

The Emergence of Organized Criminal Networks as Extralegal Authorities

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The Emergence of Organized Crime

Globalization and the contemporary global order have facilitated the emergence of new aspects of governance within, between, and across the state scale. The re-articulation and re-scaling of the state involves the devolution of specific aspects of governance capacities to supra- and sub-state scales, constituting a vast transglobal arena where a bewildering array of private, non-state actors, networks and polities take on roles previously performed by the state. This reconfiguration of the position of the nation-state transcends the Westphalian “territorial trap,”¹ when it comes to produce new sites of power, new forms of authority and regulation through a reshuffling of traditional sociopolitical relationships.

The distinguishing feature of these alternative authority structures is that they tend not to be embodied at what has been historically constituted as the national or local scale, but rather are represented along the multiple, overlapping scales that make up global relations.² Within those hybrid scales a broad spectrum of actors interact and struggle for power and control: from public and private alternatives to sovereign states, from institutions of global governance to the transnational third sector, from religious movements to complex criminal organizations.

Among the most significant developments that has taken within this arena and has been fostered by the attendant sociopolitical and economic changes is the emergence and empowering of criminal organizations, whose cross-border networks and ability to continue their activities depends on their capacity to delegitimize governmental efforts to control their behavior. Complicating matters further, the strengthening of regulatory regimes usually creates perverse incentives for organized crime groups to expand their activities and increase their profits.³

Throughout the 1980s and 1990s, it became increasingly clear that the rise of transnational organized crime was inextricably connected with contemporary changes in the scope and competence of states’ authority over their societies and territory,

¹ In the Westphalian order, the self-contained state is the locus of social and political organization.

² Saskia Sassen, “Globalization or Denationalization?” *Review of International Political Economy* 10:1 (2003): 5.

³ Phil Williams, “Crime, Illicit Markets, and Money Laundering,” in *Managing Global Issues: Lessons Learned*, eds. P. J. Simmons and C. Jonge Oudrat (Washington, D.C.: Carnegie Endowment, 2001), 106.

and with the inability of many states to reform their key government sectors to ensure the security of their populations.⁴ This assertion is particularly valid for states in transition and for the global south, where territorial states are more often discontinuous with social relations, where it is common for states to contend with both domestic and external frameworks of authority, and where the very notion of state sovereignty has always been contested. Yet, the vulnerability of these states is usually represented by certain institutional characteristics, such as a low level of state legitimacy, territorial vulnerability, privileged and dominant elites, little economic or social provision for the population, underdeveloped social institutions, corrupt distributive entities, functional holes (regulatory frameworks, criminal justice system, ineffectiveness of rules, electoral systems), and other deficiencies that can be exploited by criminal groups to conduct illegal enterprises with a high degree of impunity.⁵

Neither the re-scaling of states' authority nor the link between inefficient states and organized crime are new phenomena. However, since the end of the Cold War, and perhaps as a substitute for it, greater attention is being paid to the hazards posed by transnational crime to the classic concept of the state and to world societies.⁶

Within a territory ruled by a government whose authority is limited or absent, criminal organizations may regard themselves as legitimate political authorities wielding enough power and influence to counterbalance or even to replace legal authorities. However, criminal organizations generally do not wish to be bound by the obligations of sovereignty. It is essential for them to remain sovereignty-free, to use their freedom to cross borders nominally under the control of states, and their flexibility to engage in activities that are difficult for governments and international organizations to regulate.⁷

Another major problem posed by organized criminal groups is related to the complexity of their organizations' networks and their activities. Criminal organizations have become increasingly centralized at the national level, empowered by and contributing to shifting opportunities for their illegal activities at the local, regional, and global levels.⁸ These organized crime groups engage in a full range of illicit activities

⁴ Becky Mansfield, "Beyond Rescaling: Reintegrating the 'National' as a Dimension of Scalar Relations," *Progress in Human Geography* 29:4 (2005): 463.

⁵ Phil Williams, "Transnational Organized Crime and the State," in *The Emergence of Private Authority in Global Governance*, eds. R. Bruce Hall and T. Bierstecker (Cambridge: Cambridge University Press, 2002), 169.

⁶ L. Shelley, "Transnational Organized Crime: An Imminent Threat to the Nation-State?" *Journal of International Affairs* 48:2 (Winter 1995): 463.

⁷ Eric W. Hickey, *Encyclopedia of Murder and Violent Crime* (Thousand Oaks, CA: Sage Publications, 2003), 341.

⁸ H. Richard Friman, "Caught up in the Madness? State Power and Transnational Organized Crime in the Work of Susan Strange," *Alternatives* 28 (2003): 478.

including narcotics trafficking, smuggling and trafficking of people, and illegal sales of weapons. They also undertake insidious activities such as murder, extortion and corruption, financial market manipulation, and industrial and technological espionage. Money laundering has also become a central and transnational feature of these groups, who make use of offshore financial institutions and bank secrecy jurisdiction to hide their ever-increasing revenues.⁹

The financial resources generated by these criminal activities have been augmenting not just the power of criminal organizations but also the increasingly international scope of their illegal enterprises. The escalating power this wealth has generated for criminal organizations has altered the relationship between transnational criminal groups and the state. As highlighted by Susan Strange, “technology and a world market in drugs and in money together have caused states to fail to protect society against crime and criminals.”¹⁰

Long-term neglect of the problem has led to highly developed criminal organizations that are in a position to undermine political structures, the world economy, and the social order of countries in which these criminal groups are based and operate. The resulting instability invites more crime and violence, and may preclude the institutionalization of democratic institutions, the rule of law, and legitimate markets.

The Dynamics of Organized Crime

The term “organized crime” usually refers to large-scale and complex criminal activities carried out by tightly or loosely organized associations and aimed at the establishment, supply, and exploitation of illegal markets at the expense of society. Such operations are generally carried out with a ruthless disregard of the law, and often involve offenses against individuals, including threats, intimidation, and physical violence.¹¹

Although the main purpose of organized crime groups is to make a profit, an inevitable by-product of their illicit activities is an implicit challenge to the sovereignty of the state and the authority of its legitimate institutions. The major evidence of the power of criminal organizations is the challenge or threat they pose to the state as a sovereign entity, which claims a monopoly over coercive power and exclusive autho-

⁹ Shelley, “Transnational Organized Crime: An Imminent Threat to the Nation-State?”, 464.

¹⁰ Susan Strange, “The Limits of Politics,” *Government and Opposition* 30 (1995): 207.

¹¹ United Nations, Proceedings of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 27 August–7 September 1990, Havana, Cuba; documents available at http://www.asc41.com/UN_Congress/8th%20UN%20Congress%20on%20the%20Prevention%20of%20Crime/8th_congress.htm.

rity over its territory and population.¹²

To this extent, it is irrefutable that criminal groups have turned their capacity of coercion into a highly lucrative activity by threatening the power of the state in some structural areas, undermining governmental institutions and social order through corruption and the use of violence. As Janet Roitman has pointed out, “violence can be part of the very legibility of power,” in the same way that violent practices can be exerted as a legitimate mode of the exercise of power.¹³

The violence perpetrated by criminals is a frontal attack on states’ authority and is usually directed at particular state institutions that societies rely on for protection and order. Violence and the threat of violence by criminal organizations are also used to eliminate competitors or obstacles to their business, and to extort large and small businessmen. Through intimidation and assassination, organized crime limits individual expression and freedom of the press, undermines the creation of an active civil society by dominating independent organizations and by intimidating citizens in their struggle against criminal activities. To the extent that this succeeds, the state has failed in one of its major functions: securing the safety and prosperity of its citizens.¹⁴ If violence is the most dramatic manifestation of the authority of organized crime, the economic power of those criminals is another form of control used for corruption, intimidation, and destabilization of institutions, in ways that undermine the foundations of good governance (e.g., participation, transparency and accountability).¹⁵

The activities of criminal organizations undermine the rule of law and the legitimacy of democratic governments through the corruption of state institutions and the individuals designated to combat crime. Corruption is widely practiced as a tool to obstruct the functioning of criminal justice systems, to hinder border control efforts, and to ensure that organized crime operations can be conducted outside the system of rules that regulate other business practices and limit the rights of law-abiding citizens.¹⁶

¹² Aradhana Sharma and Akhil Gupta, *The Anthropology of the State: A Reader* (Oxford: Blackwell, 2007), 11.

¹³ Janet Roitman, “Productivity in the Margins: The Reconstitution of State Power in the Chad Basin,” in *Anthropology in the Margins of the State*, eds. Veena Das and Deborah Poole, D.. (Santa Fe: School of American Research, 2004), 193.

¹⁴ Shelley, “Transnational Organized Crime: An Imminent Threat to the Nation-State?,” 468.

¹⁵ Williams, “Transnational Organized Crime and the State,” 167.

¹⁶ Shelley, “Transnational Organized Crime: An Imminent Threat to the Nation-State?,” 468.

Nonetheless, the wealth that organized crime groups accrue is instrumental to creating home turfs from which they may develop a degree of legitimacy that can build up into authority structures. Likewise, criminal organizations seek to exploit functional holes in state capacity gaps by taking control and providing some rudimentary form of governance to areas disregarded by the state¹⁷

Occasionally, criminal groups engage in paternalistic behavior to build domestic support, while transforming power based on fear and the threat of violence into more legitimate notions of authority and approval. As one would expect given these practices, organized criminal organizations thrive in societies where family, kinship, clan relations, and patron-client relationships are fundamental institutions and sources of deference and loyalty to individuals.¹⁸

As criminal organizations develop from their domestic bases, their networks establish connections with other associates in every corner of the world. Specially, criminals can rely on links established with other fellow-nationals living in diaspora communities overseas. Ethnic ties among migrant groups in different countries usually work to facilitate international illicit activity. That assumption holds true across borders in African countries, in the Golden Triangle (Myanmar-Vietnam-Laos-Thailand), and along the southern frontier of the former Soviet Union (the Azerbaijan-Iran and Tadjik-Afghan borders).¹⁹

The evolution of organized crime from local to global non-state actor requires that these groups start being considered part of the global social and political agenda. Isolated local or national responses have become clearly inadequate to confront the intricate dynamics of organized criminal organizations, which have been easily eluding authorities and profiting from the existing patchwork of divergent legislative and enforcement policies among states. Only global, multilateral reactions can be proportional to the overall threat posed.

In any case, it is important to look more closely at the different forms and variations in which organized crime is manifested. For this reason, the next section explores organized crime in and emanating from Colombia, one of the most powerful and widespread drug trafficking organizations in the world.

¹⁷ Williams, "Transnational Organized Crime and the State," 179.

¹⁸ *Ibid.*

¹⁹ Shelley, "Transnational Organized Crime: An Imminent Threat to the Nation-State?", 466.

Organized Crime in Colombia

Colombian sovereign authority reflects a deep legacy of distrust of its ability to exert control over its territory and society. The difficulties in legitimizing centralized authority and the persistence of alternative political orders are a reflex of inefficient and corrupt state-making, social instability, and widespread violence.

The most significant constraint on the consolidation of the Colombian nation-state is the limited presence, and even absence, of the state apparatus in much of what legally constitutes its national territory. The marginal place to which citizens in remote geographic regions are relegated points to a politics of exclusion, and consequently a delegitimation of the state's authority. Within a "collapsing state," the development of local loyalties and identities, as well as the formation of parallel authorities become unavoidable.²⁰

During the 1970s and 1980s, Colombia offered structural conditions that were ripe with potential for organized criminal activities: the geography of the country, the structure of the political system and parties, a delegitimized regime, fragmented civil society, widespread propensity to resolve disputes through violence, numerous obstacles to upward social mobility, large scale of illegal economic activities, and the social acceptance of contraband and money laundering.²¹

To make things worse, the political-criminal linkage formed within Colombia is a complex phenomenon which encompasses a multitude of actors ranging from illegal drug traffickers and other criminal organizations, guerillas, and paramilitary groups; to the army and the police, the government and its bureaucracy, political parties, the United States government, civil society organizations, and others. Connections among those actors are usually intertwined and difficult to ascertain with accuracy, as the relationships are typically covert and vary according to context and over time.²²

One of the most compelling examples of alternative authority in Colombia has been the armed actors that have flourished alongside the state's inability to consolidate territorial control and to exert its monopoly on the legitimate use of force. Those actors are mainly represented by guerilla groups and paramilitaries whose intimidation and pervasive violence are leaving the cities of Colombia under siege and inducing a state of paranoid claustrophobia among the population.

Guerrilla groups first developed as self-defense militias made up of Ecuadorian and Colombian peasants who became politicized under Marxist political ideologies in a struggle for equality. Paradoxically, while aiming to take over rule of the state, those left-wing insurgencies resorted to criminal activities as a source of funding. The Revolu-

²⁰ Mason, _____, 15. [Authors: please provide short citation.]

²¹ Rensselaer W. Lee, III and Francisco Thoumi, "The Political-Criminal Nexus in Colombia," *Trends in Organized Crime* 5 (Winter 1999): 60.

²² *Ibid.*, 59.

tionary Armed Forces of Colombia, or FARC—one of Colombia’s largest left-wing insurgencies—has increased its profits through forced recruitment of insurgents (including teenagers from indigenous families) and an increasing number of civilian kidnappings. Moreover, it has specialized in controlling the cocaine trade, levying a tax on growers and processors.²³

In Colombia, guerillas are opposed not so much by the Colombian military as by paramilitary groups, organized and financed by landowners. Many of these are in fact coca barons, who bought their land from ranchers who were intimidated by guerillas into selling their property. They quickly moved beyond their stronghold in the north of Colombia and started branching out nationwide, engaging into a bloody struggle with guerillas to secure key access routes for the coca trade.²⁴

Paramilitaries are no strangers to the organization of violence; they operate on the principle that the only effective response to revolutionary terror is even greater counter-terror. For its part, the Colombian government does not have a clear policy against paramilitaries, and often sends clear signals of impunity to them. The armed forces watches over paramilitaries’ activity with “benevolent neutrality,” once they are doing its work for it.²⁵ Moreover, it would be impossible for the Colombian government to this war fight on two fronts—a war that has been flattening civil society in so many fields.

When guerillas and paramilitaries groups started investing in the narcotics trade, Colombia had already been transformed into the corporate headquarters of the South American cocaine industry, operating as a cartel. Drug cartels take advantage of their monopoly position in the market to artificially control the availability, quality, and prices of the product. Their activities are not restricted to the control and distribution of narcotics, since once they are established the same structural networks can be used to smuggle many other illegal products and services.

To carry out their diverse illegal activities, Colombian drug cartels recruit a diversity of workers like peasants, chemists, various types of suppliers, purchasers and intermediaries, pilots, lawyers, financial and tax advisers, enforcers, bodyguards, front men (*testaferros*), and smugglers who work to launder the organizations’ profits. This workforce is tied to the central cartels in various ways; some are directly part of the organization, but many are independent subcontractors loosely tied to them. The cartels’ networks also include politicians, police, guerillas, paramilitaries, individual army members, public employees, bankers, loyal relatives, friends, and many others.²⁶

²³ Marc Cooper, “Plan Colombia: Wrong Issue, Wrong Enemy, Wrong Country,” *The Nation* (19 March 2001): 17.

²⁴ Anthony Daniels, “Colombia’s Hell: Fear Grips a Nation,” *National Review* (6 December 1999): 50.

²⁵ *Ibid.*

²⁶ Francisco Thoumi, “Illegal Drugs in Colombia: From Illegal Economic Boom to Social Crisis,” *Annals of the American Academy of Political and Social Sciences* 582 (2002):108.

The complex social network that forms drug cartels supports and provides protection to the illegal industry, once it comes to constitute the main channel through which cartels penetrate and corrupt states' social institutions around the globe. Through this network, the illegal industry forges strong loyalties, undermines systems of justice, and becomes entrenched within the state through the distribution of its illegal income to the rest of the society.²⁷ With a large sum of money at their disposal, drug barons started discarding their traditional violent practices to achieve their goals through extortion and corruption. According to their new "business ethics," violence is bad for business.

If violence and warfare have become tools of last resort for drug cartels, they still considered by the U.S. government to be the most effective means to help Colombia to defend its democracy, eradicate drug crops, and defeat the criminal groups that have been spreading violence across the nation. In a move that has represented the legitimate delegation of authority over its territory and security matters to another state, Colombia has granted the U.S. military the use of military bases in its country.²⁸

Nevertheless, it is claimed by most critics that another military-based program is the last thing that Colombia needs. The idea of President Andrés Pastrana's plan was based on a peace initiative leading to a cease-fire, and the U.S. government has been shaping it according to their interests. "Plan Colombia" has been considered by the United States as another opportunity to project their power abroad, to achieve its own objectives at a punishing social cost to a society embedded in an endless cycle of violence. According to one U.S. Embassy official, "the U.S. and Colombia have different priorities," while "Colombia has peace as priority, we have narcotics."²⁹

All available evidence shows that drug use is not reduced by attacking the source, but only by reducing the demand. Plan Colombia, at best, will disperse drug production from Colombia to some neighboring location, and it will do nothing to reduce drug consumption in the U.S.³⁰

With regard to the situation in Colombia, it may make matters even worse. Cutting into the drug trade—a business from which all armed actors profit—might force some groups to increase kidnappings in order make up the difference in revenue.³¹ The agreement has already exacerbated tensions between Colombia and the rest of the region. The violence within Colombia has spilled over its borders into neighboring states for years. The conflict regularly causes border clashes between the Venezuelan and Ecuadorian armed forces and Colombian armed groups. Yet, Venezuela

²⁷ Ibid.

²⁸ Gregory Wilpert, "U.S. Troops in Colombia: a Threat to Peace," *NACLA Report on the Americas* (2009) 3; available at <https://nacla.org/node/6088>.

²⁹ Cooper, "Plan Colombia: Wrong Issue, Wrong Enemy, Wrong Country," 17.

³⁰ Ibid.

³¹ Ibid., 12.

is already home to one of the world's largest refugee populations—an estimated four million Colombians.³²

The illicit drug industry has become the immediate cause of Colombia's social crisis, and has also been contributing to the country's economic recession due to the destruction of its productive activities and capital flight. In a cyclical battle for profits among armed groups, drug cartels, the Colombian government and its institutions, and the United States, the civil society in Colombia is the only group that has been consistently misrepresented and whose interests have been disregarded. The Colombian state is not at war; its criminals have been waging a war within its territory and against its own civil society. It is important to evaluate those social and spatial scales to notice how many different "Colombias" have been formed around the world, and to realize that the main problem in these "Colombias" is not the illegal activities carried out by criminal groups, but rather the construction of institutional and cultural identities built on illegality and force.

³² Wilpert, "U.S. Troops in Colombia: a Threat to Peace," 3.

Bibliography

- Daniels, Anthony. "Colombia's Hell: Fear Grips a Nation." *National Review* 50 (1990).
- H. Friman, Richard. "Caught up in the Madness? State Power and Transnational Organized Crime in the Work of Susan Strange." *Alternatives* 28 (2003).
- Hickey, Eric W.. *Encyclopedia of Murder and Violent Crime* . Thousand Oaks, CA: Sage Publications, 2003.
- Lee, Rensselaer W., and Francisco Thoumi. "The Political-Criminal Nexus in Colombia." *Trends in Organized Crime* 5 (1999): 60.
- Mansfield, Becky. "Beyond Rescaling: Reintegrating the 'National' as a Dimension of Scalar Relations." *Progress in Human Geography* 29, no. 4 (2005).
- Roitman, Janet. "*Productivity in the Margins: The Reconstitution of State Power in the Chad Basin.*" In *Anthropology in the Margins of the State*. Santa Fe: School of American Research, 2004.
- Sassen, Saskia. "Globalization or Denationalization?" *Review of International Political Economy* 10, no. 1 (2003).
- Sharma, Aradhana, and Akhil Gupta. *The Anthropology of the State: A Reader* . Oxford: Blackwell, 2007.
- Shelley, L.. "Transnational Organized Crime: An Imminent Threat to the Nation-State?" *Journal of International Affairs* 48, no. 2 (1995): 463.
- Strange, Susan. "The Limits of Politics." *Government and Opposition* 30 (1995).
- Thoumi, Francisco. "Illegal Drugs in Colombia: From Illegal Economic Boom to Social Crisis." *Annals of the American Academy of Political and Social Sciences* (2003): 108.
- Williams, Phil. "*Crime, Illicit Markets, and Money Laundering.*" In *Managing Global Issues: Lessons Learned*. Washington, D.C.: Carnegie Endowment, 2001.
- Williams, Phil. "*Transnational Organized Crime and the State.*" In *The Emergence of Private Authority in Global Governance*. Cambridge: Cambridge University Press, 2002.
- Wilpert, Gregory. *U.S. Troops in Colombia: a Threat to Peace* In *NACLA Report on the Americas.*, 2009.