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Mexicans Protest Use of Rubber Bullets by U.S. Border Patrol on Migrants

by LADB Staff

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President Vicente Fox's administration is facing growing criticism for adopting a timid and sometimes contradictory stance on a policy that allows US authorities to use nonlethal bullets against undocumented immigrants along the US-Mexico border. The issue first arose in late July, when the US Border Patrol announced that it would begin using the bullets at its El Paso district in southwestern Texas, following the purchase of 14 air-fired launchers for about US\$300 apiece. The bullets are plastic-coated pellets that break on impact, causing welts on victims while releasing pepper dust. The pellets, which Mexican critics call "rubber bullets," contain the chemical capsaicin found in chile peppers.

The Border Patrol's decision to begin using these bullets in the El Paso District brought immediate criticism from the Mexican government, which raised its concerns at a ceremony marking the Mexican government's agreement to cooperate with the International Organization for Migration (IOM) to assist with repatriation of undocumented immigrants from other countries in Mexico. "We reject any measure that violates the individual rights of our migrants in the US," said Interior Secretary Santiago Creel Miranda.

Usage approved as part of 2001 security treaty with US

The problem with Creel's criticism is that the Mexican government had already approved the use of the nonlethal bullets during negotiations with the US on the Action Plan for Border Security Cooperation. The agreement was signed by the Fox administration and the government of US President George W. Bush in 2001, although negotiations on the accord began during the administration of former President Ernesto Zedillo in 1999.

The Mexican government's decision to accede to the use of the nonlethal bullets was documented in the text of an agreement released to the press. "At the insistence of the Mexican government, moving from the use of lethal weapons to rubber bullets and other deterrents is being considered," said Enrique Berruga, who was deputy foreign relations secretary during the negotiations. "What is most important to us is that (migrants) aren't hurt trying to cross the border, and this is an important step."

Furthermore, critics said the Mexican government had remained silent while the Border Patrol made occasional use of these bullets in its California and Arizona districts during the last three years. The Secretaria de Relaciones Exteriores (SRE) followed Creel's criticisms by making an official request to the US government to provide detailed information about the Border Patrol's use of these bullets along the US-Mexico border during the past three years.

Along with the statistics, the SRE asked the US State and Homeland Security Departments for an explanation of how the pellets have been used. "The Mexican government offered a clear position

that in no way does it condone the use of any form of violence against its citizens," said deputy foreign relations secretary Geronimo Gutierrez.

Some elected officials in Mexico, not willing to wait for the US statistics, released some data that they had compiled this year. Participants at the meeting of the Conferencia Nacional de Gobernadores (CONAGO) in late August said they documented 209 cases in which the nonlethal bullets were used against Mexican nationals during a 20-day period. "The Mexican government has taken too much time in publicly opposing this policy on the use of nonlethal bullets against undocumented immigrants," said Chihuahua Gov. Patricio Martinez, a member of CONAGO's immigration committee.

Congress, experts call for Mexico to renegotiate accord

A panel of experts has called on the administration to renegotiate the terms of the 2001 agreement. In a joint statement, security specialist Jose Luis Pineyro, internationalist Francisco Gil Villegas, and former Mexican consul Humberto Hernandez Haddad said that, even though the chances of death are minimal from the nonlethal bullets, the undocumented immigrants still face hardships from the policy. "They are hurt physically and their human rights are violated," the experts said in the statement to the daily Mexico City newspaper El Universal. "

Additionally, [this policy] does not resolve the problem of illegal migration." The issue also did not sit well with Congress, which urged the Fox administration to demand that the US government stop the use of the nonlethal bullets against undocumented immigrants. The Congress also summoned Foreign Relations Secretary Luis Ernesto Derbez to testify before the standing committee (Comision Permanente) comprising members of the Senate and Chamber of Deputies.

In his testimony before the standing committee in late August, Derbez attempted to defend Mexico's decision to enter into the security agreement, but he also issued a mild criticism of the use of the bullets. "The program was not created as a tool for US authorities to apprehend undocumented immigrants," Derbez told the committee. The foreign relations secretary said Border Patrol agents did not appear to be using the air-fired balls to stop fleeing migrants, as critics had feared, but only in confrontational situations. "These are not actually weapons, but a system of compressed air similar to paint guns," Derbez told Congress.

Derbez said the Mexican government had no plans to ask the US to stop using pepper-ball pellet guns against migrants, but he did say the government would back any lawsuits sought by Mexicans who thought they had been abused. Congress criticizes Fox immigration policies The testimony from the foreign relations secretary angered several members of Congress, who accused the administration of adopting a very timid stance against the US policy.

Sen. Cesar Camacho, a member of the former governing Partido Revolucionario Institucional (PRI), said it was "unacceptable" for Mexico to sign an accord of that nature. He also criticized the secretary for his statements suggesting the agreement was an achievement for the US and Mexican governments because the use of nonlethal bullets on the part of the Border Patrol was a viable alternative to the use of firearms. "How is it an achievement if, instead of killing the immigrants, they're injuring them?" said Sen. Camacho.

Sen. Gerardo Ulloa Perez, a member of the center-left Partido de la Revolucion Democratica (PRD), took issue with Derbez's "cynical" explanation that the bullets were not actually made of rubber but were simply plastic-coated pellets filled with pepper dust. Ulloa raised concerns that these bullets could cause as much harm on defenseless victims as those made of lead. "These migrants are simply trying to find employment [in the US] because the inefficient policies of Fox have failed to provide them a job in Mexico," said the PRD senator.

The semi-independent Comision Nacional de Derechos Humanos (CNDH) concurred with this position. "The CNDH cannot allow that undocumented immigrants be the subject of even a small amount of aggression," said CNDH president Jose Luis Soberanes Fernandez. The CNDH executive criticized the Fox's government's decision to accept the policies as incongruent and lacking in common sense. "No country can allow that another mistreat its citizens," said Soberanes.

Legislators from smaller parties also took the opportunity to criticize the policies of the Fox government. "This foreign relations secretary and President Fox have adopted an irresponsible position by abandoning their obligation to protect the welfare of our citizens," said Deputy Oscar Gonzalez Yanez, a member of the Partido del Trabajo (PT).

Critics also directed their criticisms about the US polices at Derbez's predecessor Jorge Castaneda, who helped negotiate the agreement with the US. The former foreign relations secretary, however, defended the Fox government's stance during the negotiations. By agreeing to accept the nonlethal bullets, the Mexican government reduced the chance that undocumented workers would die from accidental shootings on the part of the Border Patrol, he said. The Border Patrol echoed the position presented by Castaneda. "[The air-fired launchers] are an alternative to the use of firearms," said a Border Patrol spokesperson.

Other US officials noted that agents are instructed not to fire the bullets at delicate areas of the body such as the face, the neck, the spine, or the groin. "They won't be used as an offensive weapon," said Tony Garza, the US ambassador to Mexico. "They will only be used for self-defense."

Immigrant-rights advocates concerned about US Border Patrol

Some immigrant-rights advocates disputed the notion that Border Patrol agents would show restraint, especially since the pellets could cause serious injury if directed at the eyes or other sensitive areas. "This is a concern because some Border Patrol agents have a history of using excessive force," said Andrew Selee, director of the Mexico Institute at the Woodrow Wilson Center in Washington, DC. Selee, a visiting scholar at the Colegio de Mexico, acknowledged that Border Patrol agents have the right to defend themselves if attacked. But he said that the air-fired launchers should be used only against immigrant traffickers, who pose the greatest threat to the agents, and not against the immigrants themselves.

Claudia Smith, executive director of the California Rural Legal Assistance Foundation, said a greater concern is that many Border Patrol agents still carry firearms in addition to the air-fired rifles. Critics of US immigration policies are also planning to bring attention to another measure that jeopardizes the rights of undocumented immigrants: Operation Guardian. The program, which consists of

tighter security in the traditional urban crossings in California such as San Diego, forces many would-be migrants to seek entry into the US through inhospitable terrain in California and Arizona.

As a result of Operation Guardian, hundreds of undocumented immigrants have died attempting to cross through deserts and mountains in the southwestern US (see SourceMex, 2001-06-20 and 2004-07-28). Several immigrant-rights groups are planning huge marches in Mexicali and Tijuana in Baja California state, and San Ysidro, California, on Oct. 2 to commemorate the 10th anniversary of the start of Operation Guardian. (Sources: Reuters, 08/11/04; Spanish news service EFE, 08/10/04, 08/11/04, 08/20/04, 08/24/04; Associated Press, 08/13/04, 08/24/04; El Universal, 08/05/04, 08/06/04, 08/11/04, 08/12/04, 08/19/04, 08/25/04; La Cronica de Hoy, 08/05/04, 08/12/04, 08/19/04, 08/24/04, 08/25/04; The Herald-Mexico City, 08/06/04, 08/12/04, 08/25/04; Unomasuno, 08/12/04, 08/25/04; Agencia de noticias Proceso, 08/03/04, 08/11/04, 08/27/04, 08/31/04; Notimex, 08/03/04, 08/10/04, 08/11/04, 08/23/04, 08/24/04, 08/31/04; La Jornada, 08/12/04, 08/19/04, 08/23/04, 08/25/04, 08/26/04, 09/01/04

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