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Keynote Address at the Riesenfeld Symposium

By
Ambassador Adolfo Aguilar-Zinser*

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This year's theme of the Stefan Riesenfeld Symposium is a theme that is very close to us in Mexico, and for which we have a special dedication because Mexico and the United States have, between them, the largest phenomenon of money laundering. The United States is critical to the nervous system of the circulation of money because of the nature of its financial system and the connection of the U.S. financial system to the rest of the world. The United States is perhaps where most of the money launderers of the world pass, one way or another, through the banking system and through the financial institutions. However, Mexico is also very intertwined with this process.

As a contribution to the symposium, I would like to share some of my thoughts and perspectives on the matter of money laundering and on the abuse that arises around the issue in the relationship between Mexico and the United States. I have been observing the question of organized crime from different perspectives for the past fifteen years. I have observed it as an academic studying U.S./Mexican relations. I have also observed it as a legislator. As a legislator I have had the opportunity to engage in the investigation of corruption in Mexico, where issues of money laundering have been very prominent. I have also served as National Security Advisor in coordinating Mexico's negotiations with the United States on a broad range of issues related to security, law enforcement, crime, and money laundering. More recently, as an ambassador of Mexico to the United States, I have been very involved with the work of the CTC, the Counter-Terrorism Committee, which was created in the United Nations after September 11, 2001. This committee oversees the compliance of states with a resolution that was passed by the United Nations. A landmark resolution, 1373, orders all of the states to comply with certain criteria and rules concerning terrorism and also concerning money laundering associated with organized crime and other factors related to it.

Mexico and the United States are beginning to build a very peculiar partnership, a community of interests. Slowly, and sometimes very painfully, the

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relationship is gradually moving into identifying very specific areas of partnership and a community of interests between our two countries. This construction of a community of interests is in opposition to institutional trends of bilateral relations. The bilateral relation between Mexico and the United States has been characterized by the interaction of two factors. One of these factors is constant tension between two countries with so many disparities with each other. The tension of a superpower next to a country in development and the disparities that arise from this peculiar relationship create constant, frequent, and recurrent tensions that relate to questions of power. Mexico has always been very defensive to the hegemonic views of the United States in Latin America, and the United States has always been very suspicious of Mexico's nationalistic attitudes. In some ways this has created a dynamic in the relationship.

The other factor that has very intensely influenced the relationship is pragmatism. The two countries have very strong historical views that collide, but at the same time, there is a great deal of pragmatism. The pragmatism has to do with the need to address concrete questions away from ideological or historical grievances; concrete questions of our vicinity with which we have to deal on a daily basis; questions that are not controlled by the governments; questions that have to do with the interactions of our two societies, with the fact that we have open borders. This pragmatism has made us capable of identifying very concrete areas of understanding and compromise. By identifying these areas of understanding and compromise, we have made the relationship more balanced and symmetrical.

It is in the concrete questions of solving problems where our relationship becomes more symmetrical. Why? Because sometimes the disparities of power do not resolve these questions. The United States cannot impose solutions that militate against realities. Those questions have to do with water, with migration, with the environment, with drugs, with trade, with a number of issues. In each one of these instances we have to gradually move away from a relationship based on disparities and defensive versus hegemonic tendencies. We have to compromise on specific ways of solving these problems. The balancing of the relationship has been translated into this community of interests. There is no other area where the community of interests is becoming more strong and evident than in the area of security. We are facing a number of security threats that are equally dangerous and important for both countries. Mexico and the United States are beginning to understand that in the same way we have NAFTA, the North American Free Trade Agreement, as a meeting of interests in trade and commerce; we have another NAFTA in the background of that. It is the NAFTA of organized crime. It is the NAFTA of money laundering.

The interests of organized crime are so peculiar in our region that they have taken full advantage of the opportunities provided by globalization. Sometimes the interests of organized crime have been able to take advantage of globalization even more than governments, with fewer constraints and restrictions. Our governments sometimes cannot do a number of things among themselves because we have laws that forbid us to do them. We cannot interact with ourselves

because we are prevented by political considerations, by differences of opinion, and by legal matters. But there are no barriers among criminals in the organized crime community. There are specific interests and there are environments that can be taken advantage of. The expansion of organized crime in our North American area, particularly between Mexico and the United States, is also a phenomenon of NAFTA. It is part of the phenomenon of globalization.

We have board rooms of criminals that interact with each other in a very peculiar way because organized crime has become increasingly intertwined. It has become a web of interests that connect. There are areas of organized crime that we identify between Mexico and the United States, which probably synthesize the phenomenon of organized crime anywhere in the world. We have organized crime in drugs. It is very large, and it is very important, and it is very diversified and complex. We have organized crime in the smuggling of people. We have gangs that smuggle people that involve not only Mexicans and Americans, but also Central Americans, South Americans, and Asians. We have areas of smuggling of all kinds of products. One of the largest markets for counterfeit products is between Mexico and the United States. We have a huge market for music discs. And there are more millions of discs sold in Mexico that are pirate editions than there are commercially legal editions. We have a very large market of weapons between Mexico and the United States. You cannot imagine how large the weapons market is and how many people profit from that. We also have one of the largest markets in the world for car thieves. There are many cars stolen in the United States and sold in Mexico, and vice versa.

There is one common element in all of this global business of the NAFTA of organized crime: money laundering. The product of all of these activities, one way or another, enters the financial system of both our countries in ways that are immensely difficult to detect. If there was a possibility for us to obtain, through restitution, the money that has been illegally obtained in Mexico and deposited in American banks we could pay at least a portion of our foreign debt. However, there are immense legal difficulties involved with this. First, to identify money in these accounts is very difficult. Second, even if we identify it, gaining control of it is also difficult. This machinery of crime has taken full advantage of our intense relationship in the global world in which we live today.

Our two countries are beginning to respond very swiftly and very effectively to this issue. We have had, first of all, to break some fundamental barriers of understanding and trust. We have gone a long way in establishing some basis of trust, especially in the area of crime. The most important characteristic that the Americans have attributed to the Mexican law enforcement system has been corruption. We had a very serious problem of corruption in Mexico. The problem also exists in the United States, but not in the quantity and dimension that we have in Mexico. In the past ten years we have been fighting corruption in Mexico by attempting to make government more transparent, by establishing mechanisms of control, and by regulating the banking system. We have gradually put in place remarkable pieces of legislation that are beginning to show their importance. We have also, in the government of President Fox, launched more

audacious campaigns of fighting corruption and recovering the sense of integrity and morality of public officials. However, the effort of fighting against corruption is not new in Mexico. It is old and it has very interesting legislative traditions.

Based on this experience of crime in Mexico, the United States developed a great deal of mistrust. It has been very difficult to work together when one of the partners does not trust the other. The distrusting partner does not share information. It fears this information is going to be misused. It also fears that the lack of integrity of officials will make fighting crime together an unreliable venture. There has also been, on the part of Mexico, a great deal of resentment of the way in which the United States wants to impose certain measures that are based on the notion that Mexico is not capable of handling security or legal affairs by itself. The United States wants to do it all in Mexico. This has gradually been resolved and we have come a long way in the past two years in closing the gap of mistrust that exists in the area of law enforcement. That does not mean that we have been able to clean up corruption in Mexico, especially in the police forces. It does mean that we have created areas in which information can be shared with more confidence and used effectively to fight crime. An example of that can be found in the effectiveness of Mexico in capturing a number of the most prominent drug lords, the Arellano Felix brothers, who were on the run for many years. The brothers were moving about their business, managing a huge operation of drugs with quite a bit of impunity. They were captured by putting together the information available in the United States and the information available in Mexico. When this information matched, and was finally able to be transmitted fluidly, the legendary Arellano Felix brothers were captured within a matter of months. A number of other very spectacular things have happened since this common understanding. However, there is still a very long way that we have to go.

We have developed mechanisms to deal with money laundering between Mexico and the United States, which include the gradual adaptation of our banking laws to detect suspicious accounts, to trace money, and sometimes to be able to identify large movements of money across the border. One of the very large banks, which got itself involved in money laundering schemes in Mexico while the bank was in the United States, Citibank, has begun to establish a number of regulations to control this process. Some of us have to suffer these regulations. The other day, Citibank officials called me. I have had a Citibank account for many years, since I was in Washington, working for the Carnegie Endowment. The bank account here did not have, at any given time, more than five, six thousand dollars. But they called me and said they were going to close my bank account. I said, "Why?" They said, "You are a public official. You are a public figure." I said, "Well, I am a very poor public figure." They said, "It doesn't matter. We distrust all public figures now." So, I said, "Well, you will have to look at a number of Mexican public figures whose bank accounts in the United States are considerably larger than mine and probably you are still not asking them to close their accounts." The matter was settled, but it indicates that there

is now a widespread fear in the banking system of the United States that has led to the creation of some mechanisms of defense and resistance. How can we create a community of legislation and information sharing if we do not reach out to a larger environment?

Perhaps we are in the process of creating a much larger community of interests in fighting crime in the world. This might have come about as a consequence of 9/11. Immediately after the attack on the Twin Towers, the United Nations reacted by passing a number of resolutions. There was a U.N. Security Resolution passed on September 12, Resolution 1368. This is a condemnation of terrorism. But there is one interesting feature of that Resolution. This Resolution was based on the notion that the attacks of 9/11 on New York, Pennsylvania, and Washington, D.C. were attacks on the entire world, not only on the United States. They were attacks that represented an aggression to all nations. That was the assumption of Resolution 1368. Immediately after that, the United Nations began to debate another resolution that became a landmark, Resolution 1373. This is the first and only resolution I know of that is obligatory for all states.

United Nations resolutions are specifically targeted to a situation where international peace and security is at stake. Resolutions are circumscribed to the actors who are in a specific dispute in the world. In the Middle East, there are a number of resolutions regarding the Palestinian/Israeli question that are obligatory to Palestinians and Israelis. There are resolutions in Africa, specifically targeting the conflict among states. The only resolution that sets obligations on all of the states, 1373, establishes a set of obligations regarding money laundering in the first place, and identifying the financial resources that could be deposited in the financial system of any country and used for terrorism. The resolution is very simple, three or four pages, but it establishes a number of obligations.

The most critical of these obligations has to do with the identification of money and the relationship between money and other forms of crime. The United Nations created the CTC, the Counter Terrorist Committee. The Counter Terrorist Committee has the task of making sure that all the states comply with Resolution 1373. There are three stages of the work for this committee. The first stage requires that every country of the world report to the Security Council concerning the state of their legislation in fighting organized crime, money laundering, and identifying assets in the banking system. The reports have been coming to the United Nations for over a year, and now we have a very clear picture of the status of crime fighting legislation in the world. In turn, the Security Council experts require that all of these countries that presented their reports modify their legislation and adhere to certain international conventions in the struggle against terrorism. For over a year, every country has had to provide information to the United Nations about the changes it is making in its legislation. There are about twenty countries that have not complied yet, Iraq being one. The rest of the world has begun to adapt to the existence of uniform criteria of legislation. This is the first process. The second stage is to establish

executive mechanisms in the countries in order to implement these pieces of legislation and these directives, and to create intelligence units in the police and establish mechanisms of coordination among agencies within a country. This is just beginning, and it is going to take time for the United Nations to verify that countries have the capabilities in police, intelligence, customs, immigration, border controls, and so on. The third stage is cooperation at the bilateral and multilateral regional levels. The United Nations requires that countries begin to interact with each other and cooperate at a regional level. This stage also establishes the obligations for international organizations to participate very actively in promoting the relationship between states in this process.

We have, by virtue of Resolution 1373, a unique opportunity to transfer all of these capacities beyond the fight against terrorism to the area of organized crime of various forms and fashions. I think we are gradually moving in that direction. Mexico and the United States are, by comparison, far advanced. Mexico and the United States have gradually created this web of capacities among each other. One characteristic of these capacities is that they have to be based on symmetry of the relationship. I remember distinctly when we were negotiating with the United States the exchange of information of bank accounts. The United States established criteria by which we had to share with them but they did not have to share the information of their accounts with us. It was a very unbalanced process and very asymmetrical. Gradually, we are coming to terms with the notion that everything has to be symmetrical and reciprocal so we play on a level playing field. Looking from the perspective of what I have seen at the United Nations, I realize how far advanced Mexico and the United States are in those areas.

I am going to close my remarks here and be ready to answer questions. I deliberately did not refer to the matters that are today in very intense debate as part of our work in the Security Council, about which you probably read every day. I just want to tell you what a peculiar institution the Security Council is. Probably a year ago, none of you had any idea what the Security Council was. I had never seen the words, United Nations Security Council, on the front page of the newspaper when I arrived at the United Nations over a year ago. Probably every now and then somebody would say, "The U.N. Security Council would meet," and this and that, but the question of Iraq has put the Security Council at the forefront of every paper in the world. Walking inside the room of the Security Council a year ago, it was a deserted area. The diplomats would go in and we would lock ourselves in the Security Council's room of consultations, which is a very small room where countries face each other, and very little attention was paid to us. Today we cannot go anywhere in the United Nations or in New York without a storm of reporters following us. I have reporters in front of my house when I come out in the morning. I have reporters in my office. And if I have a meeting, they find out that I have a meeting with somebody, and then they arrive at the meeting and they always want to know exactly what is happening and when we are going to agree or disagree on whether there is going to be war or not.

This is an opportunity for the United Nations. It is an opportunity for the United Nations to be identified in the world as a very relevant institution. By the work that I have seen at the United Nations in the area of counter-terrorism, the United Nations is an extremely relevant institution, no matter what happens in Iraq. No matter what happens with the Security Council in the decisions we are going to be making in the next two weeks. No matter if the Security Council endorses or not the resolution that the United States presents to us, the United Nations is going to be a very relevant institution. It is going to be in the center of international relations. And the United Nations is going to be a critical instrument for us to achieve larger goals of a collective nature. You probably will cease to hear a lot about the Security Council after this issue is resolved one way or another. However, bear in mind that the United Nations is a very strong institution. It is the creation of the states. It has all of the mistakes and all of the problems, and it is only as slow as the countries of the world are to solve problems. But it is the most precious institution we have to preserve world peace and to address collective interests and to create a sense of belonging in a world that we can manage by ourselves.

Thank you very much.