

nature and primitive tradition. It is not too much to say that to abolish capital punishment in this country is likely to provoke lynchings. Whenever unusually brutal and atrocious crimes are committed, particularly if they cross racial lines, nothing less than the death penalty will satisfy the general sense of justice that is to be found in the average American community.

HOMICIDE AND THE DEATH PENALTY IN MEXICO

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In Mexico, as in the United States, each state reserves the right to enact its own penal laws, and in accordance with this constitutional prerogative, the States of Campeche, Yucatan and Puebla long ago abolished the death penalty, a movement followed more recently by the legislators of Nuevo-Leon. It is the general opinion of jurists and criminologists in Mexico that the death penalty is justifiable only under martial law, or when suitable places of detention for criminals are not available.

Comparison of the judicial statistics of the states, wherein the death penalty is abolished with others in which capital punishment is still prescribed, shows that human life is fully as safe in the former as in the latter states. In the state of Campeche (with a population of about 90,000) there were but seventy-one persons convicted of homicide during the fifteen years 1871-85. In Yucatan (with a population of about 393,000) the number of convictions for homicide during the same period was 336. On the basis of the population of 1882, the annual average of convictions for murder and manslaughter in both Yucatan and Campeche was but 5.5 per one hundred thousand of inhabitants. For purposes of comparison, it may be stated in this connection that the annual average of convictions for homicide in the Province and City of Buenos Ayres (where the death penalty has always been enforced), is 11.5 per one hundred thousand of population; in Paraguay, the annual average is 6.1; in Uruguay, 25.5; in Italy, 7.6; in Spain, 5.9 per one hundred thousand of population.

The table below shows the number of convictions for murder and manslaughter in the States of Yucatan and Campeche during the fifteen years 1871-85, given in quinquennial periods, with the annual averages (based on statistical data derived from an official document compiled by Dr. Antonio Peñafiel, and published by the Mexican government in 1890) :

	1871-75.	1876-80.	1881-85.	Annual average.
Yucatan .....	97	129	110	22.6
Campeche .....	21	21	29	4.1
Annual average in quinquennial periods .....	19.4	23.8	22.0	.....
	4.2	4.2	5.8	.....

The figures above show that the advance of civilization in Mexico has been attended with a slight increase in the number of convictions for homi-

cide in these two states; this does not, however, imply a greater number of homicides committed, but rather greater certainty in the detection and conviction of and for crime.

Statistics of convictions for homicide in Puebla cover only the four years 1881, 1882, 1883 and 1885, but Señor Emilio Álvarez, Procurador-General of the Federal District, and author of the latest statistical work on Mexican criminality, assures the present writer that there is nothing to indicate that human life is less secure in Puebla than in the states wherein the death penalty has not been abolished, "For it is easy to see," says he, "that security depends on many causes foreign to the application of the death penalty."

The table below gives the number of convictions for certain crimes committed in the State of Puebla during the four years named:<sup>1</sup>

## OFFENSES.

YEARS.	Murder.	Manslaughter.	Parricide.	Infanticide.	Inflicting grave wounds.	Inflicting minor wounds.	Robbery with violence.	Robbery without violence.
1881.....	3	207	..	3	45	1,113	974	87
1882.....	1	254	..	10	16	1,337	725	80
1883.....	1	250	..	9	9	1,153	620	94
1885.....	2	208	1	7	7	957	600	60
Totals <sup>2</sup> .....	7	919	1	29	77	4,560	2,928	321

Although capital punishment was practically abolished in Nuevo-Leon many years ago, it was not legally prohibited until 1905. There have been but three executions in that state since 1885, though the number of culprits condemned to be shot (the Mexican method of inflicting capital punishment) during the seventeen years ending in 1905 was thirty-one.<sup>3</sup> On the basis of the population of 1900 (326,940), there were, during the same period, in the State of Nuevo-Leon, 0.61 death sentences annually in each one hundred thousand of population. The crimes punishable by death during this period were treason, premeditated murder, incendiarism, highway robbery, piracy, parricide, and "holding up" a pedestrian in the streets or roads.

Mexico has the same number of states in which the death penalty has been legally abolished as have the United States, and also one state which offers an exact parallel to the State of Kansas,<sup>4</sup> where death sentences are regularly pronounced which everybody knows are never to be executed. Dur-

<sup>1</sup>Estadística del Ramo Criminal en la República Mexicana, pp. 1069-1070. Mexico, 1890.

<sup>2</sup>The population of Puebla in 1900 was 1,024,446.

<sup>3</sup>The author is indebted to the kindness of His Excellency Ramon G. Chamorro, Governor of Nuevo-Leon, for the above statement as to the number of executions and death sentences.

<sup>4</sup>The death penalty has been legally abolished in Kansas since this article was written.

ing the eighteen years of Governor Villada's administration, in the State of Mexico, only two capital sentences were carried into effect. The official statistics show that no evil results followed this policy of executive clemency. During the five years 1897-1901, Governor Villada had occasion to grant (on an average) but six commutations yearly, in a population of about 900,000, or 0.7 per one hundred thousand of population.<sup>5</sup> It will be remembered that the annual average of death sentences in Nuevo-Leon was 1.8, or 0.61 per one hundred thousand of inhabitants (on the basis of the population in 1900, which was 326,940).

In the State of Vera Cruz, also, the death penalty is so seldom applied as to be practically inoperative. "In almost every state in the republic," writes a native authority, "legal executions are authorized, but, except in the case of soldiers, there is every chance that the sentence pronounced may be changed before the date of execution, to imprisonment for twenty years. This is the limit of imprisonment that may be pronounced for any crime. It is supposed that a man will either be dead at the end of that time or so harmless that he may be permitted again to enter society."

Passing now to the federal district, we find that here, too, capital punishment is practically abolished for all but grave crimes of the military order. Though homicide is of deplorable frequency among the lower classes of the capital (70.72 per one hundred thousand of population in 1899), no ordinary criminals have been executed in the federal district for about fourteen years. To quote an anonymous writer in a Mexican journal:

"In the courtyard of Belem the wall against which the condemned men were stood is scarred with bullet marks, but prisoners have ceased to regard it with the terror they once might have felt, and prison officials have fallen into the habit of regarding it more or less as a curiosity rather than as a part of the working machinery of the institute. Possibly no man condemned to death can rest with assurance that by exercise of official clemency he will escape death, but it is doubtful if there is an attorney in the country who would not feel almost confident that in the end he would obtain for his client a commutation of the sentence to twenty years imprisonment."

President Diaz expresses himself as being quite willing to substitute imprisonment for the death penalty if the experiment now in progress proves successful.<sup>6</sup> That the death penalty was regarded by the Mexican jurists as a merely temporary makeshift, useful in the absence of a properly equipped penitentiary, is implied in the paragraph on this subject in the federal constitution, which read as follows (Art. 23):—

"Pending the abolition of capital punishment, it remains in the charge of the administrative power to establish, as soon as possible, the penitentiary regime. In the meanwhile it is abolished for political crimes, and cannot be extended to any other cases than to the traitor of the country in a foreign war, to a highwayman, to an incendiary, to a parricide, to a homicide

<sup>5</sup>*Memoria de los actos legislativos del Estado de Mexico. Toluca, 1902.* This document was kindly forwarded the present writer by General Villada just before his death.

<sup>6</sup>In a communication to the author, under date of September 26, 1902.

when accompanied by treachery, or premeditated vengeance, to grave crimes of the military order and to those of piracy, which the law will define."

That death sentences are not usually carried out in the federal district may be seen from the fact that of 246 applications for executive clemency during the twenty-one years, 1881-1902, only twenty-one were refused.<sup>7</sup>

The fact that capital executions are becoming more and more rare in the federal district would seem to indicate that the abolition of the death penalty in Mexico has been attended by no evil results, a conclusion justified by the facts. Notwithstanding the increase of population during the last twenty years, the number of convictions on capital charges in the federal district during the decade 1881-90, was 110, while there were but 122 during the decade 1891-1900. In 1899, with a population of 500,000, there were sixteen capital sentences pronounced.<sup>8</sup>

In regard to the history of homicide in Mexico as a whole, no statistics have been published since the year 1890. The report then published shows that murder had been constantly on the decrease for the fifteen years ending with 1885, despite the fact that the proportion of capital executions to homicides committed was growing smaller and smaller year by year.

When it is considered that the court records are avowedly incomplete for the years preceding 1879, it is apparent that homicides in Mexico are decreasing both in actual numbers and in proportion to the population. Previous to the advent of the railroads and telegraph many crimes of violence escaped the notice of the authorities, and the apprehension even of known murderers was an exceedingly difficult task. During the last seven years of the period covered by the above statistics the police force of the republic was being constantly augmented, and the service and discipline improved, while the population increased by about two and one-half millions; yet the annual number of capital sentences pronounced diminished year by year, the records showing 216 for the eight years 1871-78, and 211 for the eight years 1879-86.<sup>9</sup> Homicides, as the results of quarrels and drunken brawls, among the lower classes, are still deplorably frequent in Mexico; but premeditated murder, perpetrated with a view to robbery, or murder accompanied by treachery, and highway robbery are becoming of relatively rare occurrence. Only a few years since no one could safely walk the streets of the capital after nightfall. "One may now traverse this city from end to end at any time, night or day, without any fear of being molested," writes Mr. John Hubert Cornyn. Meanwhile, capital punishment has been practically abandoned throughout the republic. A native writer declares: "Unless there occurs some check to the growth of the feeling of revulsion against capital punishment, the next generation in Mexico is likely to glean all its information regarding that interpretation of justice that demands 'a life for a life' from history or from reports of legal executions in other countries."

<sup>7</sup>Statistics kindly forwarded the present writer by courtesy of President Porfirio Diaz.

<sup>8</sup>Cuadros Estadísticos E Informe del Procurador de Justicia, concernientes a la Criminalidad en el Distrito Federal, 1899. Mexico, 1902.

<sup>9</sup>The number of capital sentences for 1886 is merely an estimate arrived at by striking an average.

The table following shows the annual number of convictions for various forms of homicide in the republic during the fifteen years 1871-85, with the annual number of death sentences pronounced.<sup>10</sup>

OFFENSES.

YEARS.	Murder.	Man-slaughter.	Parri-cide.	Infan-ticide.	Death sentences.
1871 .....	375	987	7	87	41
1872 .....	404	927	4	53	23
1873 .....	408	969	5	39	30
1874 .....	448	1,240	9	58	23
1875 .....	401	1,062	3	50	18
Totals .....	2,036	5,185	28	287	135
1876 <sup>11</sup> .....	461	1,099	5	42	26
1877 .....	440	1,106	9	41	12
1878 .....	642	1,252	10	61	43
1879 .....	594	1,321	15	98	29
1880 .....	486	1,182	15	71	28
Totals .....	2,623	5,960	54	313	138
1881 .....	615	1,447	14	96	30
1882 .....	533	1,322	13	85	20
1883 .....	627	1,349	18	83	36
1884 .....	528	1,322	10	61	24
1885 .....	532	1,315	18	62	18
Totals .....	2,835	6,755	73	387	128

Totals in Quinquennial Periods.

1871-75 .....	2,036	5,185	28	287	135
1876-80 .....	2,623	5,960	54	313	138
1881-85 .....	2,835	6,755	73	387	128
Grand totals .....	7,494	17,000	155	987	401

<sup>10</sup>Statistics for Puebla are not included in the above table, figures for this state not being available.

<sup>11</sup>During the civil war of 1876 and 1877 many of the archives were destroyed. Since 1878 the archives have been in perfect order.