

The New Airspace Design for the Valley of Mexico:
A Human Rights Problem due to Noise Pollution?
by Wendy Montiel.

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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice.”

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In the previous edition of Terrum it was explained in *"grosso modo"* the Mexican government's decision to redesign the airspace of the Valley of Mexico, which consequences can be studied from different perspectives. This edition will briefly analyze the human rights of the individuals living close to Mexico City's International Airport to a healthy environment, which is presumably being violated by the noise pollution caused by the new design of air routes.

"In 2011, the World Health Organization determined that noise pollution is the second most damaging factor to health after air pollution, as it can cause physical and mental effects as high blood pressure, change in respiratory rate, muscle tension, loss of hearing and headaches, enhancer of stress, irritability, nervousness, learning and memory problems."

Sound are vibratory waves of air molecules carried from a noise source to the ear. The normal human ear can detect sounds that range between 0 decibels to about 140 decibels, with sounds between 120 decibels and 140 decibels causing pain. For example, the ambient in a library is about 35 decibels, while inside a moving bus or subway train is roughly 85 decibels; building construction activities can generate as high as 105 decibels at the source¹. In Mexico, sounds over 65 decibels are considered as noise pollution.

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Considering the above, it is possible to understand the concern that the aviation industry expressed in the first international conference on the reduction of noise and disturbance caused by civil aircraft, (also known as the London Noise Conference) held in November 1966, which established that "the problem of aircraft noise is so serious in the vicinity of many of the world's airports that public reaction mounting to a degree that gives cause for great concern and requires urgent solution"².

Therefore, the assembly resolved to include, among other relevant ICAO (International Civil Aviation Organization) documents, a separate Annex specifically for noise "to establish international specifications and guidance that contains description and methods of measurement of aircraft noise and suitable limitations on the noise"³.

Based upon these recommendations, a meeting was held in Montreal in 1969 in respect to the aircraft noise in the vicinity of aerodromes, and as a result of the work done, a draft of the annex 16 "Aircraft Noise" of the Convention on International Civil Aviation was produced. In addition, the Committee on Aircraft Noise was also created, holding their first meeting in 1970, which first SARPS⁴ of Annex 16 were adopted by the ICAO Council on 2 April 1971, becoming

1.-Nathanson A. Jerry, "Noise Pollution" <https://www.britannica.com/science/noise-pollution>, Great Britain.

2.- ICAO "Assembly resolutions in force (as of 26 september 1968)" France, 1986, <https://www.icao.int/assembly-archive/Session16/A.16.RESOL.8770.EN.pdf>.

3.- *Ibidem*

4.- *The International Standards and Recommended Practices (SARPS) contained in the nineteen Technical Annexes to the Convention on International Civil Aviation.*

effective on 2 August 1971, and applicable on 6 January 1972⁵.

In a later stage, Annex 16 was re-titled as “Environmental Protection” and divided in two volumes, the first one contains the standards and recommended practices for aircraft noise certification and covers international specifications relating to aircraft noise measurement and evaluation methods, while the second volume contains provisions related to aircraft engine emissions.

As mentioned above, the excess of noise is a type of pollution that can affect people’s health and the environment itself, and therefore it is necessary to attend to its prevention, and regulation by all the countries to protect the human’s right of the people in general, but in this case, of those who live in the vicinity of aerodromes that are constantly exposed to a noise pollution source.

Mexican jurist Fix-Zamudio defined the human right to a healthy environment as “the right to the enjoyment of adequate living conditions in a quality circumstances that allows a dignified life”⁶, with quality circumstances refers to the “set of ecosystems and natural resources that allow the integral development of individuality”⁷.

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Accordingly, the Inter-American Court of Human Rights⁸ has explained that the human right to a healthy environment has two perspectives: collective and individual. The collective objectively and abstractly claim to preserve the “natural environment” in a sustainable way, independently of human beings, while the individual dimension is related to the direct impact of natural resources on people due to their connection with other rights, such as the right to health.

In both cases, the Mexican State has the obligation to secure their enforcement, through the execution of actions that ensure the effectiveness of the human right to a healthy environment. Within the catalogue of actions provided in the “Protocol of San Salvador”⁹ the obligation of the states to protect, preserve and improve the environment stands out, making necessary the adoption of all measures to avoid and mitigate its degradation.

In Mexico, the main laws that seek to protect and preserve the environment through the regulation of noise pollution are the General Law of Ecological Balance and Environmental Protection and the Official Mexican Standard “NOM-081-SEMARNAT”. The latter is a federal standard that establishes the maximum noise levels allowed in the Mexican territory, based on technical analysis.

5.- Pelsser E., “The postal history of ICAO Annex 16-Environmental Protection”, *International Civil Aviation*, 2021, https://applications.icao.int/postalhistory/annex_16_environmental_protection.htm.

6.- Fix-Zamudio, H., “Human rights and their legal and procedural protection in Latin America”, in Valadés, Diego y Gutiérrez Rivas, Rodrigo (coords.), *Memory of the IV National Congress in Constitutional Law*, Mexico, UNAM, Legal Research Institute, 2001.

7.- Resolution of the First Chamber of the Supreme Court, Amparo file 307/2016, scjn.gob.mx/sites/default/files/listas/documentos/dos/2018-11/AR-307-2016-181107.pdf.

8.- Advisory opinion OC-23/17, Inter-American Court of Human Rights, 2017, https://www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf.

9.- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights “Protocol of San Salvador”, 1988, <https://www.oas.org/juridico/english/treaties/a-52.html>.

When the Mexican government issued the informative notes regarding the redesign of the airspace of the Valley of Mexico, they omitted to analyze or even mention the international provisions applicable at the noise levels caused by aircraft, stated in “the international specifications relating to aircraft noise measurement and evaluation methods contained in the Annex 13 of the Convention on International Civil Aviation”. In general, the informative notes do not even mention anything about the noise pollution and its applicable international or national provisions.

For this reason, after the aircraft began to fly on the new air routes, citizens that lives closest to the airport began to feel affected by excessive noise, therefore, they challenged this decision through several amparo lawsuits and "what the citizens disturbed by the new routes are seeking is not the return to the previous configuration of the airspace, but the preparation of a new redesign that take into consideration the health of the inhabitants, avoiding the deterioration of the environment in the Valley of Mexico, they said."¹⁰.

"For this reason, it is now necessary and urgent that the Mexican government develop technical studies by experts that objectively detail which are the true levels of noise in the areas closer to the airport (which should be made prior to the redesign of the airspace), in order to determine the impacts on people's health and in their live quality, and after that it would be possible to confirm that the Mexican state is violating human's rights and damaging the environment."

The Mexican government in all their determination must guarantee the human rights of the governed, respecting the National Laws and International Treaties, to which Mexico is a party. In this case, prior to the redesign of the airspace, environmental damage and mitigation measures should have been provided.

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In case of confirming this hypothesis, the government must modify (again) the design of the airspace in the Valley of Mexico, being a priority to minimize the impact of noise pollution, for example, aiming for the lesser amount of people receive the lesser possible impact.

10.- *Ibidem*

We are in favor of extending the outsourcing deadline – AMLO.

President Andrés Manuel López Obrador gave the go-ahead to extend by one month the deadline for the application of the reform limiting outsourcing. "The businessmen asked us, for an extension of one month, because it takes time for them to adjust to the new circumstances. It is very likely that Congress will resolve to grant such an extension, and we see it as a good thing." After months without hearing the business sector's proposal to postpone the modification to the Federal Labor Law limiting subcontracting, Senator Ricardo Monreal, a member of the Morenista party, announced that he would present an initiative to extend its entry into force for 30 more days, from August 1 to September 1. www.reforma.com/aplicacioneslibre/preacceso/articulo/default.aspx?urlredirect=https://www.reforma.com/vemos-bien-que-se-amplie-plazo-para-outsourcing-amlo/ar2225523?v=3&referer=-7d616165662f3a3a6262623b6770737a6778743b767a783a-- 22/07/2021.

Mexico and five other countries create Latin American Space Agency.

Countries of the Community of Latin American and Caribbean States (CELAC) signed an agreement establishing the Latin American and Caribbean Space Agency (ALCE) in Mexico City. The foreign ministers of Mexico, Ecuador, Bolivia, Argentina, Costa Rica and Paraguay signed the agreement with the commitment to present the ALCE at the meeting of heads of State and Government on September 18. The announcement came after Saturday's face-to-face meeting of Celac, of which Mexico is president pro tempore, which aims to seek mechanisms to obtain more vaccines against Covid-19 for the region and to agree on a common position before the next G20 summit. [www.México y cinco países más crean la Agencia Latinoamericana del Espacio \(forbes.com.mx\)](http://www.México y cinco países más crean la Agencia Latinoamericana del Espacio (forbes.com.mx)) 24/06/2021.

Third wave of coronavirus infections compels Mexico to accelerate vaccination.

The Mexican government wants to step up vaccination to prevent the latest wave of contagions sweeping the country. President Andrés Manuel López Obrador has announced that vaccination will be stepped up in the five states with the lowest percentage of immunized people: Chiapas, Oaxaca, Guerrero, Puebla, and Veracruz. The group of stragglers and the rebound of covid-19 worries authorities, who have seen how the estimated three million cases are about to be exceeded as the Delta variant spreads throughout the country. "We are intensifying vaccination because there is no other alternative, there is no other option to deal with the virus," the president said at his press conference on Monday. www.elpais.com/mexico/2021-07-26/la-tercera-ola-de-contagios-de-coronavirus-obliga-a-mexico-a-acelerar-la-vacunacion.html 26/07/2021.

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