerated people worldwide. The astounding rate of incarcerated citizens is directly related to the War on Drugs. Alexander demonstrates that the real targets of the War on Drugs are Black people, as President Richard Nixon's top officials had already spelled out. A major proof for the argument of the War on Drugs as a mechanism of control and segregation comes from the fact that this strategy commenced while illicit drug use was declining in the US. Another element supporting this argument is that a disproportionate number of Black people have been incarcerated through the

War on Drugs. After the Black community, Latinos have been the other cohort who have been disproportionately affected by the War on Drugs.

Alexander's book does not examine the ideological transformations that made possible the War on Drugs in the neoliberal era. In that regard, other books are helpful. The US initiated the War on Drugs not only as a repressive tool of the state to control and segregate people of color, argues Loïc Wacquant. In *Punishing the Poor: The Neoliberal Government of Social Insecurity* (Duke University Press, 2009), Wacquant claims that the War on Drugs was one of several strategies deployed since the 80s to counter the contraction of welfare programs. The penal fist of the state was the response given to the social dislocations provoked by the gradual dismantling of social policies intended to assist the poor. One of the vital tools for jailing people was the War on Drugs, which can be characterized as a policy of social control in a period when social protections became almost non-existent.

Soss, Fording and Schram make a similar point in *Disciplining the Poor: Neoliberalism and the Persistent Power of Race* (University of Chicago Press, 2011). They argue that the neoliberal state did not just contract in the face of unregulated markets but expanded its tentacles to reign over impoverished communities—mostly people of color. They argue that the social control mechanisms included propaganda to create an image of the poor as lazy and living off tax-paying citizens' generosity. These stereotypes justify harsh disciplinary actions against them. President Ronald Reagan, who officially declared the War on Drugs, started by launching a war on crime. Since then, the notion of the drug user as a criminal unworthy of redemption has taken root in the US public opinion. Both analyses, Wacquant's and Soss et al., concur in that the neoliberal state did not become weaker but more potent. That strength is directed against the unproductive or deviant segments of the population in the era of social insecurity. The War on

Drugs became a central element for criminalizing and incarcerating precisely these peoples, a strategy reaffirmed throughout Guzmán's trial.

Criminalization of Mexicans

To my knowledge, no author has directly addressed the criminalization of Mexicans, Latinos or immigrants through the War on Drugs as this thesis aims to do. However, there is a seminal effort to analyze the contemporary criminalization of Mexicans in the US. In *The Latino Threat: Constructing Immigrants, Citizens, and the Nation* (Stanford University Press, 2008), anthropologist Leo Chavez explores the process through which Latinos have been depicted as a danger to the US, its values and customs. Chavez argues that a consistent discourse over the last five decades in the US has portrayed Latinos as invaders who do not belong to the US social fabric and, most importantly, who do not want to belong to it. These Mexicans, Mexican-Americans and, in general, Latinos, are not only seen as strangers within the Protestant culture that founded the US but as eternal immigrants and, in the case of Mexicans, as "illegal" immigrants.

On top of the perception that Mexicans are "illegal aliens," the War on Drugs has also contributed to depicting Latinos as drug purveyors—as narcos and traffickers—even though white people sell more drugs than people of color in the US. Several authors have explored the "productive" aspect of the criminalization of Mexicans, immigrants and Latinos, and how it serves purposes other than the pure punishment of marginalized people. In *Migrating to Prison: America's Obsession with Locking Up Immigrants* (The New Press, 2019, Cuauhtémoc García Hernández establishes a link between stricter immigration policies and the War on Drugs, which was introduced amid what he called a "hysteria" regarding crime in the US. That "hysteria" about

lawlessness was in good measure a fabrication of the media as there was no noticeable increase in crime rates or drug consumption in the US during the 80s. The War on Drugs and the growing use of imprisonment to deal with poor people had little to do with criminal activity. Those tough-on-crime strategies constituted a way to counter the substantial reduction of welfare instituted by the neoliberal ethos.

According to García Hernández, the War on Drugs helped to criminalize Mexicans and Latinos and, therefore, justify the implementation of increasingly punitive immigration policies that initiated what many academics call a deportation regime. Thus, the War on Drugs helped to incarcerate people of color and, when they were not citizens, to expel them. It also helped justify the erection of a wall in the Southern border during the George W. Bush administration and expand it during the Donald Trump government. Guzmán's trial, I demonstrate, was central to reinforce the image of Mexicans (the illegal aliens *par excellence*, according to Chavez) as criminals and to solidify their image as drug traffickers.

Intervention in Latin America

The US has used the War on Drugs to intervene in Latin America. The strategy, which was launched to control people of color domestically, has also been deployed to maintain and extend the US's imperial reach in the continent. Several historians of Latin America, such as Fernando Coronil and Alfred McCoy, have defined the US presence in the region as imperial, although none of these countries is formally a US colony. Coronil argues that the US imperial control has been imposed through military force, or the threat of military force, and neoliberalism as an economic model.

In *A history of Latin America* (2004), Benjamin Keen and Keith Haynes state that the War on Drugs has been used as the rationale for intervening in Latin America after the end of the Cold War. Once the threat of communism was largely absent, combating drug cartels became the excuse to keep on selling weapons to an increasingly militarized Latin America. Keen et al. also trace this intervention to a discourse that has historically portrayed Latin Americans as "savages" compared to North Americans.

In "Reagan's war on drugs and Latin America" (*Policy Roundtable: Reagan and Latin America*, 2020), Michelle Getchell argues that the depiction in media of an alleged spike in drug use in the US helped the government to create a new foreign enemy after the collapse of the Soviet Union. By promoting the notion that drug consumption was a national scourge during the 80s, the US forced Latin American countries to militarize their anti-drug strategies lest they be considered "narcoterrorists" heavens, as Cuba and Nicaragua. Carmen Boullosa and Mike Wallace recount in *A Narco History. How the United States and Mexico Jointly Created the 'Mexican Drug War'* (2016) that the War on Drugs has constituted a strategy for the US to control popular leftist movements in Mexico, which could potentially pose a threat to US interests.

In "Mexico 'Under Siege.' Drug Cartels or US Imperialism?" (*Latin American Perspectives*, 2014), Alfredo Carlos's contends that by constructing Mexico as a "failing state" besieged by drug cartels, the US has managed to frame its military intervention in its Southern neighbor as "benevolent imperialism." This portrayal has been fabricated with the help of the mass media, according to Carlos. By pushing Mexico to militarize its anti-drug approach, the US was also protecting its corporate interests in Mexican territory and promoting neoliberal policies. Several scholars on Latin America (Ettore Asoni, Markus-Michael Müller and Martha Chew Sánchez) have stressed that the militarization concomitant to the War on Drugs has been central

to the implementation of neoliberalism in Mexico and to assure the expansion of multinational corporations after the approval of the North American Free Trade Agreement (NAFTA) in 1994. The depiction of Mexico as a country dominated by drug cartels and desperately needing international assistance was in full display during Guzmán's trial.

Methodology

Direct sources

My research of the trial is based on the extensive notes I took during the three months of the proceedings, which I covered in its entirety as a reporter for the Mexican newswire agency *Notimex* and the Mexican edition of *Forbes* magazine. I wrote dozens of newswires and stories based on my notes since recording judicial proceedings is not allowed in New York's federal courts. I often checked the accuracy of my notes with those of my colleagues. I also considered the abundant evidence provided during the trial in the following formats: letters written by Guzmán, audios of intercepted phone calls and videos. I gathered valuable information from the thousands of documents that formed the prosecutors' case and from the press releases and media briefings by the Department of Justice. I also considered input from other journalists, including tweets and media articles published before, during and after the procedures, as well as statements by Guzmán's legal counsel.

Thematic analysis

I divided the thesis into three main sections to examine how Guzmán's prosecution served the US interests domestically and in Mexico as part of the War on Drugs. The trial was the longest judicial process ever carried out in the US against a cartel boss, and Guzmán was the most notorious drug-trafficker ever tried in the country. More than 50 witnesses took the stand, providing either first-hand information on the drug cartels' operations or opinions as experts. The proceedings did not only shed light on the multinational drug trade but, more importantly for this thesis, on the workings, motivations and strategies used by the US to carry out its War on Drugs.

My approach is deductive. I analyzed the information that I collected throughout the trial by utilizing three theoretical frameworks. The thesis sections are legitimization of the War on Drugs, criminalization of Mexicans and armed intervention in Mexico. I began by explaining why the trial could be understood as a spectacle—a mass media event that mediates reality and creates a narrative about the world. Once Guzmán's judicial process is framed as a spectacle, it's possible to conceive it as a performance that produced a view of the world that bolstered US interests. Wacquant specifically alludes to "judicial spectacles" that create narratives for general consumption. The trial rendered a spectacle was possible through the media's coverage, whose representatives echoed and amplified the court messages not only by reproducing them but by failing to provide the necessary context to their stories. These narratives contributed to portray Mexicans as a threat, a stigma attached to Latinos in the US for several decades, as Chavez research has shown. Following Chavez's analysis, I show how Guzmán's trial promoted the criminalization of Mexicans not only as "illegal" immigrants but increasingly as drug traffickers.

In the second section, I demonstrate how the trial legitimized the War on Drugs, even though this approach has failed in every possible metric. It has not curbed drug consumption in the US nor violence and corruption in Mexico. It often has not even been deployed to punish the

individuals responsible for the problematic drug use in the US. However, by showcasing Guzmán and drug cartels in Mexico as an existential threat to the US, the trial made a case for maintaining the War on Drugs to avoid the spill over of cartel violence into the US. For this section, I rely on Alexander's analysis, which frames the War on Drugs squarely as a social control mechanism directed primarily at people of color. I also employ Wacquant's and Soss et al.'s analysis of social control mechanisms in the neoliberal era, in which the criminalization of drug users has been a prominent tool to administer the poor.

The third section of the analysis mostly leans on Muller, Sánchez, Asoni and Getchell's work, which examine the War on Drugs as the ploy the US concocted to intervene in Latin America after the collapse of the Soviet Union. According to the US official narrative, the new threats to the country stemming from Latin America are not guerrilla fighters anymore but narcoterrorists who cross the southern border with their drugs and violence. I also use the broader perspective of Boulosa and Wallace, and Keen and Haynes, to situate the War on Drugs within the US imperial ambitions and its constant effort to impose capitalism and its later version, neoliberalism, in Latin America. The militarization of the anti-drug efforts in Mexico, according to these analyses, is aligned with the imposition of neoliberal policies and US corporations' expansion in Mexican territory. The trial revealed one clear instance of a US armed operation violating Mexico's territorial integrity under the framework of the War on Drugs.

To analyze the trial's media coverage, I will focus on *The New York Times* articles by reporter Alan Feuer. Although exceptionally rigorous and accurate, his pieces largely reproduced the official narrative of the Department of Justice. I also chose his work to demonstrate that the media depictions that contribute to the criminalization of Mexicans are far from exclusive of the

conservative media and are common in the so-called paper of record, considered a liberal outlet within the US political spectrum.

Positionality

I was born and raised in Mexico City, where I started my career in journalism. I covered the drug trafficking phenomenon in Mexico and experienced the unabated surge in violence related to the prohibition and criminalization of drug use in the country. I also saw first-hand the country's militarization under the excuse of combating the drug cartels—a trend that started in the aughts and has been reinforced since then. As a reporter in New York, where I arrived in 2009, I have covered several judicial proceedings of Mexican nationals charged with crimes related to the drug trade.

CHAPTER 2: THE SPECTACLE OF GUZMÁN'S TRIAL—CRIMINALIZATION OF MEXICANS

When it generates mass media coverage, a trial fits squarely in the category of the spectacle as defined by Debord, since the proceedings are conveyed to the public through a medium. Moreover, Loic Wacquant contends that the court's proceedings produce a specific kind of spectacle. He frames the spectacle of the court systems as a series of "productive events" that generate messages. Wacquant posits that the state's security apparatus and specifically the courts are not just the venues through which justice is served but "vehicles for the political production of reality..."⁶ In this sense, I argue, Guzmán's trial did not function to bring justice to the victims of his crimes but to create narratives around the drug trade, the War on Drugs, Mexico and Mexicans.

Guzmán's trial was always set up as a spectacle in the non-academic meaning—as a public show. The proceedings attracted since its first hearing crowds that had to make a line for more than two hours if they expected to get into the courtroom. Dozens of journalists from all over the world covered the daily hearings of the man who was once billed as the Public Enemy Number One.⁷ The news of the trial also offered a conceptual spectacle—an event that helps people "construct our understanding of events, people, and places in our world."⁸ In that sense, as Wacquant describes, spectacles are acts through which the audience internalizes values and stereotypes.⁹

As journalists, we had to rely primarily on the evidence put forth by the prosecutors, who are representatives of the US federal government and in whom we placed a great deal of trust. We trusted that the evidence they supplied and their interpretation of it was accurate and fair.

According to Noam Chomsky and Edward Herman, reliance on information provided by the government is a central flaw of the mass media.¹⁰ When it comes from US official sources, information is usually not fact-checked in the newsrooms and tends to be taken at face value. As journalists, we also had to implicitly place our trust in the judge presiding over the proceedings. In Guzmán's case, we had to rely on judge Brian Cogan and his purported impartiality and unbiased criteria. The inherent problem of having the government as our primary source is, as Michel Foucault pointed out, that this kind of account "strives to reinforce power." These histories, reliant on official sources, become "an intensifier of power."¹¹ In the specific case of judge Cogan, his background reveals his position as a representative of the ruling class. Appointed by president Ronald Reagan, who officially initiated the War on Drugs, Cogan had been a partner of the law firm Stroock & Stroock & Lavan, which includes in their clientele "an enviable mix of financial institutions, multinational corporations, investment funds and entrepreneurs that do business in the US and around the world."¹² As David Harvey posits: "Class bias in decision-making within the judiciary is, in any case, pervasive if not assured."¹³ Thus, the narrative of the process put forth by the government and its representatives, reflected through the mainstream media, reinforced power—the power of the US as a neoliberal empire.

In order to legitimize the US imperial preeminence, the trial as a spectacle reasserted Mexico and Mexicans as a threatening culture, one that is inherently inferior to the Protestant values.¹⁴ This kind of portrayal is necessary to manufacture the societal consent for the government to adopt harsh immigration measures towards people coming from the Southern border and to take the required action to control violence in Mexico. As Alfredo Carlos argues, drug-related violence is not Mexico's foremost problem.¹⁵ In a country with more than half its population living under the poverty line and with growing wealth inequality, Mexicans' most pressing concerns are not

how to stop drugs coming into the US. Nonetheless, by magnifying drug violence in Mexico, the so-called "trial of the century" helped to obscure the Mexican people's more immediate social and economic needs and contributed to the justification of measures to stop them from migrating into the US.

The criminalization of Mexicans was evident since the prosecutorial team opening statement. Prosecutor Adam Fels said that after Guzmán started to smuggle drugs to the US through a tunnel, he became famous with Colombian cocaine producers. Guzmán was able to smuggle massive quantities of cocaine very quickly to the US during the 80s. Fels said that Guzmán was able to distribute the fashionable drug of the time, cocaine, to the "*Tony Montanas* of Los Angeles, Chicago and New York." As it is well known by the US public opinion, Tony Montana is the lead character of the film *Scarface* (Brian de Palma, 1983). Montana is an exile that was part of the Mariel refugees that fled Cuba in the 80s. In the movie, he became the most powerful drug kingpin in Miami. Immigration scholar César Cuauhtémoc García Hernández pointed out that Montana was the Hollywood contribution to an "anti-drug hysteria that swept criminal policing" in the 80s in the US.¹⁶ That hysteria linked migrants with criminality: "Cubans may have dominated sensational media depictions of migrant involvement in criminal activity, but they did not monopolize the political rhetoric."¹⁷ The mention of the Tony Montanas in the US receiving cocaine from Guzmán strongly suggested that the people involved in drug trafficking in the US were Latinos. They produced the drug in Colombia, transported it through Central America and smuggled it from Mexico to Latino kingpins like Montana, willing to use brutal violence to dominate the drug market. The image conveyed by Fels was not just of the Latino drug dealer but of the violent kingpin that stops at nothing to displace rivals.

Guzmán defense also contributed to Mexico's caricaturization, although they also alluded, as much as they could, to shady deals struck by US officials with Mexican drug traffickers. Their portrayal encompassed corruption everywhere drugs were distributed, showing a more realistic picture of drug trafficking. Defense counsel Jeffrey Lichtman said in his opening statement that the jury would listen "to the other side of the story, and uglier side of the story." He assured that neither the government of Mexico nor its American counterpart would "want you to listen" to this "other side of the story," which could be understood as the version that is not shown in the mainstream media depictions. He was referring to the enormous network of interests built around drug trafficking, in which Guzmán was just a small player. Lichtman claimed that Guzmán's trial would exhibit how government officials behave and make deals out of the public gaze and how they conspired to commit crimes. He assured that the jury would learn how professional criminals bribed Drug Enforcement Administration (DEA) agents both in Mexico and the US. The defense strategy was, initially, aimed at showing that Guzmán was just a small cog in the big machinery of the drug trade. That trade involved numerous entities and officials throughout the continent. The counsel strategy was to downplay the notion that Guzmán was one of the "most notorious" drug kingpins in history. Judge Cogan, conspicuously, shut down these arguments. He said that "governments were not on trial," and that the crimes judged in the courtroom were just Guzmán's. That did not prevent the witnesses, prosecutors and defense counsel to mention government officials involved in corruption, as long as they were not US citizens. All the corruption allowed to be mentioned at the trial pertained to Mexican or Latin American functionaries.

Guzmán's trial produced a myriad of gory and folkloric details of the War on Drugs. It also generated newsworthy revelations about the entrenched and very real graft in Mexico. It spawned other kinds of messages as well, probably long-lasting, that were magnified by the media. The

Times headlined one of its stories: "El Chapo Trial Shows That Mexico's Corruption Is Even Worse Than You Think", in which Feuer assured that "the swamp of bribery [in Mexico] runs even deeper than thought."¹⁸ As revealed by the headline, the premise of the story suggests that the US readers already assumed that corruption in Mexico runs deep, although a skeptical mind could always ask: compared to what? In any case, Feuer was building on a shared understanding of Mexico as a lesser culture and then adding that whatever the degree of corruption his readers associated this country with, the reality was "even worse." In another story, he cited Guzmán's lawyer as trying to portray his client as the victim of a conspiracy of "'crooked' American drug agents and a hopelessly corrupt Mexican government."¹⁹ Feuer was careful to put quotes in the adjective 'crooked' for American agents, attributing the adjective to Lichtman. However, he had no problem taking at face value what it was already known, apparently, by the Times readers—Mexico was corrupt without remedy, in other words, essentially corrupt.

It's undeniable that Mexico's political class is profoundly dishonest and that graft has marked several Mexican governments. However, the media stories engendered by the trial—the spectacle—overshadowed the US's responsibility, as the main market of drugs in history, in the corruption and violence concomitant to the War on Drugs. Even though Guzmán's prosecution has been the most substantial public process of a drug trafficker in history, the court's attending audience had just very few glimpses of the role of actors that were not Mexicans or Latinos in the Sinaloa Cartel operations.

In the trial, a stark division was clearly outlined. The perpetrators, the corrupt officials and the blood-thirsty drug traffickers, were Mexican and Latinos. On the other hand, the victims who were "poisoned" by these foreigners were US citizens and, to be more precise, white US citizens. The only "white" individual that was incriminated in the drug trade during the proceedings was

the Italian-Canadian Antonio Pietrantonio, a.k.a. "Tony Suzuki." It fitted the stereotypes that the only "white" individual involved with drug cartels had Italian heritage, with all the associations this ethnicity has in the US with the Mafia.

According to the proceedings, the US did not have any responsibility whatsoever for the armed violence carried out by criminal organizations in Mexico. Violence in Mexico, as it has been well documented,²⁰ was so extreme in specific regions and periods that it amounted to "wars" among rival cartels. However, in the few hours devoted to showing the actual weapons confiscated to a Guzmán associate, no one mentioned where those weapons were purchased or, for that matter, where most of the cartel firepower comes from. It's been established that the vast majority of the weapons used in Mexico to commit crimes come from the US arms industry.²¹ Those weapons are smuggled into Mexico with little to no restrictions. Mexico's government has pleaded repeatedly with its US counterparts to stop the flow of arms, to no avail.²² None of the US responsibility for the violence in Mexico was mentioned in the trial nor in the Times coverage. If the US government was so interested in stopping the violence in Mexico, it could start by ratifying the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA). This agreement was adopted to reduce the illegal trade of guns by, among other requirements, mark them so they could be traceable when non-state actors use them. The US gun lobby successfully blocked the Senate ratification of this treaty in 2010.²³

The few glimpses of the US responsibility in inciting the drug cartels' operations in Mexico seen throughout the trial were promptly shut down by judge Cogan. As the British writer Ed Vulliamy described for *The Guardian*: "The tectonic plates beneath a big mafia trial" were "left out of sight."²⁴ Vulliamy mentioned three critical exclusions in the trial, which undoubtedly had

painted a more nuanced and complex picture of the War on Drugs, one in which not just Latinos were flooding the US with narcotics. Judge Cogan shut down mentions of the infamous "Operation Fast and Furious," a project ran in 2009 by the US Bureau of Alcohol, Tobacco, Firearms and Explosives to allow weapons to enter Mexico illegally, through cooperating straw-buyers, in hopes of catching their final recipients.²⁵ That operation was behind the killings of US citizens and more than a hundred Mexicans.²⁶ Another strand occluded during the trial was the agreement between the person considered the heir to the Sinaloa Cartel, Vicente Zambada Niebla, with the DEA, as had previously been established in a Chicago federal court.²⁷ Judge Cogan also forbade any mention of that agreement. A third element left out of the court proceedings was the participation of financial institutions in the money laundering operations of Guzmán, accused of accruing over \$12.6 billion in his career.

The court did not allow evidence that would suggest responsibility of the US government and international banks in the War on Drugs. Such evidence would have diluted what it turned out to be the trial's central message: the criminalization of Mexicans and Mexico, as well as the legitimization of the War on Drugs. Mentions about corruption in the US or its key role in perpetrating violence in Mexico would have been counterproductive to the message-generating spectacle's logic.

It is worth considering that the trial was taking place in the specific context of the Trump presidency, which has been the harshest in recent memory, at least rhetorically, against migrants, and specifically against migrants of color. For Trump, migrants coming from the Southern border were essentially criminals and drug dealers, the culprits of the most severe drug overdose crisis in US history. They were also violent: "You wouldn't believe how bad these people are. These aren't people. These are animals."²⁸ In re-election campaign ads that started to be posted on

Facebook since January 2019, while Guzmán's trial was unfolding, Trump was quoted as saying: "I have taken multiple trips to the border to show the true invasion happening..."²⁹ He kept on using the word invasion to describe migration from the Southern border,³⁰ buttressing the central theme of his first presidential campaign: the apparent threat posed by immigrants coming from Mexico. That notion animated the most salient characteristic of his presidency: the promise to expand the wall in the Southern border. He did extend the wall by some miles while reinforcing it in many other areas—a job for which the US spent at least \$3 billion.³¹ Thus, Guzmán's trial and its messages regarding the criminalization of Mexicans and Latinos were in synch with Trump's discourse against migrants coming from the Southern border.

The effort of criminalizing Mexicans and Latinos could be framed as part of the mechanisms the US has used since its inception to create a country exclusive to white citizens. Government officials tried to realize this idealized nation by excluding from its polity both non-white residents and non-European immigrants through segregation policies and exclusionary immigration laws.³² This criminalization strategy could also be framed into the larger narrative of colonialism and its legacies, one of which was defined by the Peruvian scholar Aníbal Quijano as "coloniality of power," partially understood as the division of labor among "races."³³ The different racial groups in the American continent: white, Indigenous and Black occupied each a specific place in colonial societies, while mestizos or mixed people populated the spaces in between. The darker the skin color, the lower societal position was ascribed to an individual. According to Quijano, power structures in the Americas have not fundamentally changed since that colonial arrangement. If anything, racial hierarchies have been reified by global capitalism.³⁴ This division has been so durable because the "white race" has solidly established itself as the paragon of civilization. Thus, any non-European culture is considered less advanced.³⁵ These racial

divisions were reasserted during Guzmán's trial by showing Mexicans as corrupt, violent and, in short, less civilized.

These depictions were established both by the explicit messages produced throughout the trial and by some glaring omissions. As said, more than 50 witnesses made references to more than one hundred criminals or suspects of participating in Guzmán's operations, from poor farmers in remote areas of Central America to guerrilla fighters in Colombia to Mexican presidents. However, not a single one of them was a white US citizen. Even though Guzmán had been indicted for exporting and distributing to the US thousands of tons of drugs,³⁶ all of his associates were Latinos or African-Americans. The omission of white participants in the import of drugs to the US by the allegedly most notorious drug trafficker in history, or in its distribution within the US territory, contradicts abundant empirical evidence, which shows that white people use and sell more drugs in the US than people of color.³⁷

Another peculiarity was that although Guzmán was able to export for 25 years drugs to the US, not a single US officer was charged with corruption. Guzmán apparently violated by sheer ingenuity for a quarter of a century the security systems of the most powerful empire in history. During the trial, the US government erected itself as the judge, exonerating the country as a whole of any responsibility for the existence of a drug market within its territory. The US was free of any guilt. Feuer stated: "For more than 10 weeks, the government buried the defendant in a Matterhorn of evidence from 56 witnesses, including recorded phone calls of the kingpin doing business and intercepted messages of him, his wife and mistresses."³⁸ Not a single piece of that Matterhorn of evidence revealed a single instance of corruption by a US official.

These blatant omissions reinforced the idea, often repeated by Trump, that Mexicans were the main, if not the sole, culprits of the drug abuse epidemic in the US. However, it has been well

established that the vast majority of fatal overdoses in the US in recent years have been caused primarily by opioids produced by the US pharmaceutical industry. Sixty-eight percent of those deaths involved a prescription or illicit opioid, according to the Centers for Disease Control and Prevention.³⁹ Thus, the trial as a spectacle reinforced the "socialidentity" of Mexicans, marked by illegality, which "in much public discourse means that they are criminals and thus illegitimate members of society undeserving of social benefits, including citizenship," according to Leo Chavez.⁴⁰ The trial resulted in the conviction of the man that was portrayed as the Public Enemy Number One in the US. It also generated durable messages that bolstered the criminalization of Mexicans.

CHAPTER 3:
THE LEGITIMATION OF THE WAR ON DRUGS—SOCIAL CONTROL
BY THE NEOLIBERAL STATE

Guzmán's trial was also used to legitimize the War on Drugs, originally designed as a key mechanism to control African-Americans.⁴¹ The War on Drugs was conceived as a way to criminalize "the antiwar left and Black people," according to one of President Richard Nixon's top officials, John Ehrlichman. He explained: "We knew we couldn't make it illegal to be either against the war or Black, but by getting the public to associate the hippies with marijuana and Blacks with heroin, and then criminalizing both heavily, we could disrupt those communities."⁴² The strategy is also now directed against Latinos, although the Black community still endures the brunt of the policy. One in nine Black children has an incarcerated parent for drug offenses, compared to one in 28 Latino children and one in 57 white children.⁴³ Although Black and Latinos use drugs at the same rate as white people, they are incarcerated at a disproportionate rate.⁴⁴ The number of people behind bars for nonviolent drug law offenses increased from 50,000 in 1980 to over 400,000 by 1997.⁴⁵ Most of them are people of color.

The War on Drugs was launched, according to Michelle Alexander, as a way to control Black people after the elimination of the Jim Crow era's segregation laws. The toughening up of laws regarding drug use had nothing to do with its potential abuse or with a spike in crime. Both drug consumption and crime rates were going down in the 80s in the US, when president Ronald Reagan, as an extension of his War on Crime, officially launched the War on Drugs initially conceived by Nixon.⁴⁶ It was about creating a new mechanism of social control for the era of

colorblindness, when it was impermissible to overtly discriminate based on race.⁴⁷ The way to discriminate in an era when brazen racism is unacceptable is by labeling people as criminals and then engage in the racist practices that supposedly have been left behind.⁴⁸ Drug consumption was used as the excuse to perpetuate the existence of an underclass or, as Alexander puts it, an undercast. Latinos were eventually caught in this enormous dragnet, as well as some white people, especially if they were poor. The harshness of the penalties, which could be as high as life in prison for first time offenders on cases related to drugs, was unheard of in the world.⁴⁹ "Nothing has contributed more to the systematic mass incarceration of people of color in the US than the War on Drugs," Alexander wrote.⁵⁰

To legitimize the War on Drugs, the state apparatus needed to portray drug-traffickers such as Guzmán as a threat to US' stability, even though that was hardly proven in the courtroom. Weeks before the beginning of the trial, Uttam Dhillon, acting director of the DEA, warned that "Mexican drug trafficking organizations are the biggest criminal threat the United States faces today."⁵¹ In that sense, the trial was utilized to uphold the notion that a Mexican man, who only completed third grade, was the leader of a multinational operation that posed an active existential danger to the US. However, according to the evidence presented during the trial, Guzmán did not pose an existential threat even to the Mexican state nor to his own home turf of Sinaloa, which he disputed (and his heirs are still disputing) with other drug cartels. Although Guzmán did bribe several Mexican officials, he was always in hiding since his first escape in 2001 from a Mexican prison, as was said repeatedly during the trial. For years, according to several witnesses, he lived isolated in the mountains of his hometown in the state of Sinaloa to avoid being captured.

Guzmán was likely not as powerful as the prosecutors and the Department of Justice insisted that he was. A tell-tale sign was the fact that to this day, authorities in the US nor Mexico

have confiscated any of the billions he allegedly made as a drug trafficker. As part of his sentence, he had to forfeit the 12.6 billion dollars that he supposedly made by selling drugs in the US, according to the court's estimates. None of that money has been found. It was established during the trial that Guzmán was, at some point in his career, a wealthy man with houses "in every state" of Mexico, according to his first secretary. However, it was hardly ever proved that he had amassed billions of dollars. Other witnesses had even testified that Guzmán often fell behind in the regular payment to his security detail.

Despite the lack of evidence showing Guzmán as a serious threat to the US national security, the law enforcement official's rhetoric seemed ominous. In the Department of Justice press release after Guzmán's sentence, US attorney general for the Southern District of Florida, Ariana Fajardo Orshan, said that Guzmán's life sentence was a well-deserved punishment after he spent "a lifetime spreading his poison throughout our country."⁵² She added: "The world will now be shielded from his brutality." This statement came even though the prosecutors never alleged that Guzmán or his associates killed anyone in the US. Guzmán was never charged of violent crimes, but with conspiracy to import and distribute drugs, possession of firearms and money laundering. The prosecutors did mention that Guzmán had "thousands" of people killed, but all of those murders had taken place in Mexico. There were never allegations that Guzmán had anyone assassinated in the US nor anywhere else in the world outside his own country. However, the War on Drugs' discursive logic needed to construct enemies that posed a worldwide threat.

The trial as a spectacle, as the reiteration of messages from the state and its institutions, was not about justice. It was about creating a reality that, among other purposes, could justify the War on Drugs. It was established that Guzmán killed or ordered the murder of Mexicans, but none of the survivors of this violence was called to testify. A US federal court only has jurisdiction for

crimes committed within the national territory. Nonetheless, symbolically, Mexican victims were erased from the judicial proceedings. For the spectacle, Mexicans were the corrupt officials or the criminals and their accomplices. The only victims of the "trial of the century" were the US consumers, even though drug users in this country are also treated as criminals by the justice system. Drug users have also been criminalized in the US and slapped with lengthy prison sentences.⁵³

The fact that the War on Drugs institutional framework was unconcerned about fighting crime, bringing justice to victims or ending drug abuse (which could be effectively combated by rehabilitation treatments administered by medical professionals, according to myriad studies)⁵⁴ was in full display during Guzmán's trial. The goal of the spectacle was not even to punish criminals. Guzmán was sentenced to a maximum-security prison for life plus 130 years. However, all of his former accomplices that decided to testify against him got sweet deals from the prosecutors. The legal counsels for Guzmán insisted that these witnesses could get away with, literally, murder. The only condition was that their testimony bolstered the prosecutor's case. The former partner of Guzmán, the Colombian drug producer Juan Carlos Ramírez Abadía, a.k.a. *Chupeta* (lollypop), is a prime example of the leniency conferred to cooperating witnesses. Even though Chupeta exported from Colombia hundreds of tons of cocaine to the US and said "it was possible" that he indeed ordered the murder of around 150 people, he got a sentence of 25 years in prison. One of Guzmán's lawyers did the math: 60 days in jail for each of the people he murdered. To put it in perspective: US citizens could get years in prison if they are caught with two single grams of cocaine.⁵⁵

Those disparities in the sentencing were the rule during the cases related to Guzmán's prosecution and, in general, amid the War on Drugs. Alleged drug kingpins get easily off- the-

hook if they testify in cases considered relevant to prosecutors and, ultimately, to the Department of Justice. Kingpins also get reduced sentences if they forfeit their purported profits as criminals.⁵⁶ For several observers of the US justice system, the fact that cooperating witnesses are rewarded with reduced sentences for their cooperation is a clear incentive for them to accommodate their testimony to the prosecutor's case. One of Guzmán's lawyers, Eduardo Balarezo, issued a statement to the press blasting the 17-year sentence for Vicente Zambada Niebla, considered the heir to the Sinaloa Cartel. Zambada Niebla, who acknowledged importing tons of cocaine into the US, was a key witness in Guzmán's case. "Sing like a canary, true or false, and reduce your sentence. As long as you do what the government wants you to do, you will be fine," wrote Balarezo.

Another salient element of the prosecutors' efforts to depict Guzmán as a major national security threat was that prosecutors repeatedly referred to his business as an "empire." Again, this was never proved in court. Even if applied loosely, as hyperbole, the term empire would suggest an operation akin to a large multinational corporation. The operation that was revealed in court was, nonetheless, reminiscent of a set of contractors working on and off with Guzmán, who had several cocaine providers and several US customers.

If there was a component in Guzmán's operation that could have brought it closer to "an empire" that would have been the utilization of multinational banks to launder money— which means to legalize illegal profits by introducing the cash into financial institutions. The ease with which Guzmán seemingly used regular banks in the US, Mexico and Colombia, according to wiretapped conversations heard in court, was astounding. When purchasing tons of cocaine from a representative of the leftist guerrilla movement Fuerzas Armadas Revolucionarias de Colombia (FARC), Guzmán casually asked his contact for his bank account number to make a deposit. Similarly, Guzmán talks about a planned bank deposit with his contact in Chicago, Pedro Flores.

One of the expert witnesses called to testify to the court was the DEA expert Donald Semesky, who assured: "Without money laundering, criminal organizations would simply evaporate." However, the crucial services banks provide to facilitate international drug trade were never mentioned, although both Wachovia and HSBC had been already being charged with accepting illegal money from the Sinaloa Cartel.⁵⁷

After the Department of Justice accused HSBC of money laundering in 2012, the bank accepted it violated regulations that allowed the Sinaloa Cartel in Mexico and the Norte del Valle Cartel in Colombia to launder at least \$881 million of their proceeds.⁵⁸ As part of an agreement with the Department of Justice, HSBC agreed to forfeit \$1.2 billion for its wrongdoings—which also included laundering money for countries under sanctions, like Iran or Sudan. However, none of the bank's executives faced criminal charges. Moreover, five years later, there were still questions about HSBC's real commitments with fixing the problems that allowed criminal organizations to launder money.⁵⁹ As late as November 2019, the Prudential Regulation Authority of the Bank of England told HSBC to tighten up compliance controls for fraud, staff conduct and other non-financial risks, including money laundering.⁶⁰ The call was a simple admonition, even though the use of financial institutions is what, in any case, renders a drug cartel into an empire.

The prosecution of Guzmán in New York federal court has often been deemed a big success for the War on Drugs and, at least in terms of propaganda, it definitively was. It became an enormous echo chamber that legitimized the punitive approach of the prohibition regime. As said, the mass media played along almost without questioning the total failure of the strategy, even though the flow of drugs to the US had been steadily increasing⁶¹ and the violence in Mexico had steadily grown since 2006.⁶² The rationale and results of the War on Drugs were never examined. It's not unheard of that a federal judge questions the purpose of the War on Drugs given its

negligible outcomes. In a drug trial related to the Sinaloa Cartel held in 2019, judge Ruben Castillo of the federal court in Chicago said: "If there is a so-called drug war, we have lost it. It is time for this country to do something different."⁶³ That was not the case in Guzmán's trial.

Neither judge Cogan nor Feuer in his reports for the Times challenged the War on Drugs' legitimacy. Feuer did acknowledge its lack of results. In a story headlined "El Chapo Is Behind Bars, but Drugs Still Flow From Mexico,"⁶⁴ he wrote that Guzmán's drug business, the Sinaloa Cartel, "remains intact and is now being run by his sons and his wily longtime partner, Ismael Zambada García." However, Feuer contended that the conviction of Guzmán was "one of the most visible victories for American law enforcement since the war on drugs began." He added that the fact that drugs were still flowing from Mexico was "a clear signal" that "American federal agents have far to go in their attempts to dismantle Mexico's infamous cartels." According to Feuer, the conviction of Guzmán was a positive result, "a victory," of the War on Drugs but that more needed to be done by agents to stop the flow of narcotics. The lesson that Feuer extracted after covering months of the trial was that more militaries were required, more brute force, to combat a phenomenon—drug use—that in any case is essentially a health problem.

The notion that the drug trade can be curbed by criminalizing and prosecuting drug use is contrary to the evidence and the academic research that point out that the War on Drugs was never designed to be won. It was always conceived as a social control strategy. According to Guzmán's trial and the narrative of it spread by the Times, the War on Drugs was, however, an adequate tool to counter drug use, even though the criminal approach to a health issue mostly targeted people of color. The question is why the US, as a state, decided to implement such a strategy. Why it considered necessary to punish millions of people with jail time under the flimsy excuse of caring about drug use or criminality, if both phenomena were decreasing when the War on Drugs was

launched in the 80s? Why did the US decide to start an onslaught against its own citizens if it genuinely wanted to prevent drug abuse? Why did it use the police, the military and the criminal justice system to curb the demand for a product that causes far less harm than the strategy to combat it?

As revealed by the Nixon government official and by academic research, the War on Drugs strategy was to control both Black people after the end of Jim Crow and the politically active population during the 70s. A few years later, however, Reagan also used the War on Drugs as an essential component of his strategy to administer the poor and the population left out of welfare by the imposition of neoliberalism—the cruel new iteration of capitalism.⁶⁵

Senators Edward Kennedy and Joe Biden introduced in 1984 the Comprehensive Crime Control Act, which constituted the first pillar of the legal architecture that would sustain the War on Drugs.⁶⁶ Since its early years, it was clear that the war on crime, and its concomitant War on Drugs, would not reduce violence or drug abuse. "Reagan's 'War on Drugs' marked the culmination of this long mobilization—a fight against crime that seemed to produce only more crime," according to Elizabeth Hinton.⁶⁷ The war on criminality that sent millions of people to jail, and that turned the US into a carceral state, took place after the Reagan administration proceeded to eliminate half a million families from the welfare rolls, one million Americans from food stamps, and 2.6 million children from school lunch programs.⁶⁸

According to Wacquant and Soss et al., the harsh policies directed against poor people were necessary to the neoliberal state. "Administering the poor"—primarily comprised of people of color—is one of the basic tenets of neoliberalism.⁶⁹ Neoliberalism is generally defined as a set of market-friendly policies such as labor deregulation, capital mobility, privatization, trade liberalization and the reduction of taxation and public expenditures.⁷⁰ Nonetheless, the actual

project of neoliberalism is mainly political, according to Wacquant and David Harvey. It is a sort of counter-revolution initiated as a backlash to the revolutionary movements of the 60s. It is "a political project aiming to remake the nexus of the market, state, and citizenship from above," according to Wacquant.⁷¹ That "revolution from above"⁷² (a counter-revolution) is carried out not only by the national elites but by a new global ruling class comprised of the multilateral institutions of the so-called Washington Consensus, such as the International Monetary Fund and the World Bank. In the US, neoliberalism meant the contraction of the welfare state and the concurrent creation of mechanisms to control the poor—i.e. criminalization and jail—that were suddenly left out of social protection programs and government assistance. The decision to heavily criminalize drug use and then link drugs to people of color was one of the main tools through which this control mechanism operated. As Alexander has noted, the War on Drugs has served as the main argument to imprison people in massive numbers in the US. The people sentenced for drug crimes were precisely from the same demographics as the population left out of welfare programs.⁷³

Neoliberalism is not about weakening the state but about strengthening it as a disciplinary entity for the poor.⁷⁴ The neoliberal state is ferocious and interventionist when regulating the poor, and authoritarian in its oversight. It administers what Wacquant calls "the first society of advanced insecurity in history,"⁷⁵ in which social protections are reduced to the bare minimum. Simultaneously, the state shows its benevolent and liberal face to the wealthiest segment of the population, as in the case of the crimes committed by banks that violated anti-money laundering regulations. In Guzmán's trial, that "Centaur state"⁷⁶ (ferocious towards the poor and benevolent towards the rich) was neatly displayed. The War on Drugs became the most visible justification the

neoliberal state has concocted for controlling the people left out of the economic model based on free-markets, deregulation and the hyper-mobility of labor.

Guzmán's trial indirectly also exposed the Centaur state. While he was convicted as one of the most notorious drug-traffickers in history and sentenced to life in prison, the Sackler family did not even face criminal charges.⁷⁷ The Sacklers are the founders and mainshareholders of Purdue Pharmaceutical, OxyContin's producer, the opioid that is at the center of the most severe drug overdose epidemic in US history. The opioid epidemic has killed almost half a million people in the US. Even though the Sacklers knew how addictive and dangerous OxyContin was since they began to promote it in 1996, they ended up just paying a fine of \$235 million for their crimes.⁷⁸ The opioid crisis killed far more US citizens than Guzmán's main product, cocaine, which is significantly less addictive and destructive than opioids.⁷⁹

The disparity revealed by the harsh treatment of a Mexican drug-trafficker and the lenient financial penalties imposed on a pharmaceutical corporation were consistent with the neoliberal state's schizophrenic approach to justice. These disparate judicial resolutions shed light on the absurdity of the War on Drugs. This strategy's goal has never been to punish the individuals responsible for harming US citizens. Otherwise, the Sacklers would be in prison. Its objective has always been to control poor people of color. In that sense, Guzmán's prosecution was not one of the pieces of a plan to end the drug trade or transnational crime. It was a propaganda stunt designed to justify the War on Drugs by portraying the trial as a huge victory for the rule of law. It was not. Dozens of Guzmán's associates got ridiculous short sentences, while banks, key for drug cartels' international operations, were not even mentioned in the New York courtroom. The spectacle of Guzmán's trial resulted in the legitimization of the War on Drugs—a strategy that

contributes to control the poor in the US (comprised mainly of people of color) and to intervene militarily in Latin America and, pointedly, in Mexico.

CHAPTER 4:

MILITARY INTERVENTION IN MEXICO—NEOLIBERAL IMPERIALISM

In Mexico, neoliberalism provoked profound dislocations to the economic system. This set of policies were implemented in the country since the mid-80's⁸⁰, as in the US, and were consolidated in 1994 when NAFTA (North American Trade Agreement) went into effect. NAFTA meant the end of subsidies for agricultural production in Mexico, even though the US kept subsidies for its products, which flooded the Mexican market. US corn subsidies totaled \$106 billion from 1995 to 2016 in the form of direct payments, crop insurance, price supports, market loss assistance, and other financial aid to producers.⁸¹ Consequently, tens of thousands of subsistence farmers in the Mexican countryside were driven to near ruin and agricultural employment plummeted by nearly 30 percent between 1993 and 2008—from 8.1 million to 5.8 million.⁸² Mexican farmers were left with few options. Millions of people migrated to the US, while millions of others joined the armies of drug traffickers.⁸³

The economic and labor dislocations caused by neoliberalism fueled in good measure the rise of the drug cartels in Mexico. "The army of the urban unemployed gave the cartels a deep pool from which to recruit foot soldiers," according to Boullosa et al.⁸⁴ The money flowing from the criminal organizations also deepened the corruption in Mexico's law enforcement institutions, whose agents were increasingly recruited by criminal groups.⁸⁵

Like the US, Mexico's government ramped up its incarceration efforts to deal with the millions of the newly unemployed, which gave way to an "unparalleled rise of the local prison population."⁸⁶ As in many parts of the world, the iron fist of the neoliberal state, reserved for the

poor, was also implemented. There was "a global shift in how the poor are governed."⁸⁷ The harsh treatment of the poor, however, did not reduce crime nor violence. "The punitive trend in criminal justice policy may be tougher on the poor than it is on crime," wrote Soss et al. While Mexico was incarcerating more people than at any time in history, it was also experiencing a sustained increase in violence and homicide rates in the country.⁸⁸ Considering the rate of incarceration and violence, it would be fair to assume that, as in many parts of the world, families broken by incarcerated parents were left at an economic disadvantage—begetting more crime instead of decreasing it.⁸⁹ From 2006 to 2012, in the six years of the presidency of Felipe Calderón, who declared the War on Drugs and deployed the army to combat the drug cartels, more than 100,000 people were killed and 25,000 were forcibly disappeared.⁹⁰

That violence was precisely the excuse the US needed to dictate to Mexico its drug policies and indirectly intervene in the country. "Promoting a discourse of a 'chaotic,' 'unruly,' 'failing state' has provided justification for direct US military intervention," according to Alfredo Carlos.⁹¹ Moreover, intervention has been one of the tools used by the neoliberal state to secure its economic interests in Mexico after the end of the Cold War. Ettore Asoni assures that insecurity in Mexico, which hinders labor organizing and social movements, fosters favorable conditions for foreign investment: "The big winners in this situation are transnational corporations, which are developing huge projects in the midst of the fighting." Both the violence and the militarized approach to the prohibition of drugs discourage collective civil organizing.⁹² Considering this dynamic, it is hardly surprising that the same year that Ciudad Juárez was deemed the "murder capital of the world," it was also chosen as the best city in the American continent for foreign investment.⁹³

The US has an interest in promoting the War on Drugs in Mexico because it means a militarized approach that allowed it to influence Mexico's policies under the guise of bilateral cooperation. Designed as a social control mechanism in the US, the War on Drugs was, similarly, not intended to end the drug trade when it was adopted by Mexico. It was also a tool to control the population and, from the point of view of the US, to secure its investments in a militarized environment. Violence in Mexico, as Carlos pointed out, justified the US direct and indirect interventions. The fear that drug cartel violence could spillover into the US underpinned president George Bush's decision to erect in 2006 the border wall to divide Ciudad Juárez from El Paso, Texas.⁹⁴ For that same reason, president Donald Trump fortified that same section of the wall in 2019, even though El Paso has been for years one of the safest cities in the US.⁹⁵

During Guzmán's trial, Mexico was showcased as a "failing state"⁹⁶ overtaken in good measure by criminal organizations. Drug cartel's activity was not just a criminal issue occurring inside Mexico but an active threat to the US. According to this narrative, the violence in Mexico had the potential of spilling over into its Northern neighbor. Therefore, the US had no choice but to intervene or be ready to intervene when needed. The intervention rationale evinced during Guzmán's trial rested on two pillars. First, the need of the US to defend its national security. Second, the intervention was presented as a moral duty assumed by the US to help Mexico build its institutional capacity. In April 2020, two weeks after pressing drug trafficking charges against Venezuelan president Nicolás Maduro, attorney-general William Barr said at the White House: "The cartels have to be defeated, both for the people of this country and for the people of Mexico and Venezuela."⁹⁷

Framing criminal activity in Mexico as out-of-control is not a new tactic, although since the aughts the purported main threat has been the drug cartels. Mexico was often seen as one of

the "uncivilized" countries with no rule of law that has been constructed as the "other." In Latin America, it has been one of the mechanisms the US has used to maintain its hegemony.⁹⁸ The old notion of the civilized versus the uncivilized was reinforced during Guzmán's trial. The mere fact that Guzmán was being prosecuted in the US spoke to the idea that Mexico lacked the institutional capacity to convict him. Guzmán, already sentenced by Mexican courts, had escaped twice from maximum-security prisons in Mexico. Thus, the trial was portrayed as a way to help a neighbor control its crime. "US leaders consistently justified US policy by portraying the region as hopelessly backward, desperately in need of beneficent US tutelage," Benjamin Keen wrote.⁹⁹ In that sense, the trial was implicitly presented as part of the white man's mission to "civilize" Mexico, another savage nation of Latin America. It could be seen, in short, as "benevolent imperialism."¹⁰⁰

The depiction of Mexico as an "uncivilized" country without solid enough institutions to prosecute a high-profile criminal rested, as a discourse, on similar foundations than the discrimination of people of color in the US. The "doctrines of white supremacy" shaped the way the US treated minorities within its territory as well as its relations with Latin America.¹⁰¹ If the US intervened in the region, this logic went, it was to save it from itself and to show them the way of progress. That is the discursive language of modernization.¹⁰² That discourse underpinned Guzmán's prosecution in New York.

Even though Mexico is not formally a colony and that the US is not, in that sense, an empire, it is hard to understand the meddling of the US in Mexico as anything other than imperial. If we understand imperialism as the series of direct or indirect actions to establish some degree of dominion over a foreign country, then the US presence in Mexico under the guise of combating the War on Drugs could be cast as imperial. "From the vantage point of Latin American history, it

is difficult not to see the presence of the United States in the region as imperial," wrote Fernando Coronil.¹⁰³ Those imperial interventions have changed in nature throughout the last century, although their basic rationale remains intact: maintaining and expanding the US economic interests in the region.¹⁰⁴

The justification of the US to meddle in Latin America's affairs during the Cold War was communism. After the collapse of the Soviet Union and with the Marxist/Leninist struggles declining in the region, the justification for intervention became drug-trafficking, which was often depicted as "narco-terrorism."¹⁰⁵ The same year that the Soviet Union imploded, in 1989, the US launched a military operation to remove Manuel Noriega from Panama's presidency. President George Bush senior stated that the US sought to safeguard Americans' lives, defend democracy in Panama, protect the integrity of the Panama Canal Treaty and combat drug trafficking.¹⁰⁶ After the bogeyman of "international communism" was liquidated, wrote Michelle Getchel, "the narcotraficante provided a convenient pretext for an armed intervention that could advance traditional US strategic and economic interests."¹⁰⁷

Foreign interventions under the excuse of combating drug trafficking were not only sold to the US public opinion as humanitarian enterprises to help foreign peoples liberate themselves from corrupt governments. They were also characterized as a way to confront the growing devastation that, according to the media, drugs were causing domestically. Drug use was relatively steady during the 80's.¹⁰⁸ However, stories about a supposedly rapid increase in drug-addiction conveyed by the media were "highly successful in creating a domestic political environment conducive to the pursuit of counterinsurgency in Latin American countries," according to Getchel.¹⁰⁹

The countries targeted revealed the US's bald attempts to use an alleged out-of-control drug-trafficking situation as an excuse to punish its enemies, i.e., the countries that impeded the US corporations' expansion in their territories. President Reagan labeled both Cuba and Nicaragua, considered Marxist-Leninists nations hostile to US capitalism, as narco-terrorist states.¹¹⁰ Nowadays, Venezuela, a regime hostile to US interests, has been branded a narco-terrorist country. President Nicolás Maduro has been formally charged with leading a drug organization, El Cartel de los Soles.¹¹¹ Branding Venezuela a narco-terrorist state is inexplicable by the relatively small amount of drugs that crosses the country,¹¹² according to US official figures.¹¹³

In Guzmán's trial, two Mexican presidents were accused of receiving money from drug cartels: Felipe Calderón and Enrique Peña Nieto. Mexico, however, is not considered a narco-terrorist state. It is a key US trade partner and a huge market for US products. During the trial, though, the country was characterized as utterly corrupt, overtaken by criminal organizations, and implicitly in need of assistance from the US—also obliged to act before the purported threat coming from its Southern border. "The expansion of the Mexican drug war to America is the greatest threat to our society," wrote in 2018 Daniel Morgan, a senior fellow at the Council of Foreign Relations in New York, who had served at the White House supporting the U.S. National Drug Control Strategy.¹¹⁴ That was the ideological context behind Guzmán's trial.

The recount of an unsuccessful attempt to capture Guzmán in 2012 contributed in the courtroom to the perception that the US had to act unilaterally in Mexico if it wanted to detain the kingpin. That first incursion took place in February 2012, in the city of Los Cabos, in the state of Baja California Sur, where a summit of the leaders of the G-20—the most powerful economies in the world—was taking place. The FBI agent José Moreno said as a witness in New York's court that the FBI located Guzmán inside a gated community in Los Cabos. He told the court that, since

US agents cannot arrest people in a foreign country, they had to rely on the Mexican federal government to proceed with the detention. The raid was scheduled for noon. However, the Grupo de Operaciones Especiales de la Policía Federal de México (Gopes) and five marines arrived three hours later. They made basic tactical mistakes, like raiding four houses instead of the two residences where, according to the intervened phone signal, Guzmán was very likely hiding. Moreover, they did not secure the back exit of the gated community. "I have no idea why they did that," testified Moreno. Moreno's testimony implied that the Mexican authorities were so corrupt that they messed up the operation to protect Guzmán, who fled the scene. The alleged corruption of the Mexican law enforcement agencies will later be used as an argument by the US to conduct a detention in Mexico without informing the Mexican government.

The year of the botched incursion, 2012, was the last year of the government of president Calderón (2006–2012), who is credited with starting Mexico's War on Drugs,¹¹⁵ which meant the further militarization of the drug prohibition approach. That strategy counted with the staunch support of the US government, which in 2007, a year after Calderón took office, signed the Plan Mérida. This strategy funneled millions of dollars to strengthen Mexico's military in its war against drug-traffickers through weapons, intelligence-gathering equipment, and training.¹¹⁶ However, similarly to the US experience, the War on Drugs in Mexico did not diminish the drug trade. On the contrary, the strategy had very adverse societal effects. It resulted in a dramatic increase in killings, torture, and other appalling abuses by security forces," according to Human Rights Watch (HRW).¹¹⁷

After agent José Moreno took the witness stand, another agent recounted a mission that turned out to be successful in detaining Guzmán in the city of Mazatlán in February 2014. Instead of the FBI, this time the DEA directed the operation, so carefully executed that not a single shot

was fired. Another Mexican-American agent, Dave Vázquez, oversaw the arrest of Guzmán, although he was not the only DEA agent leading an elite group of one hundred Mexican marines. Guzmán's detention was also supervised by at least another DEA agent, Drew Hogan, who wrote a book about his experience, *Hunting El Chapo*, in which he described the saga.¹¹⁸

In his testimony, Vázquez stressed that the team took decisions exclusively on the information provided by four different regional DEA offices in the US and the Department of Homeland Security bureau in Nogales, Arizona. The Mexican marines did not have any way to communicate with anyone outside the base, in the city of La Paz. "We wanted to keep the information among us, far away from Mexico City," said Vázquez. So, while the Mexican federal government provided the manpower for the operation, they let the DEA make their own decisions. Vázquez declared that the secrecy level was due to previous experiences cooperating with the Mexican government, very likely referring to the botched arrest in Los Cabos in 2012. He said that his team did not cooperate in any way with the Mexican federal police: "Due to the level of corruption, to use them again was simply not going to work."

The raid to capture Guzmán and his business partner, Ismael *Mayo* Zambada, was launched on February 13, 2014. The team flew from La Paz in four Blackhawk helicopters, while other contingent departed from the port city of Mazatlán. The goal was to arrest Guzmán and Zambada in Culiacán, Sinaloa state's capital. They arrived in the town without informing either the local police force or state authorities. "Because of the fear of corruption, you could not trust anyone," said Vázquez. The operation initially failed to capture Guzmán or Zambada, who has never been detained. However, the team regrouped and launched a land search in unmarked vehicles, which were eventually stopped by the local police. Why? "Corruption issues," explained Vázquez. The US intelligence guided the team to five different security houses of Guzmán, who managed to

escape through a tunnel connected to Culiacán's sewage system. The US-led team tracked Guzmán to a hotel in Mazatlán. According to Vázquez, the Mexican marines raided the hotel and arrested Guzmán, since US agents could not detain people in Mexico. The DEA agents, nonetheless, violated the Mexican Constitution.

According to a picture included in the case file, Vázquez was heavily armed while leading the procedure in Mexico, even though the fraction X of article 89 of the Constitution states that the president has the duty to impede exactly that: a foreign intervention. Vázquez also violated article 35, which states that only Mexican citizens could bear arms within the country's borders.¹¹⁹ Armed in the territory, the DEA agents bypassed the president of Mexico and violated its laws.

The Mexican government had consented to an operational base in La Paz led by DEA agents with authority over one hundred Mexican marines. However, the fact that foreign armed personnel acted without the Mexican federal government's knowledge amounted to a clear violation of Mexico's Constitution. Neither the Mexican nor the US media reacted to the seriousness of these revelations. The stories of those days focused on describing the details of the operations aimed at detaining Guzmán. It seemed that the image of Mexico as a "failing state" was so well-established that the public opinion accepted an unlawful military operation by the US in Mexican territory as inevitable and necessary.

While it is true that several law enforcement agencies in Mexico were so infiltrated by drug traffickers that to inform them of a plan to arrest Guzmán would very likely result in failure, the US actions in Mexico engender several questions. How corrupt a federal government in Mexico has to be for the US to decide to act by itself in Mexican territory? What level of criminal infiltration in the Mexican government warrants a US intervention? Even after it was revealed in

the courtroom that the US conducted an unlawful operation with armed personnel, the Mexican government did not complain. It is not clear if they did so in 2014 when the arrest took place.

Guzmán would escape once again from prison after his 2014 arrest. He would be recaptured in 2016 in another operation that, according to all available evidence, was also conducted with an elite team of Mexican marines led by DEA agents.¹²⁰

The corruption of the Mexican government was used to justify the DEA-led raids in Mexico. That corruption, that law enforcement officials constantly stressed in the New York courtroom, not only warranted the US-led operations to capture Guzmán, but constructed the rationale for future interventions. In what some journalist had deemed "the trial of the century," it was established that Mexico was so corrupt that it was not capable of arresting one of "the most notorious criminals" in the world. A criminal that, according to the US official narrative, threatened its national security. Thus Guzmán's trial legitimated the US intervention in Mexico.

The trial also established that the decision of the US to intervene in a country within the framework of the War on Drugs is entirely political. A perennial question unanswered in the case of Guzmán is why he was targeted while his partner *Mayo* Zambada was not. According to the testimonies in court and the prosecutors' implicit agreement, Zambada is the top leader of the Sinaloa Cartel. Guzmán lawyers repeatedly suggested that Zambada had a deal both with the DEA and the Mexican government, unlike Guzmán. That would explain why Guzmán, unlike Zambada, was a top priority for the DEA.

In any case, drug kingpin's arrests have not changed the flow of drugs to the US or reduced the violence associated with criminal organizations in Mexico.¹²¹ The trial of Guzmán did not modify this reality. The proceedings, however, were extremely successful for the neoliberal

empire. They promoted the notion that the US was the last resort for Mexico and Mexicans to be safe and have criminals brought to justice. The US was "a benevolent empire." Getchel assured that if the War on Drugs wasn't successful in reducing demand for or supply of drugs, it proved useful in developing a discourse.¹²² That seems to be the case in Guzmán trial: the US created a discourse to justify an intervention and to sellit both to the US public opinion, by portraying Mexican drug cartels as a threat to national security, and to Mexicans, who were informed that their deeply corrupt government would be unable to protect them from their biggest dangers. In that sense, and not in promoting justice, accountability or a reduction in the drug trade, Guzmán's trial was a total success.

Conclusion

In this thesis, I demonstrate that the 2018–2019 trial in New York of Joaquín "El Chapo" Guzmán legitimized the War on Drugs—or the militarization of the efforts against the drug trade. The War on Drugs needed this kind of legitimation. Implemented since the 80s within the US and imposed on Mexico since the aughts, this strategy has been a complete failure. It has not decreased the drug flow to the US, nor has it prevented Mexico from becoming increasingly violent. Despite this evidence, Guzmán's trial legitimized the War on Drugs by presenting the defendant as a major threat to US national security. He was portrayed as one of the "most notorious criminals" in history and the leader of a "global empire." According to these premises, such a threat had to be confronted with full force. Thus, the conviction of Guzmán was depicted as the most critical judicial victory of the War on Drugs—a success that needed to be emulated. His sentencing reinforced the notion that militarization was the correct approach to curb a phenomenon—the use of illegal drugs—that essentially constitutes a health issue. This kind of legitimation is vital to the War on Drugs, which was not conceived as a strategy to combat the drug trade but, as several scholars have argued, as a mechanism of social control of the poor and the marginalized, disproportionately comprised of people of color. The criminalization of drug consumption—the conceptual pillar upon which the War on Drugs was founded—has been the central mechanism deployed by the neoliberal state to control its poor in an era of growing social insecurity. I argue that Guzmán's trial legitimized that control.

I also show how Guzmán's trial contributed to the criminalization of Mexicans in the US, as well as of Latinos and migrants from Latin America. By promoting racialized stereotypes that link Latino migrants and people of color with criminality, the trial bolstered the widespread but inaccurate perception that the drug trade in the US is conducted mainly by these segments of the

population. The criminalization of Latinos and people of color throughout the trial also occurred by omission. Even though more than 50 witnesses took the stand during the process, none of them mentioned a white US citizen involved in the drug trade. They did not incriminate either any corrupt US official as collaborating with Guzmán or his enterprise, even though the trial implicated Latin American citizens of all stripes in the drug business, from poor farmers in Sinaloa to guerrilla fighters in Colombia to presidents of Mexico. In that sense, the trial was a spectacle—defined as a mediated version of reality constructed by the mass media—that reinforced stereotypes against Latinos, Mexicans, and migrants from Latin America. These stereotypes, promoted during the Trump presidency, contributed to justifying anti-immigration measures and xenophobic policies.

I also proved how Guzmán's trial exhibited the War on Drugs as the tool the US has used to intervene in Mexico in the neoliberal era. The violence spike in Mexico associated with organized crime and drug cartels is closely related to the economic and social dislocations caused by neoliberalism in the country. Mexico's governments have responded to that violence by enacting its own version of the War on Drugs. That approach, which has not made a dent in the increasing violence in the country, has favored the US economic interests and its imperial reach. Mexico has been portrayed as badly needing assistance to confront the drug cartels in its territory. I demonstrate that Guzmán's trial further strengthened this perception—that Mexico lacks the institutional capacity to deactivate drug cartels and that it needed the "benevolent imperialism" of the US to do so. Throughout the trial, I argue, the US was able to justify its intervention in Mexico to avoid a purported spillover of narco-violence in its territory.

In conclusion, Guzmán's trial revealed how the War on Drugs has been a central mechanism utilized in the neoliberal era to criminalize Mexican migrants in the US and justify the

US intervention in Mexico. Guzmán's trial, considered a major judicial victory of the War on Drugs, legitimized this approach, even though it has resulted in more violence and increasing drug abuse.

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