

**ORGANIZED CRIME
IN LATIN AMERICA
AND THE CARIBBEAN**
Summary of Articles

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AND THE CARIBBEAN**

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PREFACE

This document is both a summary and translation of the book *Crimen Organizado en América Latina y el Caribe*, which was edited by MA. Luis Guillermo Solís Rivera and PhD. Francisco Rojas Aravena. The book was developed by the General Secretariat of the Latin American Faculty of Social Sciences (FLACSO after its initials in Spanish) and the Open Society Institute (OSI). It was originally published by Editorial Catalonia and the General Secretariat of FLACSO in 2008. The book is made up of 12 essays and it has 379 pages. The essays have been written by a group of distinguished authors from different backgrounds and each one contributed in the area of his or her expertise.

The 12 essays are characterized by their diversity because each of them addresses different aspects of organized crime. And even though most authors agree that the strongest manifestation of organized crime is drug trafficking, they also analyze other intimately related issues such as human trafficking, arms trafficking, the smuggling of various goods, juvenile gangs, and money laundering. They also agree on some of the most important consequences of organized crime such as the corruption of many public officials, violence, insecurity, problems with democratic governance and the gradual erosion of the democratic system as a whole.

The authors agree on the above aspects, but they each analyze the problem from a different perspective. Some essays address the issue from a general perspective and the perspective of the Latin American and Caribbean region as a whole, while other essays focus on certain case studies like the current situation in Mexico, Brazil, Peru, and Colombia, among others.

Aside from this geographic variety, there is a methodological variety as well. Some authors focus on the definition of organized crime and other concepts that are linked with it such as public safety, democracy, corruption, and democratic governance. Other essays, however, evaluate empirical facts and current data for various countries of the region.

Some authors explore the regional history, and why the particular histories of some countries have made them vulnerable to organized crime. Others reflect mainly on the current situation and search for answers to this serious problem. What they have in common is that, both

from a past or present perspective, they analyze organized crime in its entire context and how the multiple economic, social, political, and cultural structural deficiencies have made Latin America prone to these criminal activities.

This book provides solutions for the problem such as the need to strengthen international cooperation, transparency and governance, participation of civil society, and the importance of not attacking violence with violence, but concentrating on solving the structural and systemic problems. In sum, it analyzes organized crime from an integral and multidimensional perspective.

When summarizing and translating this document we have respected the original structure of the book, its main ideas and the narrative of those ideas. The small changes in drafting have only been with the goal of adjusting the narration to the English language, but the content of the book has not been altered in any way.

Our most important goal in doing this work was to make this valuable information accessible to a wider public with the hope that all future readers can contribute in the fight against organized crime, one of the main challenges of the twenty-first century.

Andrea Álvarez, translator
May 2009

INTRODUCTION

Francisco Rojas Aravena.

Organized crime hinders development and democratic governance in Latin America and the Caribbean. This phenomenon has spread throughout the region and has acquired new and more violent ways of operating in the entire hemisphere. This challenges the “rule of law,” negatively impacts the economy and security, and it also disturbs the political systems and democratic institutions.

The various challenges caused by organized crime are diverse and hard to solve. International cooperation, political will, the development of trust between State actors and actors from the civil society, and the strengthening of the technical capacity are ways to create instruments that can limit, contain and win over this new threat to democratic stability, economic development and regional peace.

One of the main characteristics of organized crime is its transnational nature; this makes it all the more complicated to develop actions to neutralize this type of crime. In fact, the international dimension of organized criminal activities like drug trafficking, people trafficking, weapon trafficking, and the movement of money that comes from illicit activities crosses all frontiers and constitutes major challenges for democracy throughout the developing world. To confront this new criminal wave it is necessary to harmonize global and local interests. This is one of the main challenges that the different States, societies and all other actors face nowadays.

Organized crime has had a major impact in Latin America, an example of this have been the levels of crime that have made Latin American cities the most violent and insecure cities worldwide. Even though they only have 8% of the total world population, they concentrate 75% of the global kidnappings. Drug trafficking has been one of the main factors in the growing levels of corruption, violence and political instability. In 10 out of the 13 countries that offer credible data, the levels of delinquency have multiplied between 4 and 6 times since the 90s. The situation worsens because of dysfunctions suffered by the States. These dysfunctions are

manifest in three areas: a weak State, one that is unable to guarantee the “rule of law,” a State unable to ensure public goods to the total population, and an erosion of the political systems, especially in young democracies of the region.

One of the main challenges for the scientific community in this subject is to propose public policies that will increase the State’s and societies capacity to confront this great threat, one that has become stronger thanks to globalization.

It is in this sense that the Latin American Faculty of Social Sciences (FLACSO, after its initials in Spanish) has worked to understand better some of the dimensions of this phenomenon and its impact on the region. This institutional effort developed by academic units, which is also supported by the General Secretary of FLACSO has had the objective of contributing on better understanding this phenomenon. FLACSO has also generated new knowledge on the subjects of public safety, reforms to the security systems, measures to strengthen mutual trust and other subjects related with preventing the use of force.

In the last four years some of the most significant contributions of the General Secretary of FLACSO have been: the II Report of the General Secretary *Organized crime: a great threat to the security of Latin America and the Caribbean (2006)*, the publications and virtual works of the project FLACSO-Ford Foundation in regards to the relationship between Latin America and the United States during the second Bush administration, in particular the book titled *Light and small weapons: a threat to regional safety* and the “policy memos” derived from regional studies on the subject (2006-2008); and the international seminar about “Juvenile gangs and democratic governance in Latin America and the Caribbean,” event that was done under the auspice of the Spanish Agency of Cooperation for Development in 2007. Also, during the First Latin American and Caribbean Congress of Social Sciences that took place on October 2007 there were many thematic areas related to security and crime-related issues. The same year, the General Secretary coordinated a request from the Canadian government, and with the participation of the civil society, the first theme reunion at the VIII Summit of the Defense Ministers of the Americas that took place in Banff, Canada on September, 2008. This summit had a second reunion in Barbados in March of the same year where FLACSO had an outstanding participation.

At present, FLACSO—its General Secretary and diverse academic and programs headquarters—holds cooperative relationships and develops a systematic dialogue about security and defense-related issues with the Gutiérrez Mellado Institute of Spain, the CIDOB Foundation of Barcelona, the Network of Security and Defense of Latin America (RESDAL after its initials in Spanish), the Political Policy Association of Argentina, the Institute for Sustainable Development (IEPADES after its initials in Spanish) of Guatemala, and the Arias Foundation for Peace and Human Progress of Costa Rica, the Foundation for Peace and Democracy (FUNPADEM after its initials in Spanish), and the Inter-American Dialogue of Washington DC, among others.

This book is a result of all that work, it is a collection of essays written by a group of distinguished specialists, that within the activities organized by FLACSO and the Open Society Institute (OSI) and within other discussion forums, have reflected on one of the most controversial and complex issues in the Latin American and Caribbean current agendas.

Todd Foglesong and Luis Guillermo Solís present a balance of the encounter of FLACSO-OSI, the main conclusions and consensus and the main discrepancies that emerged during this academic event in which (something rarely done) the focus of the experts' and participants' attention was on the role of civil society in security-related issues.

Samuel González and Carlos Flores examine the relationship between democracy and organized crime, and also the group of factors that generate it. This essay demonstrates how the phenomenon transformed from something that only affected some regions to a widespread phenomenon, one that has become one of the most distinctive signs of globalization.

Bruce Bagley, one of the most renowned experts on the subject, reflects on the dysfunctions that organized crime generates over the vulnerable political and social systems of Latin America.

Raúl Benítez and Georgina Sánchez emphasize the case of Mexico, a country that has become one of the most important actors in the structure of hemispheric security due to its geopolitical impact on the Caribbean Basin and proximity to the United States.

Lilian Bobsa and Anthony Maingot analyze, each one with different perspectives, the importance of international cooperation in the combating of organized crime—especially drug trafficking and its related activities in Caribbean countries. Their contribution is crucial because they show the limitations, but at the same time the necessity of creating cooperative associations in the area.

Fernando Rospigliosi reveals the links between organized crime and politics in the Andean Zone and denounces some of the ugliest examples of links established between criminals and the political system in Peru.

Finally, Antonio Rangel describes the imbalances between State and citizenship in the great cities of Brazil, as well as the new forms of criminality that occur in the “law-less areas” with an ample participation of private actors not always disconnected from the police and other official entities.

ORGANIZED CRIME AND ITS IMPACT ON DEMOCRATIC SOCIETIES. REFLECTIONS ON MEXICO, CENTRAL AMERICA, AND DOMINICAN REPUBLIC: THE ROLE OF CIVIL SOCIETY¹

Luis Guillermo Solís Rivera and Todd Floglesong.

Nowadays, most people in Mexico, Central America and the Dominican Republic show interest on organized crime and its consequences. Almost everyone is worried in some way that organized crime will mock democracy, will erode the State of Law, hinder the social structure and compromise public safety. Organized crime does not go unnoticed in the region.

In spite of this, only a handful of people and organizations are actively involved in combating and counteracting its effects. On the one part, governments are jealous guardians of policy-making processes in these subjects, almost always delegating the task of combating crime to small groups of experts that often work secretly. On the other hand, even though there are various non-government organizations that develop projects related with corruption, weapon trafficking, drug trafficking and people trafficking, or issues like pollution and damages to the environment, the experience of the civil society still is very limited in the fight against organized crime. Aside from the frequent dialogues and academic events, there is a lack of an organization or network of social institutions that are capable of supporting the responses of the civil society towards organized crime in an efficient and sustained manner.

There is a concern with the imbalance between the general panic of the civil society in regards to organized crime, and the narrowness of State responses. Monopolies are rarely efficient, fair and transparent

1 Based on: Solís, Luis Guillermo and Foglesong, Todd. "El crimen organizado y su impacto en las sociedades democráticas: Reflexiones sobre México, Centroamérica y la República Dominicana: El papel de la sociedad civil." In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crimen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 17-49.

mechanisms in the creation of public policies. This is especially true when the main element of monopoly control (in this case the detailed knowledge about the clandestine actions related to organized crime) is scarce and compromising because of the way in which that information is obtained, on occasions detrimental to citizens and the general good. The involvement of the public, and in particular, the participation of an organized civil society would allow more transparency in decision-making processes, and also the adoption of more balanced and democratic measures.

It is essential to reflect on the impact that organized crime has in Mexico, Central America (including Panama) and Dominican Republic and to reflect in what ways the civil society can contribute to its neutralization. It is necessary to research on the potential for links that could be established between some political and government authorities and organized crime, and also to research on the possible limitations that civil society could face in its fight against organized crime.

Even though this essay concerns itself with the countries of the Great Caribbean region, it is important to think about these ideas within the greater context of Latin America. This will allow sharing the lessons learned and the more successful responses that could be useful in the fight against organized crime within this region.

This document is based on a series of interviews to more than thirty experts in six countries: Mexico, Guatemala, Costa Rica, Panama, Dominican Republic, and the United States. Among these were academic experts, high ranking officials of police forces, members of the General Attorney's Office and members of the Human Rights Offices, leaders of non-government organizations, lawyers and local council authorities. Even though none of this people asked for his or her identity to remain secret, the coordinators of this document opted for safeguarding the respective identities as a show of respect for the people that have to work under difficult, and often dangerous, conditions even risking their own physical well-being.

This work is structured around five basic questions that shaped the questionnaire given to the experts:

1. What are the main features of organized crime in Latin America and what are their particular manifestations in Mexico, Central America and Dominican Republic?
2. What is known about the links between organized crime and State institutions?
3. What are the specific negative impacts that organized crime produces on weak or young democracies?
4. What has been the State's response to these challenges?
5. What should be the role of non-governmental actors?

What are the main features of organized crime in Latin America and what are their particular manifestations in Mexico, Central America and Dominican Republic?

The interviewees referred to organized crime as something really specific (“drug-trafficking,” “hired assassins,” “money laundering,” “credit card fraud,” “bank robbing,” “weapon trafficking,” “vehicle robbing”), or as a phenomenon described in very vague terms (“impunity,” “corruption,” “State-kidnapping,” “lack of public safety,” “Human Rights violations”).

The interviewees also referred to organized crime as a specific group of individuals articulated by a manifest decision to commit a crime, groups that are dedicated to carrying out illegal activities and/or activities that originate and manifest themselves over and further away from national frontiers.

These different visions are important because they reveal that for some people organized crime is nothing more than a mere exaggerated expression of a specific type of crime, a type of crime that does not require any special treatment other than higher doses of the already existing measures, especially the repressive ones exercised by the Police. On the other extreme are people that think that organized crime is an expression of a structural deterioration that can only be treated with very radical and complex measures on the long term. It is evident that the ways to respond to organized crime vary greatly from other types of crime because if this phenomenon is produced by a systemic or structural dysfunction, specific and more severe measures must be undertaken.

It is interesting to note what the interviewees said is *not* organized crime. Few people described organized crime in its more conventional and stereotyped sense (a clandestine and secret group of individuals that use violence or the threat of violence with the goal of committing crimes for prolonged periods of time). In the same manner, few people saw organized crime as an enterprise dedicated to making businesses, often competitive, and parallel to the legitimate capitalistic commercial exchanges.

Finally, some of the interviewees manifested their worries about organized crime only when it uses violent methods that could put innocent people in jeopardy. If they weren't personally affected by organized crime, these individuals felt that they could coexist with these practices with a similar resignation to which they coexist with a bad government, private corruption and the unequal distribution of wealth.

Drug trafficking, juvenile gangs and the generalized use of violence by these clandestine organizations are the activities that people associate with organized crime. And of all of them, drug trafficking seems to be the more predominant. Some interviewees pointed out other illegal activities that are more important, lucrative and harmful than the ones mentioned above (like money laundering, large scale vehicle robbing, fraud, extortion and the trafficking of children). Smuggling, people-trafficking, "coyotaje" (aiding the transport and introduction of illegal migrants into a country) and weapon trafficking are also mentioned frequently, but only secondary to and almost always associated with drug trafficking. In fact, for many people "organized crime" is so linked to drug trafficking that both phenomena have come to be understood as synonymous.

What is known about the links between organized crime and State institutions?

Almost all the interviewees consider that there are links between organized crime and the State. However, practically no one suggested that juvenile gangs (including the Central American and Mexican "maras") and the State are linked organically. They think that the existing links are a result of negligence, internal operations or the inadequate

policies of some government agencies or specific individuals. It was not suggested that vigorous, clear and permanent relationships exist between gangs and drug smugglers. However, the majority of the interviewees agreed that there is a mutually beneficiary and reciprocal relationship between drug trafficking and at least some people that have leadership positions in institutions in Mexico, Dominican Republic and Central America.

Unfortunately, many lamented that the knowledge that exists towards these links is really scarce. Sometimes, the results of the investigations are very similar to newspaper articles that maliciously insinuate the existence of these links. For example, when it is mentioned that “at the moment of his arrest, the subject was traveling in a Mercedes Benz assigned to the Vice-president of the Senate.” These links, as cited by one of the interviewees, “are known in a really biased and not always proven way.” Another interviewee added that they are interpreted in a “very superficial and idiosyncratic manner.” In other words, there is an inverse relationship between the quality of the accumulated knowledge regarding organized crime and the State, and the degree of concern about this relationship.

One particular person suggested that there is extensive knowledge about the links between States and organized crime, but that this knowledge is kept secret, often due to the guidelines approved by national intelligence officials and the judicial courts, and that there has not been an “adequate political interpretation.” “The facts,” said this person, are “extensively known and sometimes properly reported by the press, even in the Dallas Morning News.” However, he added that the relationships are treated like personal and arbitrary, not as institutional and routinely. “A conceptual debate does not exist, and what is worse, when this debate is produced, rarely it is used in the decision-making process.”

What are the specific negative impacts that organized crime produces on weak or young democracies?

Many governmental and international statements describe organized crime as a growing and very serious “threat.” This especially applies to the pronouncements dictated by the United States and by the United

Nations Office on Drug and Crime. However, seldom do these declarations dare to name things as they really are. The term “failed States” is often employed by policy creators to describe societies with weak national institutions, indeed so weak that they end up being prey to international criminals and their local partners.

We asked that the interviewees be sufficiently explicit in regards to organized crime and the direct and indirect damages that it had in their societies. Most were uneasy by its threat to public security and the levels of social violence. They were also worried about the indirect threats to “public goods” such as democratic governance and the effectiveness of political policies, the climate of investment, and a more fairly distributed socio-economic development. In sum, the majority of the interviewees did not have a lot of problems in identifying the indirect results of organized crime more than they could identify the more direct damages.

What has been the State’s response to these challenges?

Very few of the interviewees dare to ascertain that their governments have responded to organized crime in an effective and balanced manner. On one hand, some mentioned that some authorities have responded in an extremely coercive manner and that in the process they have harmed citizens and the democratic processes. On the other hand, sometimes the response has been too lax, without a true goal of amendment. It is clear in all the countries that the emphasis has been on the repression of crime rather than in its prevention.

During the interviews lots of complaining was done by the interviewees. One person said that the State’s response has been “indiscriminate, like all those safety measures at airports that make us all take our shoes off for inspection.” Another manifested that the State’s response is “like bursting open a piñata.” According to another, “the threat of organized crime is not entirely universal, so the State could afford to be more discrete.” Another said that the State has acted “opportunistically.” “The State,” he said, “is turning the gangs into a sort of scapegoat. These have existed for almost a decade and only recently, about four years ago, have these been discovered during the electoral period.” Another manifested that the State’s reaction has been very

“passive”. “No only does the State seem to be intimidated by organized crime, but it also seems to be trapped by foreign models of fighting against that type of crime.”

What should be the role of non-governmental actors?

Leaders from within civil society say that the main aspects are the definition of the objective that these actors should pursue, how can their actions generate the maximum benefits, identifying the type of crime that most affects the citizens and the measures that should be taken.

“Civil society” can be defined as every type of non-governmental association and collective action that can include different types of businesses, religious organizations, philanthropic organizations, community organizations, political groups, academic sectors, research networks and professional associations.

The most conventional form of non-governmental organization—support groups, research institutes and community groups—is only a fraction of the civil society as a whole and has a clear profile of its type or work, especially in relation to sensitive social and political issues like national security where the policy-making is restricted to official sectors. This reality makes it an imperative to question the scope of the civil society, what could be its specific contributions and to see if the collaboration between these organizations and the governmental agencies is possible.

The following are some suggestions given by the experts:

- To employ an alternative and comprehensible vocabulary to situate the issue of organized crime on the public sphere.
- Establish strategic alliances with local governments.
- Encourage the knowledge and expertise of the civil society in security-related topics.
- Support the development of newer ways and public programs that foster the knowledge of organized crime.

The following are some themes and measures suggested by the interviewees in order to foster a better perspective and generation of knowledge and public conscience regarding the issue at hand:

The displacement of the effects of organized crime

Some of the interviewees speculate that the current policies that fight organized crime probably will not diminish the damages caused by it, but that it may displace those damages. For example, it is a shared belief that the drug-consumption in Mexico has risen due to the control policies carried out by the United States. Similarly, the deportation of Central American people in the United States increased gang formation, and thus provoked the violent wave of crime that has overtaken the region. Could the implementation of regional measures negatively affect the efforts of a specific State in the fight against organized crime?

The symbiosis between licit and illicit commercial exchanges

Part of the existing debate regarding organized crime and ordinary economic activities is whether these should be treated separately or to consider them as two worlds that intersect on many points, especially in developing countries. The ones that say that the separation is artificial emphasize the need to research and keep tabs on tourism, human trafficking, council corruption, house building and extortion. The logic is that many of these activities require a response that does not pass through legal or military paths, precisely due to its mercantile character, so militarized measures are not promoted.

In this sense, the list of related activities seems to have no limit: stealing of vehicles, insurance companies and companies that import automobiles; private security services and the national police; real estate, gambling houses and casinos, financial markets and price-fixing policies. When organized crime is related to other commercial activities it is possible to do it apprehensible and to promote the dismemberment of the monopoly that the criminal justice has over this subject.

Two observations illustrate the character of the debate: “Organized crime is a synergy: the individual economic acts that make it up are not, per se, illegal, but the sum of all the parts does constitute a crime” and “a lot of the aid needed by organized crime comes from civil society, especially lawyers, who act as bank counselors that legitimize the different types of capitals or work as intermediaries when fraud is committed.”

This explains why even though a large number of interviewees consider that there are no links between organized crime and commercial activities; there is evidence that points to the contrary, even if many important leaders of this sector have many incentives to separate both worlds. Future research on the topic should investigate the so called “invisible hand” of the market and the role played by business initiatives in criminal violence.

The costs and benefits of organized crime

Part of the recommendations of the experts remits to the need of researching the “complaisance” and investigating the benefits obtained by people in charge of the State’s response in the fight against organized crime. The income, resources and properties of people in offices that could be subject for “complaisance” should also be investigated. It is necessary to observe their job conditions, stock properties, sumptuous goods, and consumption habits, among others.

Research of this kind could be complemented by calculating State expenditures due to organized crime, specifically in terms of the direct damages caused by illicit activities, and the expenditures to combat or counteract them.

The role and operating of the Justice System

Some concerns shared by experts regard high expectations deposited on the justice system. Research done on the effectiveness of the system tries to be more realistic about the system’s real capacity to respond to the threats posed by organized crime. In particular, one of the interviewed prosecutors stated that the way the justice system is judged and evaluated is usually very superficial and that simple figures are used to describe management and public confidence in the system.

A Guatemalan ex-prosecutor suggested the convenience of studying failed judicial processes with the goal of determining if the result is due to involuntary mistakes or if it is due to sabotage cases carried out by officials of the same institution. A careful examination of these cases would give us elements that allow judging a potential reformation of the justice system in the context of the fight against corruption.

On a similar note, an important criterion that came up in many of the interviews is the need to generate dialogue spaces that allow the exchanging of past experiences between the government agencies and different non-government organizations with the goal of replicating successful experiences in the fight against corruption.

The relationship between juvenile delinquency, the “maras” and organized crime

As part of the topics discussed, a group of interviewees stated that the relationship between juvenile delinquency, gangs and organized crime is where all public debate should begin. In spite of the fact that the involvement of children and adolescents in gangs always conveys a certain amount of violence, and considering that many people are still not in favor of sending such young people to jail, an adequate way to start incorporating civil society to the fight against drug trafficking and increasing the conscience levels in society is to appeal to the wellbeing of that sector of the population as a preventive way to reduce the drug market and the impact it has on other activities.

According to a Guatemalan expert, these types of actions have to take into account that while very precise socio-economic analysis on the “maras” have been done, the political interpretation of this information and of their behavior is weak or wrong, what merits the need to sustain a conceptual discussion about this subject because the lens through which reality is being examined is a bit exaggerated.

ORGANIZED CRIME AND DEMOCRACY²

Carlos Flores and Samuel González

In May 2006, within a forum promoted by FLACSO many discussions were generated by a basic question: How does organized crime affect democracy? In other words, how do delinquents act within a democratic regime? The goal was to concentrate this analysis on the experience of Mexico and Central America.

STATE AND DEMOCRACY

In a strict sense, democracy is a type of political regime. It is a specific type of institutional arrangement that implies the existence of specific mechanisms, norms and values that are considered legitimate in order to access and exercise a certain amount of power. It involves the celebration of free elections in pluralistic conditions. As regards to the exercise of power, it involves a government subjected to certain rules that guarantee the optimal level of safety and freedom of the citizens, the respect of Human Rights and a situation in which power is subject to and in service of public interests.

Organized crime can be defined as a social network made up of individuals that commit illicit activities during a prolonged period of time with the goal of obtaining the biggest economic benefit possible. It does not have a specific political pretension, even though it does have consequences on the political sphere.

In the case of Latin America the democratization processes that took place in the 80s and 90s translated into the installation of democratically elected governments in free and respected elections, but at the same time these governments turned out to be really corrupt, with strong

2 Based on: Flores, Carlos and González, Samuel. "Democracia y crimen organizado". In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crimen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 51-94.

authoritarian features, inefficient, with scarce or no methods of accountability and frequently seekers of the economic benefit of private and oligarchic interests.

With few exceptions, the regimes that were created do not correspond to the prototype of a liberal democracy because they still have to deal with their authoritarian features of the past. They used to be weak states with strong governments that in the transit towards democracy have been transformed into weak states with even weaker governments.

CHARACTERIZING THE WEAKNESS OR STRENGTH OF A STATE

One of the main indexes that help to define the strength or weakness of a specific State is the one employed by the World Bank. It evaluates six different dimensions: a) Voice and accountability, b) Political stability and absence of violence, c) Government Effectiveness, d) Regulatory Quality, e) Rule of Law, and f) Control of Corruption.

These criteria refer to the three basic conditions for the existence of a State: its capacity to monopolize the use of legitimate violence throughout its territory, impose its rules to all the population and to exercise its own resolutions; and a minimum degree of reciprocity between the government and the people. What legitimates the exercise of the government's dominium under the idea is its acting in name of the common good.

The 2005 World Bank study concluded that with the exception of Chile and Puerto Rico, which are situated in the 75-90 percentiles of the countries with the better governance (strong States), the rest of countries are classified with unfavorable levels: Belize, Costa Rica, Panama, Brazil, Surinam, French Guyana and Uruguay are located in the 50-75 percentiles; Mexico, Guatemala, El Salvador, Honduras, Nicaragua, Dominican Republic, Jamaica, Colombia, Guyana, Peru, Bolivia and Argentina are located in the 25-50 percentiles, and Cuba, Venezuela, Ecuador and Paraguay are in the 10-25 percentiles, finally, Haiti, the most extreme case of State weakness is in the 0-10-percentiles³.

3 Flores and González, "Democracia y crimen organizado", p. 57.

With the exception of Chile and Puerto Rico, all the others show signs of certain weaknesses that translate into non-optimal levels of governance. In these cases, the main problem or the most important sign of weakness of the State is not located on the sphere of political representation or the existence of free markets, but rather in the existence of ample violence, deficient functioning of the State of Law and insufficient corruption control.

ORGANIZED CRIME AND DEMOCRACY

All these structural conditions have a necessary impact on the way that organized crime operates in these countries. The most affected by organized crime (Mexico, Guatemala, Colombia, Peru and Brazil) are, except for the latter, located in the 25-50 percentiles.

It is interesting that the countries with the weaker states and lower levels of governance do not have the most serious problem with organized crime. This could mean that, at least in this region, the strongest and more transnational organized delinquency requires some form of State, even though a weak one.

One of the most lucrative activities of organized crime is the smuggling of drugs. Because it is such a complex enterprise, drug trafficking interacts in different moments of its development with the licit economy and this is where the security that the State imposes on licit commercial activities through the creation of certain norms and regulations is necessary for organized crime. Drug trafficking pretends to use, strictly in its favor and interests, the arsenal created by the State, but it never has the goal of substituting the State. This is why one of the main components of organized crime is political corruption.

It is not possible to generalize the common expression that delinquents have “infiltrated” the State without examining the historical development of specific countries. It is possible, however, to establish a general typology regarding the way in which corrupt public officials and delinquents relate with each other.

This specific typology distinguishes three criteria that determine the character of the relationship between the different actors: the first one is the level of concentration or dispersion of the political authorities and

their capacity to monopolize the use of violence throughout the territory and to exercise this violence *identically* on any part of the territory. The second one refers to the capacity of public officials to dominate in their relationship with criminal organizations, subjecting criminals to their mandates. Finally, the degree in which public officials can fight and limit corruption, keeping it within previously determined boundaries.

Table 1
Typology that characterizes the relationships between public officials and delinquents⁴

Type of regimen	Strong State- Authoritarian Regime	Strong State- Democratic Regime	Weak State- Authoritarian Regime	Weak State- Democratic Regime
Link established with criminal organizations	Totalitarianism Monopoly-descending-limited	Liberal democracy Fragmentary-multidirectional-limited	Authoritarianism Centralized-descending-incremental	Non-liberal democracy Atomized-multidirectional-incremental
Characteristics	The State effectively monopolizes coercion and is capable of controlling every person or group in, such a way that it plunders criminal groups. Illicit activities are limited to the ones allowed and sanctioned by public officials. Political corruption exists in specific areas, but in general it is limited because the majority of public officials have interiorized notions of service to the common good.	The State monopolizes effectively the use of force, but public officials have interiorized a sense of service to the common good. The link between criminals and political authorities does exist with variable fluctuations in who controls the relationship. The link politics-crime is limited by the fragmentation of power that goes hand in hand with democracy and the professionalization of public services. The actors that have to be corrupted represent a huge number and they are not all corruptible.	The State inefficiently monopolizes the use of violence. It tends to centralize the mechanisms of social control that allow it to dominate over different social actors, including different groups of criminals. The discretionary use of the law and the patronal and patronage treatment allow the proliferation of political corruption. The central security institutions can dispute among themselves over the extortion of criminals, but the actions of criminals always require the protection of the authorities.	The State inefficiently monopolizes the use of violence. Power is atomized into lots of political institutions that operate with patronal and patronage criteria, and interpret the law according to their own needs. The fragmentation of power allows the presence of links between public officials and criminal organizations where the dominant party tends to fluctuate. The dispersion of state control translates into more confrontations inside the government, confrontations that are motivated by the different links established with criminal organizations. The latter is explained by the fact that permanent agreements that regulate these illicit activities do not exist.
Country(ies)	Cuba	Bahamas, Belize, Canada, Chile, Costa Rica, United States, French Guyana, Panama, Puerto Rico, Surinam, Uruguay	Venezuela	Brasil, Bolivia, Colombia, Guyana, Guatemala, Mexico, Ecuador, El Salvador, Haiti, Honduras, Nicaragua, Paraguay, Peru.

4 Flores and González, “Democracia y crimen organizado”, pp. 65 and 67. Based on Table 1 and Table 2.

THE RELATIONSHIP BETWEEN ORGANIZED CRIME, VIOLENCE, CORRUPTION AND MONEY LAUNDERING

Criminal organizations turn to violence as a way to establish control over their members, their competitors and the illicit markets, this is the same for all criminal organizations regardless of the product they sell: drugs, protection, sex, human trafficking or money laundering.

On the other hand, they use corruption in order to develop their work and to have access to the different markets by paying public officials that should be in charge of watching over these markets. On the other hand, they corrupt judges, prosecutors and the police to obtain prior information on the actions of the police, of the justice system, and even of the penitentiary authorities in order to be able to keep carrying on with their illicit activities from jail or to interpret in their favor the norms established by their respective judicial sentences.

Organized delinquency generates illicit capitals and the bigger the “prize” the criminal groups are fighting for the bigger the violence they are going to employ to control the different markets, territories or the terminating of their enemies. A third ingredient in this equation would be impunity in spite of the crimes committed.

REFLECTIONS ON ORGANIZED CRIME AND VIOLENCE IN COLOMBIA AND MEXICO AND HOW THESE COMPARE WITH THE SITUATION IN ITALY AND IRELAND

Violence is intimately linked with organized crime. The majority of authors of the Theory of Law state that the main function of the law is to be a medium to end social conflict. Because all types of organized crime occur outside the law, it is impossible to resort neither to the law nor to the formal State institutions in order to solve problems derived from its activity. This explains why the people involved in this situation resort to violence in order to solve their conflicts.

Current situation of violence in Mexico

Mexico differs from Colombia in that organized delinquency, especially drug trafficking did not emerge independent from political power. Actually, it has historically been subordinated to the authority that should be in charge of fighting against it.

The capacity of the post-revolutionary regime in exercising an extensive centralized control over all social actors, including delinquents, implied that organized crime would not have the power to exceed the limits previously established by the state. This is why the violence levels did not affect the governance of the country.

Currently the situation has transformed from a centralized system into one that is more fragmented due to the diversity of actors and interests that interact within the nation. Particularly during the last six years, the problem of organized crime and violence have experienced a huge and serious growth, due to a State debilitated by the inability to implement the systems of control of the old regime, a withdrawn federal authority, a polarized political class, political actors that are less powerful than what they used to be, and delinquents that are less likely to adopt a subordinate role.

Unfortunately two dimensions that could aid in the fight against corruption have been absent: a) Disarticulating what allows the functioning of corruption within the system, and b) the systematic attacks, not just occasional, to the earnings obtained by illicit activities and money laundering.

Because Mexico is one of the most important countries in the transit of drugs, and also in their production, and due to its growing local distribution, during the past six years not a single public official of particular relevance has been prosecuted. Also during the same period, almost all the individuals that were prosecuted for white collar crimes received favorable sentences.

The Colombian case

With a history of guerrilla warfare for more than 40 years, instigated by the Revolutionary Armed Forces of Colombia (FARC after its initials in Spanish), violence in the country has not been completely eradicated

since the civil war. Also the demand for cocaine on behalf of the United States market experienced a growth during the 1970s, which favored a new escalate of violence, this time directly related to organized crime that grew independently from the State and without subjection to political power.

The dimension acquired by this conflict, in addition to the nature of the actors involved, has given this confrontation a political tone. However, the heterogeneous character of the various actors and the lack of a central mandate has helped to make it a confrontation in which conventional delinquents affiliate themselves to either the guerilla or the paramilitary in order to defend their illicit interests. Also, the disarticulating of the biggest drug-smuggling organizations from Medellín and Cali during the first half of the nineties provoked drug smuggling to be in closer contact with the guerrilla and paramilitary organizations.

The peace strategies of Pastrana's government, who tried to negotiate with the guerrilla, were not successful. In the case of Uribe's administration, this phenomenon has not been eradicated, even though violence levels have descended.

Some measures have been undertaken in order to strengthen the capacity and trust in the General Prosecutor's Office and in other institutions. Another positive measure was the promulgation of the Law of Extinction of Dominion in 1996. This law nullifies properties or earnings that are in the hands of family members or friends and that have been obtained through illicit activities.

The terrorist form of violence employed by the cartels and the guerrilla movements has decreased substantially thanks to the adoption of the Colombian Plan and its demobilization policies. Also the extradition of delinquents to the United States has played a central role in the fight against drug smugglers. The extradition by itself is not enough to eradicate the problem nor to solve the structural problems of Colombia, but given the real incapacity of the Colombian penitentiary system to restrict the activities of the most dangerous criminals, this is one of the best options to impede that they continue to destabilize the State.

Violence in Italy

The late formation of the Italian State, its heterogeneous functioning and presence throughout the territory, prolonged semi-feudal conditions and virtual imbrications with an accelerated development of a market economy caused many regions of the south and center (to a lesser degree) of the country to develop social structures dedicated to the private regulation of the relationship between individuals that slowly gave way to mafia organizations.

With a tendency towards the use of violence, these organizations have adopted extortion mechanisms over diverse social groups in territories in which they sought to exert exclusive control. They have imposed their interests on those territories and they control all illicit activities within those very territories (drugs, smuggling, illegal gambling), and also the licit activities (unions, public works, and commercial exchanges).

The Italian reaction to this implied a very strong social organization; the Prosecutor Office of Milan created a campaign called “Clean Hands” that increased the sentences for corruption, either public or private. Also, the legislation against organized delinquency is one of the strongest in the world. One of its laws, the La Torre-Rognoni law includes mafia as a type of crime of association. Other laws were created in order to carry out the seizure of goods of Mafia members. Also the Penal Code states that people associated with the mafia cannot be hired or contracted, directly or indirectly, by the State.

In terms of violence, all of the above impacted Italy immediately, reducing crime more than two thirds its previous violence levels.

Violence in Ireland

During the last twenty years Ireland has enjoyed one of the highest per capita incomes within the European Union. However, the increment of the economic activity and the specialization of markets had a certain effect in the rise of crime. The crimes committed are relatively more limited compared with the countries previously discussed. In general, these crimes include the intimidation of the police, the tax systems and the systems of social security.

An aggressive policy was carried out by the State, and it consisted in the seizure of the goods of criminals, which also used civil and financial techniques to apply taxes that had not been paid by those criminals. There was another law regarding the revenues obtained by criminal methods, and other similar laws were created.

CONCLUSION

The expansion of criminal and violent activities has to be addressed, especially in the context of the interactions of criminal actors in different countries. Colombian drug smugglers did not only export their drugs, but also generated a way of illicit acting that affects other countries of the region like Venezuela, Brazil, and Peru.

The interaction between organized delinquency and the democratic regime is complex. Corruption, obstruction of justice and the weakness of the State make up a highly favorable climate for the establishment of organized delinquency and for the growth, operation and impunity of different criminal organizations, which ends up deteriorating the quality of democracy.

Due to the above, it is imperative to strengthen the basic aspects of the existence and functioning of the State, specifically its ability to monopolize the use of legitimate violence, to enforce its own legislation and to carry out public decisions through solid, trustworthy and reliable institutions.

**GREATER PRESENCE OF ORGANIZED CRIME:
CONSEQUENCES OF THE CRISIS OF GOVERNANCE AND
THE WEAK EMPIRE OF THE LAW⁵**

Francisco Rojas Aravena

Within the Latin American context, several studies and analysis indicate the presence of a serious crisis of the State. This crisis manifests itself in governance problems within the different subregions. It consists in three principal aspects: a weak State due to the lack of the rule of law; incapacity of the State to ensure basic public goods for the majority of the population, and an important erosion of its political systems, especially in the case of young democracies.

The data collected by the Inter-American Development Bank shows the costs generated by organized crime. These costs have been estimated in 168 billion dollars, what represents 15% of the Latin American gross product⁶. This impact on the GDP is manifest in the number of deaths and wounded, also in the destruction of important infrastructure, and in the difficulties to operate and develop commercial activities, especially international commercial exchanges. This situation generates a general mark of insecurity that affects the Central American region, where for example, some foreign companies have abandoned the more vulnerable countries due to their lack of safety.

ORGANIZED CRIME IS ESSENTIALLY TRANSNATIONAL

How can crime be defined, and how can we determine if a certain type of crime is organized crime? This debate leads to the recognition that there is a certain type of crime different from “common

5 Based on: Rojas Aravena, Francisco. “Mayor presencia del crimen organizado: consecuencia de las crisis de gobernabilidad y el débil imperio de la ley”. In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crimen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 95-107.

6 Rojas, “Mayor presencia del crimen organizado”, p. 96.

delinquency,” and that it has been caused by the perfecting of the old phenomenon within the advent of the modern society of information, Some examples illustrate this difference:

- It exceeds the control of the government;
- It establishes special lines of operation based on a complex enterprise system that is well structured for carrying out illicit activities;
- It seeks, through the use of violence, to obtain social and economic power, not so much political power;
- Delinquency is in front of what characterizes common and conventional delinquency;
- Organized crime has a marked transnational dimension, a great capacity to adapt itself to the new context, and a great specialization in different activities like drug smuggling, human trafficking, and money laundering, among other things.

The main objective of criminal organizations is to achieve economic predominance. However, in order to achieve these goals it employs extortion and the use of violence as fundamental instruments. This is what represents the greater threat for Latin American and Caribbean societies. Organized crime is not ideological, it does not seek political power in itself, but it does seek influence in the decision-making processes, regardless of its ideology. It is an illegal enterprise, even though it often penetrates legal enterprises.

Organized crime produces different types of damages: on individuals, on communities, on businesses, on institutions and on the State. The damage *on individuals* is mainly done through human trafficking. Also there are some damages on the public health system due to the expansion of some illnesses like the use of intravenous drugs such as heroine, and also, to a lesser extent, the expansion of HIV/AIDS.

Organized crime has a high impact *on businesses*. Some of these impacts are related with piracy, fraud, and the impact of both on exchanges and commercial competition. It is very hard for a legitimate enterprise to compete against “subsidized” prices, or prices that have nothing to do with the reality of the production price of the exchanged goods.

The damages *on institutions and the State* are even greater due to the growing percentages of the GDP that have to be destined to the fight against organized crime. The intimidation suffered by different institutions and the degree of corruption that corrodes them are other examples of the costs and damages of these illicit activities.

New perspectives emerge when one analyses this issue from the perspective of the *communities*. A community can be coerced by both parts. Apart from the danger and insecurity caused by organized crime, some communities are also coerced by the police, which demand certain behaviors on behalf of the community in the face of organized crime, behaviors that the community fears doing.

DEMOCRACY AND ORGANIZED CRIME

Politics and its relationship with money influence the quality of democracy. The financing of political parties, especially during election periods, is a crucial point in which organized crime could exert some sort of influence. Nowadays, this type of crime has penetrated a significant part of our political systems, or in other cases it has searched for possible loopholes during political campaigns to inject money and obtain a certain amount of influence. This is why it is so important to strengthen and perfect transparency and controls on this subject.

CORRUPTION AND ORGANIZED CRIME

This directly affects democratic institutions and the economic health of Latin American and Caribbean countries. Corruption affects both private and public sectors, and it is the main factor of the erosion in the rule of law and a discriminatory treatment between citizens.

The weakness of democratic institutions and the governance problems are related with the data from Transparency International. In its scale, three countries are located on the highest level of corruption: Bolivia, Haiti and Paraguay. And three countries are located on the lowest level of corruption: Costa Rica, Uruguay and Chile⁷. It seems that

⁷ Rojas, "Mayor presencia del crimen organizado", p. 101.

there is a tendency for the poorest countries, ones that also have the highest levels of inequality, to be the most vulnerable to corruption, and because of this, to the erosion of their precarious institutional systems.

The fight against corruption is acquiring more political importance, something reflected in the global system of declarations from the United Nations such as the United Nations Convention against corruption of 2003. Also in the hemisphere, the members of the Organization of American States subscribed to the Inter-American Convention against corruption.

In the majority of cases it is essential to develop measures that have a strong consensus and legitimacy in order to create long-term strategies that could be capable of reflecting the political will of a whole set of actors. In this area, the role of civil society is particularly important, and its control and auditing role is being expressed with greater strength in different countries where the participation of the citizens and the control of the government's actions has been formalized into laws and various legal instruments.

ORGANIZED CRIME AND ARMS TRAFFICKING

Latin America is a strategic region for the control of the traffic of arms and other forms of organized crime due to its recent history with armed conflicts, because it is a transit zone for various types of smuggling, due to its high levels of socio-economic inequality and because it has a weak institutional system that raises a certain degree of uncertainty in its capacity to properly enforce the law and to exercise transparent judiciary processes. In order to confront this problem it is necessary to homologate the different legislations, to standardize the indicators and methodologies employed, to update data in a coordinated fashion, to identify the counterparts in charge of the control of weapons and to put into practice an awareness campaign directed to policy-makers, entrepreneurs, and civil society as a whole.

INTERNATIONAL HUMAN TRAFFICKING

The strengthening of safety-measures to prohibit undocumented migration through traditional routes will provoke an additional change for organized criminal activities. This type of crime has gradually acquired a transnational dimension because it has been able to connect the activities they carry out in various frontiers, extending to the rest of the world and to develop a strong link with the migration phenomenon.

The migration phenomena continue to be a key factor in the hemispheric policy because about 12 million undocumented people currently live in the United States. The criminalization of the undocumented immigrant and the militarization of the measures to regulate this migration flow constitute an enormous challenge. Two processes associated to migrations that are becoming major preoccupations for governments and the whole of society are: the illegal traffic of people through borders and human trafficking.

DEPORTATION POLICIES AND ORGANIZED CRIME

Deportation policies carried out by the United States require, on behalf of the countries of the region, the opening of dialogue spaces. A dialogue with the U. S. administration should point towards improving communication in these cases, and also to question the origin of these policies, considering that these affect the whole set of countries that form the Caribbean Basin. It should be possible to create a set of multilateral initiatives on the subject.

ECONOMIC GROWTH, ORGANIZED CRIME AND MONEY LAUNDERING

Economic liberalization has facilitated the illegal exchange of goods in the same way that it favors the exchange of legal ones. New technologies of transportation based on the use of containers hinder the implementation of adequate control measures. In a similar fashion, financial liberalization, economic reforms and the development of tax paradises have facilitated the movement and laundering of money with greater ease.

Here it is difficult to distinguish between systematic corruption and the work of organized crime. The negative effects express themselves in various fields, where the lack of transparency and corruption hinder investments, affect property rights, distort the competition, erode the institutions and dilute the legitimate incentives in the pursuit of economic development.

MASS MEDIA AND ORGANIZED CRIME

The mass media is essential and possesses the important job of diffusing research and denouncing certain situations. However, they should avoid creating unnecessary alarms. An important question is how to generate adequate information without intimidating the population due to the alarm and terror that it can provoke, especially in relation to violence.

CYBERSECURITY AND ORGANIZED CRIME

Globalization has increased the dependency on new technologies of information and communications. Aside from this, new vulnerabilities and risks have appeared. One of the greatest threats is the attacks on cyber-security. Crimes in this field affect privacy and threaten global stability, producing many losses in companies and individual consumers that are part of the commercial market.

ORGANIZED CRIME AND ILEGAL TRAFFICKING OF NATURAL SPECIES

The illegal traffic of animal and plant species is very attractive for organized crime. The United Nations Environment Program estimates that about 2.5% of all species of the tropical rain forest could be extinct by the year 2020⁸.

⁸ Rojas, "Mayor presencia del crimen organizado", p. 105.

ORGANIZED CRIME AND THE INSTITUTIONS

In the context of a weak inter-institutional cooperation, impunity is the greatest risk. The United Nations has identified three important weaknesses: the cooperation between States is insufficient, the lack of coordination between international organisms, and all the responses undertaken have been decentralized and fragmentary. In addition, non-compliance of the States in the ratification of international treaties and in the elaboration of national laws that aid in effectively applying these treaties.

FOUR CHALLENGES THAT LATIN AMERICA HAS TO FACE IN THE FIGHT AGAINST CORRUPTION

First, an intellectual challenge, ample and systematic analyses are needed in order to create better responses in this topic.

Second, it is imperative to understand that national decisions have to face consequences that transcend national frontiers. The fight against organized crime involves global responsibilities.

Third, a permanent challenge is measuring the impact of globalization in different areas such as how it has affected the task of the Nation-States. In many cases, that State has ended sharing its power with other actors like transnational and non-governmental entities.

Fourth, international cooperation is the only thing that allows generating effective responses. It is necessary to promote and develop multilateralism and the regional and global institutions in order to fight organized crime. The building of international regimes and the establishment of treaties and legal norms that limit the acts of organized crime and that generate policies that lead to its eradication.

GLOBALIZATION AND ORGANIZED CRIME IN LATIN AMERICA AND THE CARIBBEAN⁹

Bruce Michael Bagley

Organized crime is more prosperous in countries with weak States. The weakness that characterizes Latin America and the Caribbean, in addition to the existence of an illegal and highly profitable drug market in the Western Hemisphere, has transformed these countries in interesting points for transnational criminal enterprises.

Latin American and Caribbean countries have been characterized throughout their history as weak States. Their rapid insertion into the global economy after the end of the Cold War has required measures characterized by “fiscal austerity” and a severe reduction of the State. Under the guidelines of the Washington Consensus and the neoliberal reforms of the market, the regulating capacities of the State were very much affected since the economic crisis that took place around 1982. Consequently, during the nineties the different States did not have enough financial resources and the essential institutions to fight the growth and expansion of organized crime within their territories.

Globalization has created almost ideal conditions for the rapid penetration and spread of organized crime in this region. First, the millions of poor or unemployed people could make it easier for criminal activities to multiply among the population. Second, these weak, often corrupt and illegitimate States, have been unable to effectively satisfy the urgent needs of those “marginalized” groups or to prevent the expansion of common delinquency.

9 Based on: Bagley, Bruce Michael. “Globalización y crimen organizado en Latinoamérica y el Caribe”. In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crimen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 109-139.

THE ACTIONS OF THE RUSSIAN MAFIA IN LATIN AMERICA AND THE CARIBBEAN

The strategic alliances between various Russian criminal groups and the main transnational criminal organizations of Latin America and the Caribbean were considerable and rapidly expanding by 2001. Also there is a suspicion that in certain countries like Colombia, Mexico or Brazil, these alliances could contribute with the activities of national criminal groups and/or guerrilla groups.

According to INTERPOL, in Latin America and the Caribbean the Russian mafia has been part of illicit activities such as drug smuggling, money laundering and arms trafficking. Aside from these three activities there is also evidence that Russian participation has expanded to other Latin American criminal enterprises like prostitution, usury, the trafficking of women, infantile pornography, extortion, kid-napping, credit card fraud, informatic fraud, automobile theft and forgery.

The next sections refer to the main characteristics of the activities of the Russian mafia within the various subregions of Latin America and the Caribbean. For instance, Mexico has become an important source for drug smuggling directed to the United States and it has been transformed into an economy dominated by 7 or so criminal organizations.

In the past five years, the routes to smuggle cocaine through the Pacific Ocean have supplanted the ones of the Caribbean because the latter are more congested and better controlled. It is believed that more than half of the cocaine that reaches the United States does so through the Pacific. The seizure of South American cocaine destined for Mexico and the United States more than doubled between 1999 and 2000¹⁰.

However, techniques employed by drug smugglers in the Pacific are more defying for the authorities compared to the ones used in the Caribbean. First, the Pacific is an open ocean, making it harder to patrol than the smaller and more confined Caribbean. Second, cocaine in the Caribbean is usually transported in quicker and more opened boats that

10 Bagley, "Globalización y crimen organizado en Latinoamérica y el Caribe", p. 116.

are easier to detect due to their bigger engines and their additional fuel tanks. In the Pacific, on the other hand, cocaine is usually hid in fishing boats or on board bigger boats within containers that are harder to identify and register.

CENTRAL AMERICA

In early 2000, the conditions in Central America were particularly welcoming for organized crime due to extreme poverty and its weak and often illegitimate political institutions. Drug trafficking is currently the more profitable enterprise in Central America. In 2000, the DEA reported that of an estimated 645 tons of smuggled cocaine destined to the United States, about 425 passed through the Central American-Mexican corridor¹¹.

The huge amount of Colombian cocaine, and Peruvian cocaine to a lesser degree, that is transported throughout the sub region has impulsed an explosion of over 2000 juvenile gangs and the violence that goes with it. This is especially the case of Nicaragua, Honduras, El Salvador and Guatemala. The membership to these gangs is estimated in about 400 000 young people in the 4 countries¹².

Many of these gangs, or “maras” as they are known in the sub region, are lead by adolescents or adults that previously were part of gangs in the United States and later convicted of a felony and deported back to Central America. A group of these gangs have branches in the largest cities of the US, and they traffic drugs, weapons, and worse, they commit many contracted murders in favor of Colombian or Mexican drug cartels. Their links with Mexican and Colombian criminal organizations have permitted these gangs to be updated in the newest arsenal and in the most modern types of criminal activities.

The governments of the sub region have tried to contain these growing waves of criminality. During 2000 and 2001 the governments of El Salvador and Honduras opted to use the army to strengthen their

11 Bagley, “Globalización y crimen organizado en Latinoamérica y el Caribe”, p. 118.

12 Bagley, “Globalización y crimen organizado en Latinoamérica y el Caribe”, p. 118.

inadequate civil institutions. After a bloody penitentiary mutiny in June 2001, President Portillo of Guatemala declared that the government would seek to increase the security aid from the United States, Great Britain and Israel, among other governments. The governments of Nicaragua and Costa Rica have committed themselves to developing effective measures against criminal activities in their countries. As a result, it is possible that civil institutions in charge of law enforcement will gradually become more militarized. However, their national economies face such grave hardships that the increase of resources directed to security measures will inevitably lead to reductions in social expenses.

COLOMBIA AND THE ANDES

In spite of the precautions adopted by the US government in order to help Colombia fight drug trafficking (almost one billion dollars during the nineties) by 1999 Colombia had become the number one country in the cultivation of cocaine. During the nineties the Colombian production of poppy (the raw material for the production of heroine) also increased from zero in 1989 to 61 tons in 1998. Even though, this data represents only about 2% of the global production of heroine, this did not stop Colombia from becoming the main supplier of heroine for the majority of the United States by the end of the decade¹³.

Despite the data above, it cannot be concluded that the “war against drugs” carried out by the United States was a total failure. In contrast with the Colombian situation, coca cultivation has decreased in Peru and Bolivia, thanks in large part to the interruption of the air bridge that took place in the nineties. This bridge allowed various organizations to transport coke paste from these two countries to Colombia, where the product was processed and then sent to the United States. Since 1996, more aggressive efforts towards the eradication of drugs were carried out by the Peruvian and Bolivian governments (with the financial

13 Bagley, “Globalización y crimen organizado en Latinoamérica y el Caribe”, p. 120.

backing of the United States), and alternative programs of development enjoyed a considerable success among the peasants previously dedicated to the cultivation of coca plants in both countries.

Also, while cultivation and traffic of drugs expanded in Colombia during the nineties, the combined efforts of the United States and Colombia enjoyed success in partially disbanding the activities of the most important cartels of the country, the Medellín and the Cali cartels. However, the death, extradition or incarceration of their leaders, instead of stopping completely the illegal traffic of drugs, only produced relatively small interruptions in the drug smuggling flow.

In reality, the hole left by the partial disappearance of these cartels was rapidly filled by the growth and expansion of smaller, less renowned (but equally violent) organizations throughout the country. They smuggled cocaine and the more profitable heroine. In contrast with the Medellín and Cali cartels, these new groups have maintained a lower profile, and usually operate from secondary Colombian cities or small towns where they can bribe and intimidate local authorities in order to gain protection for their illicit activities.

Drug traffickers have reacted to the growing pressure not only adopting new structures, but also diversifying their activities. Throughout the nineties and during the present decade, there has been a boom of the drug called ecstasy (MDMA) in the United States and in several Latin American cities.

Drug dealers have also responded by deepening their relationship with gangs from the former Soviet Union. Groups of Russian mafia have formed alliances with Colombian organizations since 1992 to acquire cocaine destined for Europe or the former Soviet Union countries, and providing weapons to Colombian drug dealers and guerrilla organizations.

CUBA

In contrast with the capitalist, democratic and weak States of the Caribbean Islands that fell prey to organized crime during the nineties, the communist, highly centralized and authoritarian Cuba remained immune to this during the same decade. However, without the massive

soviet subsidies to keep afloat its economy during the nineties Fidel Castro and the Cuban communist leadership had no choice but to seek foreign investment from Europe, especially in the tourism sphere controlled by the State, in order to diversify the Cuban economy. A consequence of the increase in foreign tourism was the emergence of an illegal drug market (and also the increase in prostitution), to serve the needs of the growing tourism. The small Cuban criminal bands, which work in close contact with similar organizations from Colombia and Caribbean countries such as Haiti, Dominican Republic and Jamaica, smuggle drugs to Cuba for its distribution and sale in the country, and then they continue on to the European market.

The central institution in charge of repression and security-related issues has been sufficiently successful foreseeing the increase in powerful criminal groups and thwarting the efforts of Russian criminal organizations or other transnational organizations in their effort to use Cuban territory as a transit point for drug trafficking. However, given the severe problems of the Cuban economy during the decade, including the very expensive oil importations, the Coastal Guard and the Marine cannot afford to buy the necessary equipment and fuel to effectively patrol the Cuban waters further than the limit of 12 miles. This has allowed Colombian traffickers to use these waters as a useful point in handling the drug shipments destined to the United States.

Despite a strong Cuban-Soviet relationship during the Cold War, the collapse of the Soviet Union and the end of the soviet subsidies severely strained this relationship during the nineties. Ironically, this helped to immunize Cuba against Russian penetration. This latent hostility towards Russians, even present among Cubans as far back as the 70s and 80s in spite of the Cuban-Soviet cooperation, was more palpable during the nineties turning Cuba into an inhospitable host to Russian criminal organizations. Finally, the embargo the United States carried out against Cuba was not attractive for the Russian criminals that wanted to establish bases from which to expand their commercial relationships throughout the region.

BRASIL AND THE SOUTHERN CONE

Since the mid-nineties there has been a variety of press reports that point out the increasing involvement of organized Russian crime in drug and weapons trafficking, and also in money laundering in Brazil and the four countries that make up the Southern Cone.

The continuing role of Brazil as a transit point of narcotics has resulted in the flooding of its market with cheap cocaine. Throughout the extensive and unprotected frontiers of Brazil with Bolivia, Peru and Colombia, every kilogram of refined cocaine costs about \$ 2000 or less. In the greater cities of Brazil such as Rio de Janeiro, the same amount costs about \$4000, about 80% less than its price in a street of New York or Chicago. As a result of this, the levels of violent crimes have soared in the great urban centers of Brazil and many of the favelas have become territories managed by the drug traffickers.

The presence of the Russian mafia in Argentina has been mainly linked with the use of Argentina as a transit point for cocaine shipments destined for Europe, weapons trafficked to Brazil and Colombia, and to launder money. The Argentina-Paraguay border is known for different types of smuggling and provides the ideal conditions for the operations of the Russian mafia.

It has been stated that during the nineties Uruguay turned into a preferred site for Russian activities of money laundering due to its relatively weak banking regulations. The negligent law enforcement has allowed these organizations to take control of many Uruguayan banks and has facilitated their obtaining of visas and passports with relative ease.

CONCLUSIONS

Traditional patterns of patrimonial domain, personalism, patronage, and bureaucratic corruption present throughout Latin America have facilitated groups of organized crime to resort to their traditional practices of bribery, extortion and intimidation in order to maintain profitable narcotic enterprises.

The Russians are only the more recent transnational criminal groups drawn to the region. Even for the countries not submerged in civil conflicts, their illegal trafficking of arms and drugs and their alliance with local criminal gangs raises the fire potential for violence, making it harder and dangerous for public officials to control the situation.

The Russian mafia is not the only source of armament in the region. The United States has been a great supplier of small arms, but given the political chaos and relative availability of arms in the black market of Russia and the old soviet countries, Russian criminal organizations enjoy a greater advantage in this clandestine market, and thus have emerged as the main actors in the international illegal weapon exchange.

Therefore, in the future local and transnational criminal groups could become even more threatening for the safety of the entire region, and even for the safety of the United States. The networks first created to move drugs and light weapons could begin to move heavy armament like combat aircrafts or submarines to disseminate nuclear, chemical or biological weapons of mass destruction, or even to smuggle by contract murderers and/or members of the terrorist organization Al Qaeda.

A successful combating of the mafia will require great institutional reforms in areas like law enforcement, money laundering, border control, and anti-corruption policies within each country but also through systematic multilateral cooperation, and the sharing of intelligence practices between governmental agencies on the sub regional, regional and international levels.

The responses taken after September 11, 2001 suggest that a new impulse towards more multilateral cooperation could eventually materialize in the coming years. The true key to triumph in the war against terrorism and against organized crime is for the international community to have the necessary will and ability to design and institutionalize effective systems of coordination and multilateral cooperation.

**JUVENILE GANGS AND DEMOCRATIC GOVERNANCE IN
LATIN AMERICA AND THE CARIBBEAN: THE EXPERTS'
PERSPECTIVES¹⁴**

Luis Guillermo Solís Rivera

This essay is a collection of the working papers of this seminar and also the main recommendations and conclusions of the event. Here we will present a review and its main conclusions.

The General Secretary of the Latin American Faculty of Social Sciences (FLACSO after its initials in Spanish), the Spanish Agency for International Cooperation for Development (AECID after its initials in Spanish) and the House of the Americas organized the seminar “Juvenile gangs and democratic governance in Latin America and the Caribbean” in Madrid on the 16th and 17th of April 2007.

The goal of this activity was to sustain a dialogue that offered an updated vision on the topic of juvenile gangs based on three main discussions: the conceptual framework, the national challenges, the regional visions, exchange of experiences, lessons learned and better practices. In this sense, the participants went in depth regarding the nature, operation and control of juvenile gangs and their links with democratic governance in various countries and subregions. They also explored the prevention policies implemented in diverse scenarios, some successful experiences carried out by government and non-governmental entities, the interaction between public policies and the private sector, and the supporting role that international cooperation could have in the prevention and fight against this type of violence.

14 Based on: Solís, Luis Guillermo. “Pandillas juveniles y gobernabilidad democrática en América Latina y el Caribe.” In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crimen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 139-173.

The seminar reunited a group of experts dedicated to researching this phenomenon, to its press coverage and to work as advisors in the decision-making processes made by governments of regional and multilateral organisms. The discussion is made up of strictly the personal views of the individuals making them.

CONCLUSIONS AND RECOMMENDATIONS OF THE SEMINAR

Latin America and the Caribbean region have great perspectives of enjoying welfare within a democratic system. It also has medium, not low, indicators in human development, being outside the perimeter of the greatest current global threats concentrated mainly in Africa. However, its great socio-economic inequality leads to the existence of many Latin Americas and the differing degrees of personal insecurity are a very expensive burden on our future citizens. The growing levels of macroeconomic stability and the increments on the Gross Domestic Product are not enough to counteract the impact that the predominant perception of insecurity has on potential investors on the region.

Juvenile gangs are usually held responsible for safety problems, probably unfairly so. This has led many governments to design short-term measures that do not have an integral approach. These measures usually receive a lot of attention from the mass media and aspire to create a positive perception of the government's labor in controlling urban violence and seek to reaffirm the government's exclusive right to the use of force. The measures have often backfired because violence has actually increased and the authoritarian way of governing in the region still persists. The democratization process in Latin America has not reached some of its repressive institutions.

This is why it is possible to conclude that one can talk of repression and prevention at the same time, as if both were part of the same reality and as complementary measures rather than exclusionary measures. And even though the State cannot renounce its fundamental functions of protecting its citizens and their goods, it is necessary to complement this with violence prevention. Work should be done at the penitentiary institutions, at schools, work with the affected segments of the population (usually young people) and the planning of public space.

Violence has many causes so to eradicate it there has to be a combined effort between different governmental agencies, international cooperation and other sociopolitical actors. Medium-term and long-term measures have to be undertaken, and it is also necessary to look for adequate support to improve the capacity of the State and to control any type of corruption within the public administrative sector.

In sum, preventive and coordinated measures have to be undertaken in the whole region, it is necessary to strengthen the acting capacity of the States to make it better to provide safety and welfare to the population within a framework of democratic governance that will ensure social integration and the real participation of future generations in the development of the region.

Some of the recommendations from the seminar are as follows:

On the conceptual approach:

- To impulse an updated approach to prevention processes that allow these to be understood as being consistent with the policies of control and of crime-fighting only when these policies respect Human Rights and are completely respectful of the legal framework of the State.
- To generate more and better data to aid in the decision-making processes, especially because this phenomenon has had the ability to adapt to different policies carried out by the State.
- To influence the mass media and make them understand their role in the building of a calmer social climate, one that is less prone to violence.
- To explore in detail the link between possession and use of fire arms and violence currently associated with youth.
- To achieve a regional consensus in regards to the criminalization of juvenile gangs according to their purpose, location and type of activity.

On actions at the local level:

- To extract positive lessons from the work done in countries like Brazil and Nicaragua at the urban level. Juvenile gangs have a special influence on the marginal urban locations so it is essential to create the necessary policies to counteract this.

- To provide local authorities with the necessary tools for them to elaborate their own strategies and policies that will best fit their individual experiences. Local authorities are the ones that better know the needs of their respective communities. However, it is necessary to avoid transferring responsibilities that exclusively pertain to the central State.
- Local governments should have more say in the development of policies related with public safety. To do so certain obligations have to be included in the municipal legislation and they have to be given more and better resources.
- To promote joint work with the prison population and carry out peace initiatives in the communities where the prisoners belong.

On public policy:

- To develop programs that will strengthen the abilities and occupational perspectives for the prison population to aid their adequate insertion into society.
- To recover urban spaces for integration and the creation of a sense of community.
- To establish a dialogue between cooperation agencies and researchers involved in the topic of juvenile gangs.
- To support the future work of the Violence observatories, and their already existing plans and programs.
- To promote inter-institutional cooperation within each country. Establish a dialogue between the institutions in charge of generating statistics and the ones responsible of creating policies on the subject.

On the institutional level:

- To foster the harmonization of policies from both the Central States and the local governments with the end of implementing measures that will not duplicate efforts and that could be useful in order to learn from other successful experiences.
- To create a Latin American network of prevention of violence to strengthen the linkages and strategies already developed in Latin America. Central America has much to contribute in terms of methodologies, primarily on secondary and tertiary care, and early warning mechanisms.

CONCLUSIONS

1. We are living in a moment of rupture regarding the approach in public policies towards juvenile gangs. International cooperation has to emphasize on preventive measures.
2. Special efforts should be made to incorporate the best local practices when discussing horizontal cooperation.
3. Opinion-makers should incorporate the issue of gangs and organized crime more actively in the creation of policies. Young people should also take part in these discussions.
4. There should be a more intense and permanent dialogue between donating entities.
5. Even though the academic works on this subject have increased, new knowledge is needed, especially regarding “hard data” and fieldwork.
6. We must strengthen the role of schools in the prevention of this problem. The high desertion at the high school level make it even more imperative for elementary schools to have a very important role in the fight against juvenile violence.
7. More meeting spaces and dialogue between different institutions should be promoted in each country, and also between national institutions and the ones in charge of international cooperation.
8. Employment policies are essential, especially when it comes to the reintegration of young offenders into society.
9. The media has to be sensitized and incorporated into the different efforts to build an agenda in topics such as youth and insecurity.
10. Special attention has to be put on metropolitan areas where the situation is very critical and is expressed in a particularly violent manner.
11. It is necessary to recover “urban spaces” where the incidence of juvenile violence is greater.
12. The links between corruption, impunity, the discredit from the citizenship and juvenile gangs cannot be overlooked. On many occasions young people end up paying for the mistakes committed by their elders.

13. The link between juvenile gangs and light and small weapons should be explored more fully.
14. It is necessary to focus more on young people and less on security as a State policy.

MEXICO'S FRONTIERS AND ORGANIZED CRIME¹⁵

Raúl Benítez Manaut and Georgina Sánchez

ORGANIZED CRIME, GLOBALIZATION AND FRONTIERS

The different theories on globalization talk of positive globalization (due to the increment in legal commercial exchanges, suppression of visa holders, and increment in the routes of transport) and negative globalization. The latter is related to the opening up of frontiers that end up favoring the activities of organized crime. Many criminal activities are based on previously legal enterprises and exchanges and operate under this “legal framework.”

Globalization has occurred at the same time as Latin America's democratization processes. The fear is that this transition will debilitate the State, which is why when the crisis of the authoritarian governments took place new worries went in the direction of the lack of democratic governance related with this debilitated State, especially in areas like public safety. Mainly in countries that suffered crude conflicts during the Cold War, like most Central American countries, the result was an already debilitated State when they started their transition towards democracy. This makes it easier for clandestine groups and occult powers to emerge within the newly democratized States. Many of these criminal groups emerged due to the lack of solid Police institutions, intelligence agencies and poor frontier-controls. These organizations took advantage of the new opportunities in the context of globalization, the opening of frontiers and the structural changes undergone by the States.

Another advantage for criminal organizations was that their transnational activities are combated with different national legislations, still in an embryonic state of coordination. With globalization organized crime transcends a country's frontier. This is why Francisco Rojas characterizes organized crime in the following manner:

15 Based on: Benítez, Raúl and Sánchez, Georgina. “Las fronteras de México y el crimen organizado”. In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crimen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 175-198.

*“Organized crime is an illegal enterprise, even though these enterprises or illicit associations often penetrate legitimate businesses. Corruption is a central element that explains this phenomenon (...) Organized crime is increasingly transnational. Transnationalization is a consequence of globalization. Within this framework, organized crime acquires greater complexity when it can access new updated technologies. The extension of the operating networks of criminal organizations derived from financial and commercial globalization constitutes an optimal breeding ground for the strengthening of any illicit actions....”*¹⁶

Criminal organizations have three different modes of action depending on how they defend themselves from the actions of the government that seeks to eradicate them: evasion, corruption and confrontation. The first two have been the most prevalent in Mexico. It is only in the last decade when the war between different drug cartels was unleashed. The most affected regions have been the states located at the North of Mexico, mainly cities located at the frontier. Despite controls issued by the government, these criminal organizations take advantage of the easy transit to the United States through the different borders.

To confront organized crime the State should put into practice three different strategies: coexistence, disruption and the elimination of these organizations. If the State does not have sufficient resources to confront them, it has to deal with the coexistence, and the most common way is through corruption. When the State decides to choose disruption or elimination, it has to employ the most important resources: the military and the strategic intelligence services. If it only uses the police the State will probably lose the war.

The frontiers are the most fragile nucleus in this globalization context given the transnational nature of organized crime. In this state of affairs, the borders between countries are vital for the State not to lose control of its monopoly of law enforcement. Also, traditional border controls are now in crisis because cybernetic frontiers and new technologies used by criminal organizations are also very important.

16 Benítez and Sánchez, “Las fronteras de México y el crimen organizado”, p. 177.

CRIME, THE POLITICAL SYSTEM AND THE FRONTIERS

The smuggling of goods has existed since the creation of the Mexico-United States border around the middle of the nineteenth century. From Mexico marihuana, heroine and later cocaine was exported. Afterwards, this business passed over to the state and federal levels.

Binational cooperation for security in the northern border exists, but it is still in its embryonic state and plagued by mutual distrust between the two governments. Also, in the case of Mexico, this mutual distrust exists within its structures. The confrontation between state forces, federal forces and local forces is very strong in the cities located at the frontier. The Federal forces constantly accuse state and local forces of being involved with criminal networks, especially to favor the drug smuggling cartels.

On the other hand, the southern border of Mexico has been influenced by the different security and insecurity agendas of Central America since the late seventies of the twentieth century. First, the Central American revolutions provoked unprecedented armed conflicts, and human and weapon trafficking. The two most serious threats were, first, the impact of counter-insurgency policies and the humanitarian catastrophes these provoked such as the Guatemala refugees, and the Salvadoran and Nicaraguan peasants that had to flee from their homes because their territories turned into battle fields. This caused a huge exodus of people destined for the United States, and Mexico was left in a delicate situation.

Second, by the end of the nineties, the result of these conflicts was a great number of torn populations without working options. This caused the flow of migrants to grow, rather than to diminish. Also unprecedented situations of social crisis lead to the configuration of a new transnational criminal wave, the transnational Californian-Central American gangs. Deportees from Californian prisons came back to their Central American origins with a new knowledge of more bloodthirsty methods of criminality. They were baptized “maras.” Many of them tried to go back to the United States through Mexico, and others, running away from the “hard hand” strategy looked for refuge. These paved the way for the implementation of “hard hand” strategies that even criminalize the

marginalized youth of Guatemala, El Salvador, and Honduras, at times even violating the Human Rights of these populations.

In sum, the endemic weakness of the different Central American States lead to the boom in organized crime and its penetration in government structures, mainly of drug trafficking and the delinquency that transcends the countries' borders. This phenomenon, alongside migration, different kinds of smuggling and the transnational flow of prostitutes and human trafficking links Mexico with Central America in the context of negative globalization.

INSECURITY IN CENTRAL AMERICA

In Central America, insecurity and violence have become the number one priority in the security agenda. Guatemala, Honduras and El Salvador head the list of countries with greater criminal activity in Latin America. Latin America is the most violent region in the world.

In Central America the transition towards democracy is weak and the tendency for a lack of democratic governance is elevated due to the heritage of recent authoritarian and militarized political structures. This is most serious in the case of Guatemala due to the lack of a defined structure of political elites that dispute control over the State.

In Guatemala the Peace Agreements of 1996 didn't eradicate the "culture of violence," so characteristic of society in general and especially of its State structures (mainly the State's security bodies). The armed conflict, which lasted 36 years and left 200 000 victims, including deaths and disappearances, is the starting point for the new criminal wave. This phenomenon also exists in Honduras and El Salvador. The rulers from these three countries view "hard hand" strategies as the only way to confront the problem.

These three countries also have alarming rates of weapon availability among the population. Other activities of organized crime in Central America are smuggling, international vehicle robbing, and even the kidnapping of children.

DRUGS

Even though the cultivation of drugs for exporting them to the United States started during World War II, the clandestine business reached intensive proportions during the Cold War. This phenomenon appeared with a lot of force during the eighties, and big corridors for the traffic of drugs, weapons, and people were built. The most powerful clandestine and criminal organization of Latin America, the Medellín Cartel, peaked during the eighties with the exportation of cocaine from Colombia to the United States. It inaugurated the great criminal corridor that no one has been able to eliminate. From Colombia, and from Venezuela to a lesser degree, going through Central America through either the Caribbean or Pacific, by air, sea or land, and finally cocaine reaching the northern markets.

In the beginning they were criminal organizations that exported mainly marijuana to the United States, and this drug usually came from a family mode of production. In the eighties this cultivation had acquired industrial proportions, and in the nineties it had acquired the complexity of the global markets: the flow of capital, money laundering, information technologies, strong investments and diversification, the training of engineers, producers, cultivators, investors and financiers. Currently, Central America is the zone of transit of 88% of the cocaine destined for the United States. Of this drug, the majority comes through the Mexican borders destined to the United States¹⁷.

The routes of drug smugglers go through the entire country destined not only for the United States, but also for the national drug consumption. After the metropolitan zone of Mexico City and Jalisco, the states that show greater complaints related with drug smuggling are located at the borders.

In 2006 there were 28645 felonies related with drug smuggling. Unfortunately, most of the felonies that take place in the borders are not detected because they pass through “legal canals” like if they were regular goods. The globalization of drug trafficking through the borders transcends them: through the markets of the United States, the Mexican

17 Benítez and Sánchez, “Las fronteras de México y el crimen organizado”, p. 187.

cartels operate in Africa and Europe. The biggest worry for the DEA and the different European Police corps is that the Mexican and Colombian organizations have established links with criminal organizations in Africa in countries such as Ghana, Nigeria, Guinea, Guinea-Bissau, Senegal and Togo.

Finally, in Mexico the tendency of importing drugs has transformed and it no longer solely concentrates on the traffic of cocaine from Colombia. The importations of pseudo ephedrine and methamphetamines mainly from China have gone up. In addition, one other vulnerability from the custom's system is the corruption of the maritime custom offices. This has led to the implementation of the "Strategic Bilateral Mexico-United States Plan."

WEAPONS

The main flow is from the United States to Mexico, and in second place, from Central American countries. Officially, there are no national producers that have free access to the public, except in some cases of hunting rifles, and its production is destined for the Mexican army and for exportation. So if Mexico does not produce weapons for the internal market, these millions of weapons have passed through the borders, and this could not have taken place without cooperation from corrupt public officials in all levels of government, particularly in the various Customs.

The majority of the weapons in Mexico are not registered because they mainly come from illegal trafficking, from illicit local producers and especially from the trans-frontier traffic. The main sources from the United States come from secondary markets, meaning the selling of weapons in free access selling fairs; from the "ant" type of traffic through which weapons go through the borders inside people's cars with the objective of selling them or donating them, and finally, in the primary market, where the buyer of the gun has to be registered. The primary market is made up of legal stores and armories. Just in Mexico's frontier there are 17, 000 points where they sell weapons from Wal-Mart to other weapon sellers. The latter are not obligated to inform the authorities as to who bought the weapon, unless the weapon is later involved in a felony.

Out of the four southern states in the United States that have a shared border with Mexico, only California has restrictive legislation regarding gun control. New Mexico, Arizona and Texas have totally permissive legislations for acquiring weapons.

In the southern frontier, even though the trafficking of weapons is prohibited, weapons pass freely in the controlled points of the border and in areas that are not controlled. Weapons that come from Guatemala and Belize come from greater trajectories like Eastern Europe, Israel and other republics that resulted from the breaking of the Soviet Union, and even from other Latin American countries.

Weapons follow the same routes of drug trafficking, but they do so in an inverted manner: while drugs flow to the North, weapons flow to the south. One of the main consumers of weapons is organized crime.

THE TRAFFIC OF PEOPLE AND HUMAN TRAFICCKING

Either by tolerance, omission, in conspiracy or due to the lack of vigilance in the different borders, the passive or active support of public officials has been a key factor in the success of this business.

The selling of electoral credentials is very common in Mexico in order to cross the various check points established at the different borders. In interviews with Central American immigrants in 2005, in Tapachula, the interviewees said that Mexican authorities detain the immigrant only when he or she runs out of money. Almost all of them, from the river that divides Tecun Uman from Hidalgo City until they reached Tapachula crossed about five different controls from either federal or local authorities: National Institute of Migration, the Army, the Armada, the Preventive Federative Police, the State and local police corps. This can be called “inter institutional coordination” between the security agencies of the Mexican government¹⁸.

In a similar manner, about 300 thousand Mexicans entering the United States every year, more than 80% does so thanks to the “polleros” or “coyotes” system, and the rest try to do it on their own. Out of the

18 Benítez and Sánchez, “Las fronteras de México y el crimen organizado”, pp. 194-195.

total of criminal businesses that take place at the different borders, this is the oldest, the most lucrative, and the better organized in both the southern and Northern borders¹⁹.

CONCLUSIONS: THE STATE AND THE CORRUPTION OF ITS OFFICIALS

During the authoritarian Mexican regime the political system tolerated the activities of organized crime, and even in some cases these actions were functional to the system as a whole. The agreements that allowed this sort of businesses necessarily implied the existence of corruption. However, two central factors changed this situation: on one hand, the globalization of organized crime, which implies more complex and ample networks in order to operate, and on the other, the transition to a democratic regime that implies governance against the threats to the State and society.

Organized crime has become the main threat to the State and the frontiers are vulnerable points. The infrastructure of organized crime surpasses the one of the government's agencies that should be in charge of order. However, this could be controlled by prevention and control of corruption.

Controls at the borders require an equilibrium in which the flow of commercial exchanges and of people will not be blocked, but where the flow of illegal goods like weapons and drugs can be identified quickly and efficiently. In order to put a stop to criminal activities in its borders, democratic governance in Mexico requires a true revolution, not only technology wise, but also in the administrative, cultural, social and political areas, starting with the bureaucracy of the Mexican state.

This is why the three main activities of organized crime in the Mexican borders have become an issue of national security, but it is also an issue of transnational security. Globalization transforms these phenomena into intermestic issues where separating the external and

19 Benítez and Sánchez, "Las fronteras de México y el crimen organizado", p. 195.

internal dimensions of these activities becomes impossible. In other words, these are issues that simultaneously concern three different areas of government: foreign policy, national security policy and the policy of the internal control of crime and the imposition of the State of Law. In a similar way, due to the fact that democratic societies are in the process of being built in Mexico and Central America, the solutions to the phenomena of crime and delinquency have to involve the entire population and the civil society (its organized segments) because this not only affects the State, it also affects society as a whole.

**DEMOCRATIC GOVERNANCE AND ORGANIZED CRIME:
NEW THREATS TO SECURITY IN COLOMBIA²⁰**

Alejo Vargas Velásquez and Natalie Pabón Ayala

ON DEMOCRATIC GOVERNANCE

In reference to the Latin American region, Edelberto Torres Rivas defines governance as a “quality of the political community in which its institutions act effectively, in a legitimate manner according to the civil society because these institutions and their policies give them security, integration and prosperity, and also guarantee order and the continuity of the system.”²¹

The legitimacy of the political regime is founded on two elements: the participation of the majority of the population in regards to the conformation of its institutions and in the appointment of the transitory leaders of said institutions, and one in which people benefit from economic development in terms of quality of life. Legitimacy is not only a political problem; it is also an economic and social problem.

SECURITY IN A SOCIAL STATE OF LAW

The issue of security cannot be left only in the hands of the most authoritarian sectors of society. In the contemporary world and within the framework of a Social State of Law, security and national defense have to be intimately related with the concept of democratic security. The latter can be defined as a condition in which different groups, communities and social organization consider that there is an ideal

20 Based on: Vargas Velásquez, Alejo and Pabón Ayala, Natalie. “Gobernabilidad democrática y crimen organizado. Nuevas amenazas a la seguridad en Colombia”. In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crimen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 199-227.

21 Vargas and Pabón, “Gobernabilidad democrática y crimen organizado...” p.199.

climate for the coexistence of the different citizens without feeling intimidated or endangered by criminal organizations. A climate in which they feel they can seek their own human development and their collective progress as a modern and democratic society.

This requires the Public Forces, both the Armed Forces and the Police, which possess the military capability of preventing and deterring criminal activities. But security in a democratic society has to be based also in a new relationship between the Armed Forces and the rest of society, a relationship marked by cooperation, mutual respect and subjection to the different norms.

A State has the right and obligation to strengthen its military capacity as a deterring factor, both in the domestic level and in the case of external threats. However, an effective response to a security problem is the political response. In the international field that means diplomacy and in the domestic field it means negotiation as a solution to the different conflicts.

TRADITIONAL THREATS AND NEW THREATS

Traditional threats

The Colombian internal armed conflict, an asymmetric and lengthy conflict, has had as its main illegal actors the FARC (after its initials in Spanish), which even though it has suffered some massive setbacks, still maintains its military capacity, the ELN (after its initials in Spanish), which has become militarily diminished and is in a process of dialogue, and the paramilitary, who are partially in a process of demilitarization.

Other actors are the drug traffickers, along with criminal groups that participate in the different stages of the production chain and a peasant population that lives mainly on the activities related with this business such as the small and medium coke and poppy producers, and the coke collectors.

Finally, there are other groups involved in common delinquency that carry out different criminal activities such as kidnapping, bank robberies, and the mugging of citizens. These groups benefit from the existence of the other threats and at times work in coordination with them.

New threats

There is the presence of international criminal phenomena that mainly occupies itself with arms trafficking, international drug trafficking, and human trafficking.

Also natural and environmental threats have occurred and could occur.

There is also a possible armed conflict against Venezuela and/or Nicaragua due to border-related problems, and also the risk of a possible political isolation of the government in the South American region associated to the strategy with which the government has confronted the domestic armed conflict and its “outpour.”

PARAMILLITARISM, DRUG TRAFFICKING AND ORGANIZED CRIME

Colombia has suffered the emergence of para-institutional phenomena and powers similar to the mafia. While all the focus is on the domestic armed conflict, these new threats have taken advantage of an ideal ground to develop and have become the phenomenon known in Colombia as para politics.

According to the former Colombian Defense Minister, Rafael Prado, a transformation of para militarism into organized crime has taken place: *“The expansion of a paramilitary leaders from some regions to others does not have the goal of combating the guerrilla. Its goal is to obtain control of public resources. Fear of extradition has led many important drug dealing and coke production leaders to get out of the business, this part of the business has been taken over by the so-called third generation paramilitary, which is why for the old paramilitary the control of the local governments is now their top priority.”*²²

The renowned analyst on the paramilitary phenomenon, Gustavo Duncan, stated that they have seized control of the local State, *“It is them who regulate and extract taxes to economic transactions, threaten*

22 Vargas and Pabón, “Gobernabilidad democrática y crimen organizado...” pp. 207-208.

and protect the communities, mold the justice system and the political order according to their own convenience and possess the control and the biggest revenues of drug trafficking.”²³

STRATEGIES AGAINST ORGANIZED CRIME

Drug and weapon trafficking

The main tool in fighting the traffic of drugs and weapons in Colombia is the interdiction, which is directed to controlling the illegal commercial exchanges of raw materials and drugs, dismantling the laboratories in charge of its processing, intercepting the different means of transport and seizing the different revenues generated by drug trafficking. This includes actions to reduce the illegal trade of weapons.

In addition, the government develops a diplomatic offensive that tends to negotiate bilateral instruments with the border countries to improve the controls over the routes of arms, munitions and explosives, and it supports the different global initiatives to regulate the importations and exportations of fire arms.

In regards to the illegal trafficking of weapons, the policy of Democratic Security contemplates a unified system for the registration of firearms and is incorporating into the national legislation the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and other related materials. Also, the procedures contemplated in the model legislation of the OAS for the control of the international arms trafficking, their parts, components and munitions, will be put into practice by the Department of Control of the Trade of arms, ammunitions and explosives of the General Command of the Military Forces.

²³ Vargas and Pabón, “Gobernabilidad democrática y crimen organizado...” pp. 208-209.

Money Laundering and extinction of dominium

To address this problem the Government envisages to strengthen the provisions on trusts, supportive cooperatives and financiers, and additionally, it will reinforce the institutions specialized in detection, control and penalization, taking into account the demands of the Financial Action Task Force on Money Laundering.

The process of improving the reporting of suspicious transactions will be continued, and the alert system in charge of the Central Unit of Extinction of Dominium and against money laundering of the General Prosecutor's Office will be also improved. Strategies to evaluate different risk factors for the detection of money laundering in the banking system will be developed, the different mechanisms of international cooperation in research and judiciary actions will be strengthened, and finally, a program for the training of judges in the issues of money laundering will be designed.

In regards to the extinction of dominium of the goods of drug traffickers, they will seek the way to transfer to the State the right to the totality of the goods that have been seized up until now.

Kidnapping and extortion

The government has decided to implement a program to combat extortion and kidnapping. This Program is directly oriented by the President and the Vice-president will be in charge of it. It has three main objectives:

- a) To increment the costs of carrying out these felonies and to diminish the benefits obtained when these felonies are committed.
- b) To disarticulate the organizations that usually commit these felonies.
- c) To recuperate the trust of the citizenship and the international community regarding the measures taken by the Colombian government to fight against these crimes.

THE DRUG PROBLEM AND THE ROLE OF THE INTERNATIONAL COMMUNITY

The problem with drugs has become the greatest problem in Colombia. It has blurred the boundaries between what is legal and what is illegal, it has deteriorated the respect for the rule of law, it has debilitated the Colombian State, one historically characterized by its precariousness, it has transformed and made the armed conflict even more complex, it has become one of the biggest challenges for the post-conflict, and finally, it has contributed to an unstable and negative insertion of Colombia into the international community.

The Colombian Plan as a strategy of cooperation

The Plan Colombia was only possible thanks to strategic alliances with other countries, especially the United States. The plan had three components:

- 1) Forced eradication via fumigation.
- 2) Reengineering of the armed forces, particularly in the sectors involved in the fight against drug trafficking.
- 3) Social policy, meaning a policy for the development of the local institutions.

The plan also contemplates military strategies, and the activation of the Brigade against Drug Trafficking created in 2000 is the most representative institutional change in the fight against drug trafficking. It indicates the decisive interference of this institution in the fight against drug trafficking, displacing the centrality of the Antinarcotics Directorate of the National Police and deepening the historical tendency of the overlapping of functions between the two institutions and the blurring of the dividing line between police and military functions.

The London Declaration

On July 10th, 2003 in London the Colombian government presented to the international community the document “An international coalition for peace in Colombia” that contained the problems that affected the

country and displayed some cooperation alternatives to confront these problems. Representatives from different countries and from institutions such as the United Nations and the World Bank supported the proposal. This meeting laid the foundation for the elaboration of the Strategy of Cooperation 2003-2006, London Declaration, where the main focus is centered on the fight against drugs and violence, underlining the need to respect Human Rights and the international humanitarian law.

The strategy presents 6 main thematic blocs for cooperation and resources to be destined in the most effective manner:

- 1) Forests.
- 2) Strengthening of the Social State of Law and Human Rights.
- 3) Return to civility.
- 4) Productive and alternative development.
- 5) Regional Programs for development and peace.
- 6) Forced Displacement and Humanitarian Assistance.

The National Development Plan and the Strategy for International Cooperation

The strategy of international cooperation is an integral part of the Development Plan “Towards a communitarian State.” Some of the most important axis for the government and the international community are:

1. Democratic Security.
2. The map of international cooperation in Colombia.
3. Fight against the problem of drugs and the protection of the environment.

Budget of the Strategy of International Cooperation 2007-2010

The government hopes that as a result of this strategy the contributions of cooperation ascend to about US \$300 million per year.

PUBLIC SAFETY IN COLOMBIA

It is useful to distinguish, as done so by Alvaro Camacho, between two different conceptions of public safety. The first one can be defined as a civil definition, which emphasizes in “*a situation that results from*

measures destined to protect the population from risks produced by the absence or the poor conditions of equity, justice, democracy, and habitability. It gives central importance to the coexistence and the concerted handling of the different conflicts.” The second one, of a coercive tone “*argues that public safety results from the protection against crimes that directly affect people. The key element is the fight against corruption, penalties and the reinforcement of the judicial, police and penitentiary systems.*”²⁴

Taking into account the conception of public safety in Colombia and what a variable concept it is, the majority of authors have reached the consensus that protection and the chance for each citizen to exercise his or her rights and liberties are the fundamental components of public safety, in contrast to the causes of criminality as being the only objective of public safety.

THE ROLE OF THE POLICE

Regarding public safety, the National Police seeks to transform its orientation to one that emphasizes on the preventive and educational aspects with the purpose of strengthening the principles of solidarity, civility and respect for authority.

However, one of the main challenges is that the armed conflict has produced an undifferentiating role between the Armed Forces and the Police; and this has led to the “militarization” of the Police and to the “policization” of the Armed Forces.

EFFECTS OF INSECURITY ON SOCIETY AND THE POLITICAL SYSTEM

- It has a negative impact on the functioning of the economy, the investment of capital and the generation of jobs.
- It distorts the political competition that characterizes democracy.
- It diminishes electoral participation and democratic legitimacy.

24 Vargas and Pabón, “Gobernabilidad democrática y crimen organizado...” p.220.

- It increases social polarization.
- It affects the citizens' Human Rights.
- The levels of crime tend to increase.
- It increases the social demand for "hard hand" responses and for the militarization of security.
- It increases the tendency of the privatization of security, and therefore, it weakens the State.
- It increases the levels of uncertainty regarding judicial decisions.
- The levels of "social anxiety" and the tendency of citizens to "enclose" themselves, especially in the urban world, are also increased.

CONSOLIDATING SAFE SOCIETIES AND SOLVING THE PROBLEMS OF DEVELOPMENT TO ENSURE DEMOCRATIC GOVERNANCE

In order to consolidate a just society the problems of development such as poverty, unemployment and marginality have to be solved because these could be a breeding ground for different forms of violence. The best way to consolidate security is to combine it with a strong State within the framework of absolute respect to the rule of law, and also stimulating international cooperation, promoting the negotiating of conflicts, and generating policies that aim to solve the various problems of development in society.

The tendency to choose antiterrorist statutes with an authoritarian tone and repressive measures should be avoided. Even though security is very important, it has to be a security that adequately respects Human Rights.

ORGANIZED CRIME IN BRAZIL²⁵

Antonio Rangel Bandeira

GROWTH OF ORGANIZED CRIME

Up until the late seventies, organized crime in Brazil was concentrated in the exploitation of “Jogo do Bicho,” a popular lottery. Because it was linked with politics and it was considered a minor infraction and not a crime, it was tolerated by the State, and eventually repressed by politicians and by the Police as a way of selling its protection. Around that time, the national territory was divided among the organizations that exploited the lottery by concerting various agreements, when these agreements were violated an occasional murder occurred.

In the late seventies, the levels of deaths produced by firearms were situated on the normal parameters for Latin America: 6 deaths per 100 thousand inhabitants in 1979. Since 1982 there has been a growth in the levels of violence and by 2003 there were 22, 2 deaths per 100 thousand inhabitants²⁶.

What explains this was the arrival of trafficking of cocaine and marihuana from Colombia, and later from Bolivia and Paraguay. Brazil entered the business of drug trafficking first as a stop in the routes of exportation destined to United States and Europe, and afterwards it became a prosperous market for the consumption of drugs. Brazil also became a producer of chemical inputs for the production of cocaine paste for the neighboring countries.

25 Based on: Rangel Bandeira, Antonio. “El crimen organizado en Brasil.” In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crimen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 229-252.

26 Rangel, “El crimen organizado en Brasil,” p. 230.

COMISSION OF RESEARCH ON CRIMINAL ORGANIZATIONS

The Legislative branch created in April 2005 a Commission of Research on Criminal Organizations related with arms trafficking (CPI after its initials in Spanish) to investigate the causes for the increment of violence in the country.

In the beginning its main focus was on the illegal market of weapons, but during their research the attacks committed by the PCC in Sao Paulo in 2006 took place. The CPI incorporated the research on the PCC, what caused its emergence and its attacks, by interrogating its main leaders and the authorities that repressed and investigated the rebellion.

ORGANIZED CRIME IN SAO PAULO: THE PCC

With the exception of the Federal Police, the State Polices' capacity of investigation is precarious. The training of its commanders and of the main police is influenced by military conceptions that emphasize repression, and the work in prevention and intelligence tends to be deficient. This is why the knowledge of organized crime comes more from phone interventions (wiretapping), authorized or not, from the anonymous denouncing system via telephone (Disque Denuncia service), from torture (which is illegal), and from the complicity between policemen and criminals.

These were some of the methods used to investigate the rebellion of the prisoners in Sao Paulo and Rio de Janeiro before the censorship of the telephones. The main instrument of communication between the rebels, including both the inmates and people that were out of prison, was the use of cellular phones.

The main cause of the rebellion was the restrictive measures that the penitentiary authorities were about to implement against the leaders of the PCC. They were going to cut down their privileges and sending them to a maximum security prison, Catanduvás in the Paraná state, eliminating their possibilities of communication with the organization.

THE PCC ORGANIZATION

The First Command of the Capital (PCC after its initials in Spanish) was created in 1993 in the Sao Paulo prisons. It was created as a reaction to

the poor treatment to which the inmates are subject such as the overcrowding of prisons, the disrespect of their rights and the corruption of the penitentiary officials, who sell rights and privileges, act in arbitrary ways and end up losing the respect of the inmates. The PCC was created as a movement to protect the inmates against the arbitrary actions of their officials and to the “law of the jungle” that prevailed in the various prisons.

If a person does not join the PCC, he or she is condemned to be a double victim, especially because the organization is structured in such a way that there are members inside and outside the prisons. The detainee that gets out of prison has to contribute financially with the ones that stay behind. Its omission to do so could result in him or her being killed or of actions taken against their family because of his “betrayal.” However, the leitmotiv of the organization is not money or drugs, the latter are the means in which to enable the self-defense measure carried out by the inmates.

STRUCTURE OF COMMUNICATION AND OPERATION

The rebellious actions of the PCC wouldn't have been possible without the complicity of the penitentiary officials, of the authorities that, after the rebellion in the face of new threats from the organization, gave in to the demands of the organization. Usually, some agents allow the entrance or even sell cell phones themselves, and also allow lawyers and visitors of the inmates to be received many times a day against the legislation, occasion in which they receive money, drugs, and even weapons.

As a part of their communication channels, the members of the PCC have created an organization of telephone contacts outside prisons. It established groups of near 30 members towards a small telephone central, in contact with the intern command via cell phones, which are constantly changed for new ones to avoid censorship.

Due to the above reason, one of the many proposals of the CPI was the criminalization of the donation, possession or use of cell phones within prison walls, and the obligation of the various telephone businesses to block the reception of calls to and from penitentiary centers.

ORGANIZED CRIME IN RIO DE JANEIRO

In contrast to Sao Paulo, in Rio de Janeiro organized crime is dispersed and divided in various factions that normally dispute and fight over the existing favela territories. The criminal organization Red Command is the most predominant. This organization was created during the military regime, whose founders imitated the political prisoners that fought in an organized and united manner for their rights. Nowadays, however, neither the Red Command nor the other organizations cultivate the solidarity sentiments, the political discourse or the threat or benefit mechanisms that characterize the PCC. Control is exercised by the use of terror, and the organizations are directed exclusively at the business of drugs and weapons.

One of the characteristics of organized crime in Rio de Janeiro is the tribal sentiment that unites its members and automatically transforms all others in deathly enemies. This tribal division is reproduced inside prisons where prisoners are classified according to their own command what demonstrates the lack of control on behalf of the State. These organizations sometimes end up in bloody conflicts, often facilitated by agents that exploit antagonisms between the organizations.

The structure of organized crime in Rio is not complete without including the police: the Military Police of the State of Rio, the Civil Police of the State and the Federal Police. The sectors of the police that are accomplices of organized crime divide the earnings obtained by criminal actions, and exploit the delinquents, who are imprisoned and later liberated by means of payment, or are obligated to buy the drugs back.

MILITIAS: A NEW PHENOMENON?

In Sao Paulo, the 2006 rebellion was motivated by the reaction against the State, to prevent it from cutting the PCC leaders' privileges in prison, but also it was a reaction against the agents of the State that have decided to act outside the State and outside the law: the auto-denominated "militias." These are formed mainly by the retired police and some of the active police, by prison officers and firemen. Despite its

name, these are not militias in the sense of an armed wing of the political movement, and have no popular participation. They have also auto-denominated themselves the Blue Command.

Years before, the policemen expelled traffickers from the favela Rio das Pedras and ended up protecting the community. In exchange for their protection, they charged each family for their services. They also took the different commercial activities and the other activities that used to be controlled by the traffickers into their own hands. The inhabitants that did not pay their services were harassed, pressured and expelled. The support of the community grew because for the first time in a long time the daily violence exercised by the traffickers and by their police accomplices ceased to exist. However, the communities conquered by the Blue Command ended up paying for a “private service” carried out by public officials.

In the last years, the militias occupied 92 favelas in Rio. In addition to the charges for protection and the liberty limitations imposed to the inhabitants, the Blue Command also charged for gas, the use of TV channels, and the use of transportation, among other service rates.

In the future one could foresee that these illegal forces will tend to have an increasing power in the local governments in terms of political power and power of extortion, as well as its territorial extension.

ROLE OF THE ARMED FORCES

The attacks on Rio de Janeiro have caused a debate regarding the role of the Armed Forces in the fight against organized crime due to the failure of the Police. The Armed Forces have collaborated in the face of the lack of success of the Police in the fight against drug and weapon trafficking.

The people in favor of the Armed Forces getting more involved forget various aspects of their greater participation. First, the success of the security in Rio during the International Conference on the Environment in 1992 with the occupation of strategic points by the Army and the Marine to guarantee the safety of the Heads of State is a myth. People ignore that the crime rate went up during those days.

Second, regarding the “honesty” that some people believe

characterizes the military, the doctrine of the Armed Forces is of non involvement in the direct fight against drug trafficking in Colombia. The doctrine states that direct contact with traffic and the great amount of money it involves would end up corrupting the military, like it happened in Mexico, Peru and Colombia.

Third, the armed forces are trained for war and killing, and not for patrolling and developing security-related preventive public policies.

Finally, the risk of characterizing the events of Rio de Janeiro as terrorism is a way of stimulating the intervention of the Armed Forces, and of describing Brazil as a scene of political conflicts, with the premeditated death of innocents. However, this does not correspond to the Brazilian reality because it is a problem of organized crime and judicial corruption.

THE WEAPONS OF ORGANIZED CRIME

Latin America concentrates 42% of total global homicides due to firearms, but it consists of only 14% of the world population. Brazil concentrates 13% of these deaths and consists of 2.8% of the global population. The lack of control regarding weapons associated with the progression of organized crime motivated the creation of the CPI, whose initial objective was mapping out the firearms' sources.

The Commission pressed Brazilian firearm manufacturers to trace the seized weapons in Rio de Janeiro in order to inform the Commission of who had sold them.

One of the results was that 68% of illegal weapons were originally sold by factories to the legal armories of Rio, and 18% to the public power. Of the first group, 74% were sold to "men of good," and 26% to legal private security businesses. Of the weapons sold to public power, 71% were acquired by the police, and 27% by the Armed Forces, before they passed from the legal market to the illegal market.

The analysis of the profile of 146 663 seized weapons in Rio de Janeiro, Sao Paulo and in Brasilia allowed to identify the most used weapons: those weapons are 83% Brazilian, and close to 90% short weapons (like pistols and revolvers), mainly 38. caliber, those are the weapons that threaten the common citizen. In regards to the heavy

armament that comes mainly through the borders, it is used by organized crime to confront the police, the rival bands, to protect the territory and to assault cars and armored vehicles.

The CPI found that weapons come through about 140 points of the terrestrial, maritime and lacustrine Brazilian border. In 2006 the most important flows of smuggling were Surinam, via Rotterdam port, Holland, and the borders of Paraguay, Argentina and Uruguay. This was true *for 2006* because when there is repression in one region, smuggling moves to another region.

The mapping of the entries of smuggled weapons was made based on the testimonies of imprisoned traffickers, the military and other specialists. The main sources of weapons for criminals are:

Internal sources: armories and resellers, private security businesses, public security forces, armed forces, weapons of policemen and military, robbed or stolen weapons from the “citizens of good,” collectors, marksmen, domestic transport and false exportations.

External sources: smuggling of foreign weapons, and Brazilian exported weapons that reenter the country (in what I like to call the boomerang effect)²⁷.

THE PENITENTIARY SYSTEM

The sociologist, Julita Lengruher, ex director of the penitentiary system of the State of Rio de Janeiro (DEGASE after its initials in Spanish) coordinated a group of work that has made a study of the conditions of the penitentiary system of the country.

According to the investigation, between 1995 and 2003 the number of inmates duplicated and generated a grave problem of overpopulation. Something to attenuate the problem would be, not the increment of sanctions (which are already high), but the application of alternative sanctions that do not involve prison. However, few judges apply this in Brazil because they are against it or because the judicial system does not

27 Rangel, “El crimen organizado en Brasil,” pp. 248-249.

have sufficient personnel to control people that have to fulfill their sentences outside prison by carrying out alternative social services. The ones that enjoy parole are also inadequately controlled, and the majority end up committing another crime.

According to Lengruher, other aspects of the penitentiary system are²⁸:

- 94.4 % of inmates are men.
- The inmate population is very young.
- Inmates have a low level of schooling.
- The main reasons for conviction are robberies, drug trafficking, thefts and homicides.
- Regarding the penalties, 15.7% were condemned to sanctions between 1 and 4 years, 20.2% to sanctions between 5 and 8 years, and the remaining 64% were convicted to penalties of 9 years or more, indicating that it is not because of the lack of hard penalties that criminality has expanded.
- Only 17.3% of inmates study and only 26% work.
- More than 2000 inmates live with VIH/AIDS, and this number is probably underestimated.
- 72% of the States separate inmates by factions in order to reduce violence inside prison, but the chance of coordination among prisoners and its accomplices on the outside is increased.

In other words, the State is the first to “transgress” the law in Brazil, generating riots among the inmate population, discrediting the authorities and fomenting the corruption of the penitentiary officials. A frequent cause of riots is the keeping in prison of some inmates, whose sentences already expired and they are not released because of prison bureaucracy and a penitentiary system that works ineffectively.

Impunity is another factor influencing the growth of crime because it transmits the idea that “crime pays” because the number of criminals that are actually captured and later tried is symbolic. Other factors are the poor investigations carried out by the police, the obsolete Brazilian

28 Rangel, “El crimen organizado en Brasil,” pp. 250-251.

legislation and a slow, elitist, expensive Justice system; a system that is usually very lenient to those who can afford to pay.

TYPIFICATION OF ORGANIZED CRIME

One of the main conclusions of the CPI was the inexistence of a classification of organized crime as a specific type of crime in Brazilian legislation. This crime is treated as all the other crimes. The CPI recommended that organized crime should be given a special treatment, like the one given in Italy to the Mafia, because this type of crime has reached such serious proportions that it has become a threat to public safety. It has to be fought with specific legal norms and procedures related with its main characteristics.

**ORGANIZED CRIME IN PERU
WITH REFERENCES TO THE ANDEAN REGION²⁹**

Fernando Rospigliosi

One of the most worrying characteristics of organized crime in Peru is its little or no visibility. Except in the case of drug trafficking, all the other types of organized crime are not considered organized crime.

ORGANIZED CRIME AND CORRUPTION

Organized crime subsists and prospers due to the corruption of the State and society; however, corruption has not been a topic in the governments' agenda. After the decade of Alberto Fujimori and Vladimiro Montesinos—when a gang of delinquents gained power of the highest posts in government and plundered its resources—an anti-corruption system was created during the transitional government of Valentín Paniagua. An Anticorruption Attorney's Office was created within the Ministry of Justice, which filled in on the weaknesses of the Judicial System that had been entirely controlled by Fujimori and Montesinos. The office proposed laws that were later promulgated by Congress, creating tribunals and prosecutors dedicated only to process those accused of corruption during the nineties.

However, the continuity of the work of the Anti-corruption Attorney's Office started to falter in the government of Alejandro Toledo, when the Office tried to intervene in the corruption cases of Toledo's government. The President, aided by the Minister of Justice, tried to weaken the office and later forced its main members to quit.

²⁹ Based on: Rospigliosi, Fernando. "El crimen organizado en el Perú. Con referencias a la región Andina". In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. Crimen organizado en América Latina y el Caribe. FLACSO-Secretaría General, Costa Rica, 2008. pp. 253-275.

During Alan Garcia's government, the fight against corruption is not a priority, it is never mentioned. In addition, there is a strong link between the government and fujimorism because the fujimorism members of parliament support the government.

ANTIDRUGS POLICIES AND DEMOCRACY

The traffic of cocaine generates around US \$71 billion per year³⁰. There are three Andean countries that produce cocaine: Colombia, Bolivia and Peru.

There has been a widespread point of view in some Peruvian, Latin American and North American media that anti-drug policies carried out by the US government in Latin America and Peru backfire because they weaken democracy and affect Human Rights.

However, in the case of Peru, the fight against drugs is in charge of the Police, not the military. The latter only got involved during the nineties in the Fujimori's and Montesinos's government, and this was not because of pressure from the United States, but rather due to the actions of the Peruvian military that co-governed with Fujimori. This was one of the issues that arose frictions between the US and Peru, especially because of the involvement of some military personnel in drug trafficking.

Therefore, it is not true that the US policy encouraged the militarization of the fight against drugs in Peru. On the contrary, when this fight was militarized in the nineties, there were some frictions between the two countries. In the case of Peru, the people that propose that the military should get involved are usually civilians that think that the Armed Forces can combat successfully drug trafficking.

On the other hand, there are government officials and civil society institutions that defend the no eradication of the illegal coke fields based on two arguments: one, that without coke cultivation the peasants could starve to death; two, that this eradication could backfire because it could

30 Rospigliosi, "El crimen organizado en el Perú...", p. 256.

generate the rise of uncontrollable social movements that could end up destabilizing democracy, and even gain positions of power (like what happened in Bolivia).

The first argument is wrong. In Peru, between 1992 and 2000, around 75% of coca leaf fields disappeared after prices plummeted mainly because Colombian drug traffickers (the greater buyers of Peruvian producers) spread the productions of coke leaves in their own country. In this case there was no case of famine or humanitarian catastrophe. The peasants simply shifted their products or changed occupations.

Another fundamental change in the Peruvian drug trafficking business during the nineties was that drug traffickers involved peasants in the production of basic cocaine paste (PBC after its initials in Spanish). A kilogram of PBC is sold for over \$640. No other agricultural product can compete with those prices. Coke paste has other advantages: it is a very resistant plant that does not require special care, it produces three or four harvests per year, and most importantly, drug traffickers buy the paste where it has been produced and are in charge of its subsequent transportation.

This is why there is no sense in trying to convince the cultivators of coke leaves or the producers of coke paste to voluntarily change their crops; they will never do that unless the State eradicates all illegal crops by force. But at the same time, there have to be alternative programs of development that give other options to peasants.

INTERNATIONAL COOPERATION

Due to the lack of interest of the successive Peruvian governments in the fight against drugs, if not for international cooperation, drug trafficking would have gotten completely out of control in Peru. Approximately 90% of financing for the fight against drugs comes from international cooperation and almost all funds come from the same sources.

Recently, due to the news that in the 2008 US budget the funds for the fight against drugs directed to Latin America will be reduced, Peruvian authorities have tried to find aid in the European Union. But so far no one has talked about the idea that the Peruvian State could destine more of its resources to this topic.

The predominance that the US has in the design and application of anti-drug policies presents problems and offends some sensibilities, but the truth is that given the weakness of the Peruvian State and its lack of interest in the subject, international cooperation is the decisive factor in order to maintain the fight against drug trafficking.

HUMAN TRAFFICKING

This has been an old problem in Peru, recently it has been given more importance because of two reasons: First, the discovery and capture of Chinese people that were on their way to the United States and where using Peru as a transit point; and second, the pressures from the US government that threatened of transforming Peru from a level 2 country (countries that do not meet the minimum norms, but make an effort to meet them) to a level 3 which implied drastic cuts in aid resources. This is why a law against human trafficking and the illicit traffic of immigrants was passed in 2007.

The Chinese

Between 2003 and 2005 15 128 Chinese legally entered Peru and 13 730 registered their exit. It is estimated that about 70 to 100 Chinese arrive, via Peru, to the United States each week³¹. The ones that stay in Peru usually cannot afford the total amount to get to the United States, so they are confined to agricultural labor in the outskirts of Lima or are sent to a network of “chifas” (Chinese food restaurants) managed by the Red Dragon Mafia (a Chinese gang dedicated to the traffic of immigrants).

The children of the VRAE

Human trafficking is superimposed with another illicit business in the case of children that work in the coke fields of the Valle del Rio Apurimac Ene at the southeast of Peru.

31 Rospigliosi, “El crimen organizado en el Perú...”, p. 267.

WEAPON TRAFFICKING

A case that was discovered near the end of the government of Fujimori and Montesinos shows the characteristics of the illicit trafficking of weapons, the participation of agents from diverse nationalities, and its relationship with other illicit activities like drug trafficking and terrorism.

Montesinos organized the business. He sent the Aybar Cancho (drug traffickers, members of a weapon trafficking band and suppliers of the Peruvian military during Fujimori's decade) to Colombia in 1998 to negotiate with the FARC. Even Montesinos was in Colombia. In 1999, Montesinos invited the trafficker of weapons, Sarkis Shogalian, who was greeted by Montesinos, who proposed a business to buy some weapons, among them 50,000 Kalashnikov Jordanian fusils for the Peruvian army. Supposedly, Aybar Cancho was the one that gave the list of arms to Shogalian on behalf of the army. The FARC would pay for the arms using cocaine, a kilogram of cocaine for each weapon. The intermediary in the business was one of the heads of Brazilian drug traffickers, Luis Fernando da Costa, who received 10 tons of cocaine in exchange of US \$ 11,5 million that would be given to Montesinos and his Peruvian associates, who had only paid US \$ 700 000 for the weapons.

The evidence indicates that this business precipitated the fall of Montesinos and the collapse of the government of Alberto Fujimori.

Minor traffic

In the last few years only minor cases of light weapons, grenades, and ammunitions have been discovered. They are usually stolen by members of the Army or Police in their own institutions, and they later go to the FARC through Ecuador or by pluvial transport in the Peru-Colombia border. Light weapons and ammunitions are also trafficked in the Peru-Bolivia border, which are destined for the Peruvian delinquent market or travel farther to the FARC.

PIRACY

Pirated DVDs, CDs and books are freely sold in the streets of Lima and in legitimate commercial galleries. The sellers consist of small traders, the

majority ambulatory. On the rare occasions that they are seized by the Police, they violently threaten the authorities. They state that they are working honestly and they cannot get other types of employment. The authorities usually leave them alone.

A pirated movie is sold at about US \$ 1.5. In a regular store, just renting it for a day is three times more expensive, and buying it is 10 to 15 times more expensive. With the additional difference that pirated movies arrive earlier to rental places, even before they are shown in cinemas. This is why some movie theaters have gone bankrupt because they cannot compete with pirated goods.

According to Police sources, Peru is a center for piracy. Pirated movies or music are distributed there and then smuggled to Bolivia, Ecuador and other countries.

LAUNDERING OF ASSETS

Considering the many illicit businesses that flourish in Peru and mobilize hundreds of millions of dollars per year, a special interest from the authorities towards the investigation of money laundering should exist.

In April 2002 a law created the Unit of Financial Intelligence (UIF after its initials in Spanish). However, this has not had optimal performance; the budget is not enough to do a good investigating job. A possible hypothesis to why the Alejandro Toledo's and Alan Garcia's governments have not promoted investigations is because these investigations could affect many interests, probably even the interests of some people in government.

CONCLUSION

Organized crime can advance without many obstacles. The weak State that has also been consumed by corruption is not a hard obstacle to overcome. Politicians of different political parties do not prioritize in the fight against organized crime due to ignorance, fear, or corruption.

International pressure and, to a lesser degree, the pressure from the civil society makes possible to carry out some actions against organized crime. It is very evident in the topics that interest the United States: drug trafficking, human trafficking, and money laundering. In these issues some activities

have been done and certain legislations passed. But in other illicit enterprises (smuggling for example) the authorities have not carried out almost any measure because of the interests behind these sorts of activities.

Peru and other countries of the Andean region could enter the category of “failed States,” unviable and ungovernable. Some US scholars and politicians already attribute this condition to some countries. Organized crime benefits from the chaos and corruption within the government and it is also one of the factors that promote chaos. Fighting it should be a number one priority.

THE CHALLENGES OF COOPERATION IN THE FACE OF DRUG TRAFFICKING IN THE CARIBBEAN³²

Lilian Bobea

TRAJECTORY OF INSECURITY AND ILLICIT FLOWS IN THE CARIBBEAN

From the anti-drugs war to the attention deficit syndrome

In recent decades, the preoccupation over security has taken a central place in the hemispheric and regional agenda. In the Caribbean, this preoccupation is not associated like it used to be to ideological and hegemonic rivalries; it refers to the articulation of organized and transnational criminal activities and their impact on each country. The main vector of this insecurity is drug trafficking.

Since the eighties, cooperation with the United States was sustained on the concept of a declared war against drugs. The Caribbean region was a key ally in the interdiction strategy, but also a vulnerable subject to the United States' certification policy when the terms of the agreement were not met.

The Caribbean governments have been prone to the search for strategies oriented to fight the growing insecurity the emergence of criminal networks has caused, networks that are involved in the traffic of drugs, weapons, and people. The majority of countries are part of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances (1988), and most of them have signed, not necessarily ratified, the Inter-American Convention against Corruption, the United Nations Convention against transnational organized crime, and the Caribbean Maritime Agreement. Another strategic initiative was carried out by CARICOM in 2002 with the conformation of the Regional

32 Based on: Bobea, Lilian. "Los desafíos de la cooperación frente al narcotráfico en el Caribe". In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crímen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 277-305.

working group on Crime and Security where the main threats to the region were defined, especially the non-traditional ones like organized crime, corruption, HIV/AIDS, and the weakness of the legal systems.

Another thing that worries the region is the outflow of resources destined to fight drug trafficking due to the wars carried out in the Middle East and the gradual disengagement or “attention deficit” of the United States in the search for solutions to the Caribbean’s problems.

Narcoterrorism in the Caribbean

The events of September 11, 2001 changed the US government’s priorities regarding the region. The anti-narcotic war became submerged into a greater and larger war against terrorism. Resources and priorities were relocated from drug-related problems to borders and ports and to the generation of anti-terrorist intelligence systems. Not even the adoption of the “narcoterrorism” concept on behalf of the Caribbean governments minimized the impact of the emigration of resources.

In the face of this hard disjunctive, that is the greatest challenge for the Caribbean countries, and it is aggravated by the fact that there is a type of “control without responsibility,” it is aggravated further due to the growing presence of narco-criminality with serious repercussions on both the national and international levels.

MAPPING OUT OF ORGANIZED CRIME AND DRUG TRAFFICKING

The Caribbean region is located between the production zones of the harder drugs such as cocaine, heroine and ecstasy (Colombia, Venezuela, Peru, and Bolivia) and the consumption zones (United States and Europe). According to the United Nations Office against Drugs and Crime, of the total 575 tons of cocaine that are produced worldwide, 500 tons pass through the Caribbean region³³. Recent estimates project in almost US \$300 million the profits perceived by corrupt bureaucrats involved in the drug business.

33 Bobeá, “Los desafíos de la cooperación frente al narcotráfico en el Caribe”, p. 282.

In addition to geographical determinants there are other less structural factors that stimulate the flow of illicit goods to the region, among them the fact that the Caribbean has seven of the most impoverished economies worldwide, and a high proportion of its societies rest on external resources such as remittances and illicit earnings. Additionally, many governments are going through a crisis of legitimacy or confront important institutional weaknesses.

These conditions favor the dynamics of illicit drug trafficking in the region. According to the Caribbean Drug Control Coordination Mechanism (C.C.M.), of the United Nations Drug Control Program (UNDCP), in its 2000 report³⁴:

- The illegal drug market in the Caribbean generates about 3,3 billion dollars. It represents 3.1% of the GDP of the region.
- This market has grown over 2% in the last decade.
- Cocaine is the drug that has the greater added value, and it represents 85% of the drug market in the Caribbean, displacing marihuana as the main one.
- In 2000, the Caribbean corridor supplied 47% of cocaine that entered the United States. More than half of the cocaine that transits in the English Caribbean is directed towards Europe.
- With only 0.5% of the global population, the Caribbean accounts for 7.4% of the global seizures of cocaine.
- The behavior of the seizures tends to fluctuate; these variations could reflect the tendencies of the market. The greater participation of a specific destination, the greater the corresponding corridor, which ends up reflecting in the number of seizures.
- The difficulties for the groups of traffickers to integrate vertically have inhibited the existence of only one regional organization. This fragmentation of markets leaves the Colombian networks with almost absolute control of the market.
- This configuration lies in a scheme that involves national corrupt groups as the main linkage between international networks and intra-regional linkages.
- Cocaine and ecstasy routes are determined by linguistic and

34 Bobsa, "Los desafíos de la cooperación frente al narcotráfico en el Caribe", pp. 283-285.

colonial links: for the Spanish speaking countries, Spain is the main destination for their products, Haiti and the French departments feed the French market. The same relationship exists between former Dutch and English territories and their old metropolis.

- There is a symbiotic relationship between drug trafficking and arms trafficking. Weapons are used to protect the shipments and the selling points of drugs, under the “arms in exchange of drugs” modality.
- Each one of these vectors defines the trajectories of the changes undergone in the economic and political spheres of the region. Among the most critical impacts are: a) The expansion of corruption; b) The deterioration of Human Rights and of the due process of law; c) The deterioration of the justice systems; d) The inhibition of the institutional reformation processes, especially regarding control organisms and law enforcement institutions; e) The problematization of the relationships; and, f) The undermining of the initiatives to conform regional preventive and control systems.

NEW DYNAMICS

There were some changes between 2005 and 2006 in the context of the diminishing economic aid. First, there were some variations in the way the drugs entered, with a predominant use of air transport, and also changes in the volume of the incursions, with a 167% growth of the number of flights from Venezuela to the La Española Island in just a year³⁵. Notably, one third of these flights were destined to Haiti.

Causes of drug trafficking in Haiti

The political and social crisis that has transfigured this nation has a lot to do with the incapacity to confront drug trafficking and its internal impact. The State Department stated that Haiti is going through various limitations, such as the lack of protection in about 1,125 miles of coastal zone, the existence of numerous clandestine flight tracks and non-

35 Bobeá, “Los desafíos de la cooperación frente al narcotráfico en el Caribe”, p. 287.

controlled ports, and a weak institutional infrastructure that includes a Police with a marked tendency to collaborate with drug trafficking and a dysfunctional and corrupt justice system.

Traditionally drugs enter the Haitian territory through maritime transport, mainly through the southern coast and via air transport. The first mode is done on quick boats that encounter other small fishing boats near the coast of Cabo Haitiano. But traffickers are favoring the use of air transport due to the enormous difficulty to intersect, from the Haitian territory, planes that come from the southern zone and from northwestern Venezuela. Another system, mainly of cocaine and, to a lesser degree, of heroine, lies in the use of commercial boats that escape a strict control at the entrance or exit points of the island. The drug is also transported in commercial flights by the use of “drug mules” and by land transport from Haiti to Dominican Republic.

Increase and growing complexity of criminality

Locally, drug trafficking is a catalyst for organized crime and violence. During the last decade, there was an increment in criminality that could be associated with drug trafficking. For example, 60% of crimes that occur annually in Jamaica and 65% of the ones that occur in Trinidad and Tobago are drug-related³⁶.

LOOKING TOWARDS THE NEAR FUTURE

In terms of responses, preferences of cooperation will still rest on bilateral relations, but regional and international cooperation have to exist as well, increasing the involvement in multilateral security zones that involve extra-regional actors, including non traditional actors like the South Cone and China.

36 Bobsa, “Los desafíos de la cooperación frente al narcotráfico en el Caribe”, p. 290.

On the intermestic level

- To impulse penal reforms, emphasizing on the reintegration of individuals into society.
- To strengthen the Justice system in each country and in the region, searching to decongest the systems and to provide alternative means for the solution of conflicts.
- To use extraditions as a way of strengthening arbitration systems and the national courts.
- To establish a regional mechanism of feedback on successful practices, lessons learned, and also a mechanism for tracing the different routes of the illicit businesses.
- To implement the components of the Drug Observatory on the regional level.
- To get closer with strategic allies in Europe, Canada, Latin America and the Pacific.
- Based on the recommendation from the CARICOM Regional Task Force on crime, legislative and administrative mechanisms that facilitate intra and inter regional coordination have to be established from the national level.
- To establish fast-acting units among security forces.

On the bilateral level

- To establish dialogue mechanisms between chancelleries and the interior defense to discuss safety-related issues.
- To establish dialogue mechanisms regarding strategic visions, security problems and civil control of the forces.
- To involve members of Parliament in the dialogue.
- To state in advance short and medium term objectives in the areas of foreign policy, defense and internal security.
- To carry out combined exercises between the Police and the Military systems.
- To make the bilateral policies more transparent.
- To promote seminars where bilateral problems can be discussed.

On the regional level

- To create a progressive agenda of topics.
- To make a list of cooperative measures.
- To make a list of measures that should be discussed or shared, and that are not on the bilateral agenda.
- To provide information on the abilities of the military and the police.
- To share through the media what has been discussed and agreed.
- To create joint courses, with the support of the OAS, for the training of the forces that will be at the different borders.

**BETWEEN THE LEGAL AND THE ILLEGAL:
TAX PARADISES AND THE COUNTLESS FLOWS OF
CAPITAL³⁷**

Anthony P. Maingot

THE WORLD OF TAX PARADISES

What is called “off shore” describes a whole range of businesses: banks, insurance companies, ship registers, international business corporations (IBC), among others. These are not, by definition, illegal, but the main dimension of the offshore is that it operates outside the control of a central bank or of the State control under which national banks operate.

It is not difficult to choose a tax paradise, the requisites for the creation of an international company are few and in the majority of cases the business is created electronically and, if not immediately, at least in the next 24 hours. These institutions attract not only criminals that seek how to launder their money, but also those who are not legally “criminals” but who seek places where they will be exempted from taxes and will enjoy absolute confidentiality and secrecy.

This confidentiality is what legal and illegal businesses seek. For the licit client, it is crucial that tax evasion in the original country is not considered a crime in any of the offshore centers. Some companies offer “economic citizenship” (with new passports and even a new name) in some sovereign State. They also offer something denominated “vintage companies” for immediate use. These centers offer to launder the money but also to clean the identities of the people and institutions involved. According to Ronen Palan the following activities are managed there³⁸:

37 Based on: Maingot, Anthony. “Entre lo legal y lo ilegal: Los paraísos fiscales y los flujos inagotables de capital”. In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crimen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 307-325.

38 Maingot, “Entre lo legal y lo ilegal: Los paraísos fiscales y los flujos inagotables de capital”, p. 308.

- 80% of all global capital transactions.
- Almost all of the US \$2 trillion in exchange transactions.
- They contain 20% of the global private wealth.
- They contain 22% of the external assets of the banking world.

The Cayman Islands is one of the most important tax paradises in the Caribbean, and it is the second offshore center in the world after Switzerland. Second in size, older, and more suspicious is Panama. The boom of the offshore business in the Caribbean reached such heights that a small island like Anguilla, with only 7000 inhabitants had 45 banks with 3500 registered companies. Montserrat, with 15000 inhabitants had 350 banks³⁹. There was such a scandal that the British government had to intervene and close the majority of the banks and companies.

This British action was followed in 2000 by the OECD and its Financial Action Task Force that threatened to sanction centers that appeared in a list of countries and territories characterized by their bank looseness or laxity. The Caribbean was more than present in that list: Bahamas, Cayman Islands, Dominica, Panama, St. Kitts and Nevis, and St. Vincent and the Grenadines. The OECD continued publication of a “black list” until 2004 when the International Monetary Fund complained that it was difficult for this institution to carry out cooperation for development in these small territories. With or without being in the list, the Caribbean is still popular mainly for geographic reasons: its offshore centers are in the same region that serves as a bridge for 50% of the drugs that flow from the biggest producer (Colombia) to the biggest consumer (USA). But there is also a human dimension that explains the concentration of these offshore banks in the Caribbean. The main goal of any criminal is to enjoy his profits in some tropical paradise, especially if it is located in the zone where he operates his criminal activities.

39 Maingot, “Entre lo legal y lo ilegal: Los paraísos fiscales y los flujos inagotables de capital”, p. 311.

SOURCES OF THE FLOWS

There are three main sources of the flow, the most discussed is the flow related to political corruption. It is not the biggest source of the total global flows, but because it is seen as a betrayal of the material and moral patrimony of the nation it causes the greatest scandal.

Another flow of illicit capitals is the money that results from criminal acts such as drug trafficking, arms trafficking and human trafficking.

The third and greatest source of money for offshore paradises comes from a gray area between the legal and the illegal. Neither the flows of political corruption or international criminality compare to the world trade funds. It is estimated that 50% of the \$ 30 trillions that represent global trade stays in offshore centers⁴⁰.

The fear is what economists call “volatility”: the speculative character of these funds and its mysterious presence offshore is so high that there are no controls. This situation is difficult for the United States because the budget deficit and the balance of payments of the US are so enormous that there is a desperate need for that foreign money.

The strategy of IBC offshore was seen as an integral part of the business world within a capitalist system. This started to change because of two dramatic events. First came the 1991 scandal of the Bank of Credit and Commerce International (BCCI). With this bank the offshore world had reached its peak, both for legal and illegal capitals. Its sudden collapse caused such a big shock that different governments started to carry out measures to regulate the flow of capitals. The second event was the terrorist act of September 11, 2001, which revealed how easy it was for potential terrorists to transfer funds from any part of the world to local banks. Two weeks after the attack, United States approved the Patriot Act and the Intelligence Reform Bill, the two were full of control measures on international transfers, especially the ones that came from offshore centers.

40 Maingot, “Entre lo legal y lo ilegal: Los paraísos fiscales y los flujos inagotables de capital”, p. 315.

None of this could be concreted without fighting a hard battle against the established financial interests and a philosophical debate between the philosophy of the maximalist capitalism that emphasizes on individual rights (Actor A), and those who defend a more interventionist and regulator State (Actor B).

According to “A”: (1) The philosophy of capitalism implies the obligation to reward economic activity. (2) As part of liberty, the north American capitalist system has always facilitated the use of mechanisms to minimize taxes. (3) Governmental investigations contravene this liberty and discourage investment and the enterprise spirit.

According to “B”: (1) A fundamental part of any sovereign State is to regulate the economy, and therefore, to also collect taxes. (2) These functions are essential in order to pay for defense expenses and other services, and to ensure social peace and justice in the collection of taxes.

Despite the events of September 11, it was possible for “A” to have a greater following. However, two enormous scandals in the US corporate world have made it harder for “A” to maintain its following. First, the moral indignation caused by differing taxes on different social groups. It was revealed that for every dollar that goes to taxes, 55 cents comes from individuals earnings, 35 cents comes from taxes on social insurance, 8 cents from corporations, and 4 cents from inheritances and gifts⁴¹. Society gained conscience that corporations and their executives have very complex mechanisms to evade their tax responsibilities.

Second, the Enron crisis occurred. It started when the largest energy company in the country declared bankruptcy in 2000. Thousands of people lost their jobs and pensions, and many debts were never paid. Also, the executives of ENRON had a lot to do with the inflation and manipulation of prices during the energy crisis that almost led California, Oregon, and Washington to bankruptcy. Thirty-three executives were prosecuted on charges of fraud, conspiracy, and money laundering. The three most important were sent to trial and condemned for swindle and money laundering in 2006.

41 Maingot, “Entre lo legal y lo ilegal: Los paraísos fiscales y los flujos inagotables de capital”, p. 318.

To understand how ENRON executives could hide the real financial situation of the corporation while getting richer themselves, one has to understand the role of the secret accounts and fictitious entities they had created in various tax paradises over the world; they maintained more than 3000 extra official accounts. It is significant that out of 800 offshore entities, 692 were in the Cayman Islands, a British territory out of the control and supervision of the United States⁴². The idea was to hide the real situation of the company, hiding the losses while they artificially inflated the shares of the company and created secret accounts to reward the high executives.

CONCLUSION

There is evidence that in the US, the debate between “A” and “B” has begun to shift towards the arguments of “B”, three social tendencies indicate so. First, the increase in legal actions of the State. For example, between 2002 and 2005 charges were raised against 900 executives in over 400 cases of corporate fraud. Second, the popular interest reflected in the existence of books and novels that talk about corporate corruption and of a capitalism without limits nor social responsibility. Third, polls reflect a change in what is expected of the government. Ten years ago 36% of people thought that “the better government is one that governs less”; that percentage had lowered to 20% in 2004⁴³.

However, it is uncertain if these efforts to reduce the abuses of the great capital will be successful in the long run because of two main reasons. First, it is evident that the cases analyzed here represent a strong and ancient culture and practice of the great US and international corporations. Its philosophical bases can be called, according to Palan, “global constitutionalism”: the idea of the constitutional right of capitalists to maximize their earnings in any way they please to do so.

42 Maingot, “Entre lo legal y lo ilegal: Los paraísos fiscales y los flujos inagotables de capital”, p. 320.

43 Maingot, “Entre lo legal y lo ilegal: Los paraísos fiscales y los flujos inagotables de capital”, p. 322.

The second reason is related with the difficulties of adequate regulation: small countries that offer their offshore services function as parallel systems to that world, and are often used as simple mechanisms for the manipulations of the biggest companies.

**VIOLENCE, JUDICIAL CORRUPTION AND FRAGILE
DEMOCRACIES:
REFLECTIONS ON THE CURRENT SITUATION IN
CENTRAL AMERICA⁴⁴**

Pierre Frühling

During the eighties Central American countries were characterized by armed conflicts and the dominium of the military, mainly because of the interpretation of the US government that the region had turned into a battlefield in the context of the Cold War; Costa Rica was the only country that did not go through these types of conflicts.

The end of the Cold War caused many changes in the global scene and immediate consequences for Central America. In the nineties there were positive changes in Latin America. There were peace and free elections at last. Significant international aid flowed to the region, especially destined for the most affected countries—Nicaragua, El Salvador and Guatemala.

MANY DEATHS, FEW CONVICTED

Today just 8 years into the new decade there is a new crisis situation in the majority of Central American countries. The frequency of homicides in Guatemala, El Salvador, and Honduras has had strong growth and is among the highest in the world. Meanwhile, the proportion of cases that have been clarified is so low that there is a lot of impunity. The trade of arms is flourishing, the presence of hired killers is palpable, and the number of employees of the private security agencies is several times higher than the number of policemen. These high levels of violence affect the national economic growth and reduce the interest in investing for the majority of foreign entrepreneurs and financiers.

44 Based on: Frühling, Pierre. “Violencia, corrupción judicial y democracias frágiles. Reflexiones sobre la situación actual en Centroamérica.” In: Solís, Luis Guillermo and Rojas Aravena, Francisco. Edit. *Crimen organizado en América Latina y el Caribe*. FLACSO-Secretaría General, Costa Rica, 2008. pp. 327-378.

“Maras”-a juvenile and violent phenomenon deeply rooted in society

In the last ten years a new type of juvenile gang has been developing in three countries: El Salvador, Honduras, and Guatemala. This new type of criminal gangs called “maras” have become one of the greatest problems the government has to confront and it has caused fear among the population of marginal urban zones.

The “maras” are groups made up of young people between the ages of 8 and 35. When someone becomes a member of this group, they acquire a “new lifestyle” and a certain identity, and committing crimes becomes part of the way of life of the person. According to estimates, around 70,000-100,000 people belong to these gangs in Central America⁴⁵.

Their members not only dedicate themselves to criminal activities, they can also be a part of the legal labor market and share many activities with other young people. Also, links between some “maras” and illegal activities such as smuggling, arms trafficking and human trafficking from Guatemala to Mexico have been discovered.

Their main fights are against rival gangs over the control of different territories. In the three countries, these gangs control a great number of municipalities and/or extensive urban zones.

Particularly in El Salvador and Honduras, governments have responded only with repression under the assumption that this problem can be solved by only applying measures of force such as declaring illegal the membership to these groups, massive arrests and the jailing of thousands of members.

In contrast, Costa Rica and Nicaragua have regular levels of violence, the frequency of homicides has had a small growth since 2000 and the proportion of clarified cases is still within acceptable ranges.

While in Guatemala, Honduras and El Salvador, the police are qualified as being corrupt and directly involved in criminal acts, especially in Guatemala, Police authorities in Nicaragua and Costa Rica

45 Frühling, “Violencia, corrupción judicial y democracias frágiles...”, p. 334.

enjoy a certain level of trust from the population. However, when the Prosecutors Office and the Justice system are included, the majority of the population in 4 out of the 5 countries considers that impunity levels are so high that one cannot trust in the system.

THE POOR WITHOUT RIGHTS

The situation is not reduced to a high level of homicides and little trust of the citizens, the most worrying aspect is that the very existence of these fragile democratic systems is at stake. For example, the State in Guatemala does not have the capacity of guaranteeing fundamental rights like the right to work and circle freely, the right to receiving an adequate protection and the right to access an efficient Justice system. In Guatemala, the National Police responds for most of the Human Rights violations.

Poor people represent the majority of the population and they are the most affected ones because they cannot afford to pay for private protection or to pay the services of a lawyer that will allow them access to the official Justice System.

In the capital, the greatest problem is the lack of protection of life and property. This is reflected in poor urban zones dominated by the “maras” and other violent groups. Violence is ever present and the fees gangs ask in exchange for their protection are a great economic burden on citizens. They also lack the Police as a resource for their protection. On rare occasions is a criminal detained, and he or she is rarely sentenced.

In rural areas where the indigenous population is more predominant there is a lack of judges and other officials of the Justice system and the number of local officials that speak the indigenous languages is very limited.

A CORRUPT AND VICED JUSTICE SYSTEM

The acts of the National Prosecutors Office are another serious problem. In this entity the majority of complaints and cases stay stagnated. It is also here where the heavier cases with the highest

symbolical content for the public, especially because they involve people from the most influential families or because they involve people that take part in organized crime, receive special treatment.

This is easy to explain: in the “heavier cases” there are different types of influence, threats or bribery. The salaries of the people employed in the Prosecutors Office or the courts tend to be low and their access to personal protection is limited. To oppose to pressure coming from influential people or organizations exposes the person to an immediate risk.

An investigation on homicides and the efficiency of the Guatemalan authorities

This study was applied by the Swedish International Development Cooperation Agency (SIDA) with the objective of understanding the high level of homicides in the country; the main results are the following⁴⁶:

- Homicides in Guatemala are characterized by a marked geographic concentration. Three provinces that only concentrate 25% of the population account for more than 55% of the homicides.
- Around 80% of the homicides are perpetuated with firearms.
- More than 90% of victims are young men (between 15 and 29 years of age) and almost 20% are teenagers (between 15 and 19 years of age). The majority comes from a humble socio-economic background.
- One fourth of all victims are well-known criminals.
- In no less than 40% of cases the murder had been previously planned and the victim had been previously identified. In just 10% of cases it was evident that there had not been any previous planning.
- In regards to the motives, around 60% of cases had been classified as a result of “fights, vengeance or assault”.
- There were witnesses for the majority of cases, but there was no following to their testimonies, and the material evidence from the place of the crime was handled inefficiently.

46 Frühling, “Violencia, corrupción judicial y democracias frágiles...”, pp. 345-347.

- Autopsy protocols were limited to the most elemental information and had little value for the investigation.
- In 553 of the investigated homicides testimonies pointed to 650 people implicated. However, the authorities only identified 20 suspects.
- Only three cases got to trial, one had an acquittal while the other two processes were still open by the end of this investigation. Even if both trials were to result in a guilty verdict, the level of clarified cases for this period would be less than 1%.
- The criminal investigation initiated by the police was often rejected by the Prosecutors Office, who generally did not execute any field investigation to advance the case.
- Both in the Police and in the Prosecutors Office there were no following mechanisms for the cases that were solved compared with the rate of complaints received and investigations initiated.

In sum, the study identifies the following conclusions:

1. The low level of clarified cases implies an almost total impunity.
2. The extreme lack of coordination between the Police and the Prosecutors Office leads to punctual and isolated investigations that are never linked together. Therefore, there is no process of criminal investigation.
3. The almost total absence of results in the criminal investigation of the murder cases is not due to the lack of resources. It reflects the mode of functioning of the current justice system where the clarifying of murder cases does not seem to be its job.

CRIMINALS IN PUBLIC OFFICE

The extended corruption in the public sector constitutes a traditional link between political sectors and criminals. In the last few years another link between these spheres has acquired visibility in Guatemala, such as the existence of people with known criminal records in political posts such as city councils, mayors or members of Congress. The objective is to obtain a façade of legitimacy and to get the opportunity of influencing

important decisions that affect the parallel economic activity they carry out. Also, at the level of the various municipalities there have been cases where the goal is to maintain control over a certain territory in order to protect the operations of their businesses and their personal security. Economic resources of drug trafficking have flowed to electoral campaigns, obviously not without demands for later remunerations and compensations.

The extensive traffic of drugs, mainly Colombian cocaine that flows through Central America, generates many revenues. Guatemala is one of the favorite countries of drug traffickers due to its geographic location, to the existence of extensive territories without the presence of the State and to the porous and collaborating character of its judicial system.

Possibly this is the background to the growing number of murders registered in the last few years against politicians and their families. On one hand, there are the murders of militants of various political parties motivated by the ambition of conquering a political post. On the other hand, there are murders directly related with organized crime groups that have the objective of eliminating a non-corrupt opponent. These murders can be motivated by the eagerness to place their own candidates in places of interest and thus eliminate the competition.

DEMOCRACY WITHOUT A STATE OF LAW?

Guatemala is an extreme case, but it has similarities with the other countries, probably with the only exception of Costa Rica. Both in Honduras and El Salvador the frequency of homicides is the same or even higher, with 10%, or even only 5%, of clarified cases⁴⁷.

According to a study of the World Bank, the population's trust in the Justice System and law enforcement is the lowest in Guatemala, followed by Honduras, Nicaragua, and El Salvador. In regards to corruption (defined in the study as the opinion of the citizens regarding the degree of control over the attempts of corruption), Honduras has the lowest

47 Frühling, "Violencia, corrupción judicial y democracias frágiles...", p. 355.

level, followed by Nicaragua and Guatemala, while El Salvador gets slightly higher scores, but still maintains negative scores. In both variables, Costa Rica is located in a totally different category because it has positive scores in both variables⁴⁸.

Both indicators refer to a broader concept of what is the “situation of law” including not only Police authorities, the Prosecutor, and the Justice System, but also including the evaluating of other central institutions. The indicator of corruption also reflects the population’s trust in the public administration, meaning to what extent people think that public posts are used by public officials for private benefit.

All this points out that these four countries cannot be considered States of Law. In theory, they possess all the key institutions, but the quality and character of their real activities do not meet the functions that should exist in reality.

SOME MAIN REASONS

First, *How* could we seriously think that these four countries could, in such a short time and without great difficulties, become countries with solid democratic systems? Second, *Why* have we not wanted to see what has really been happening in these countries and the implications of their development in their governing systems?

In reference to the how could this happen this way, the explanation lies in four factors: *First*: The character of the central institutions at the beginning of the transition to democracy. *Second*: The evolution of the political actors during the same period. *Third*: The type of economic development that has characterized these countries during this period. *Fourth*: The volume of drugs coming from Colombia through Central America destined to the United States.

48 Frühling, “Violencia, corrupción judicial y democracias frágiles...”, p. 356.

INSTITUTIONS OF ANOTHER AGE

In a historical perspective, both the “public sector” (with services like the Police, the attention to education, drinking water, and public health), and the “public administration” (Ministries and other authorities) were never public in Central America, at least not in the real sense of the word.

Historically, there has been in Central America direct links between the structures of the State and the influential families that have managed the public spheres like if they were exclusively theirs. For the rulers it has been especially necessary not only to exercise control over these institutions, but to ensure of their real loyalty and “spontaneous obedience.”

In order to be successful, the transition to democracy required the substitution or re-founding of these institutions, but this has not yet occurred.

WEAK DEMOCRATIC FORCES

Guerrilla movements have not been successful in creating structurally strong political parties with a democratic vocation. The scarce democratic tradition has influenced over the evolution of these movements, which have not been able to liberate themselves from caudillismo.

The few popular organizations that have existed (mainly unions and peasant movements) have gradually disappeared or have lacked the capacity to transform into democratic movements with a national scope.

Political parties in these countries have little to do with the traditional role of a party in a democratic system. They rarely have an ideological base, their programs are superficial and have a general and changing content. There is no accountability or control over electoral financing. They are organizations that just meet electoral ends. Some maintain certain stability, others have a short duration, but almost all of them are characterized by a closed structure and mode of functioning.

There are various non governmental organizations, but the organizations based on a true form of membership are scarce, and few of them have a democratic structure—with annual assemblies, annual reports and transparent economic rendering.

CONTINUED ECONOMIC INEQUALITY

Since the beginning of the nineties, the economic development of these four countries has had the following characteristics:

1. Economic growth has been relatively low. The proportion of poor people has had a slight decrease during the period, but is still high. The majority of people classified as “poor” are really part of the group of “extremely poor.” This poverty is accompanied by high levels of socio-economic inequality.
2. These countries have shown a constant and marked commercial deficit.
3. Foreign investments remain low and generally correspond to non-qualified sectors of production. The informal sector dominates the economy and the creation of jobs in the formal sector is low. There has been an economic downfall in agriculture and the rural economy, activities that currently have less impact on exportations and in the formal economy.
4. The dependence on remittances is growing. Even though emigrants usually have a better standard of life in United States than in their original countries, this exodus has lots of effects such as family disintegration, artificial levels of consumption that have no relationship with national production, and the loss of younger and more educated human resources.

MONEY LAUNDERING AND ORGANIZED CRIME

Organized crime moves great sums of money and has enjoyed a big growth. One of the causes of this growth is that Central America is increasingly being used as a transit zone for the smuggling of drugs from Colombia to the United States or Mexico.

Other common activities are massive smuggling, human trafficking, the robbing of cars and trucks that carry valuable goods, and kidnapping. The common characteristic in all these activities is their dependence on a favorable climate for money laundering.

The existence of a broad and varied informal sector constitutes another advantage, and also their access to people that because of

different reasons have lost faith in the system and that are easily recruited for the service of different criminal activities. In addition, the extensive corruption of the Police, the high levels of impunity, and the leaky and collaborating character of the Justice System are other advantages for organized crime.

NATIONAL ACTORS AND OTHERS

Generally the actors and circumstances that explain any given situation are national, with perhaps the exception of the Cold War and drug trafficking. The main point of this perspective is that almost always the internal actors determine the development of a given society.

However, one has also to recognize that after the end of the Cold War there have been external agents—actors not linked to drug trafficking—that have influenced in certain periods over the development processes in Central America even during the years after the peace agreements.

One of those actors is the United States that still continues to consider Central America as a zone of “strategic security.” Also development banks and other financial institutions have granted many credits to these countries under different types of terms of agreement. Under these terms rarely do issues related with levels of corruption, efficiency of the Justice System, greater tax burdens, transparency, and citizen control have been present.

There are also organizations of bilateral and multilateral cooperation that have contributed with the financing of projects and other activities. One example is the works done by the United Nations in El Salvador and Guatemala for the supervision of the transition towards peace and the enforcement of the Peace Agreements.

WHAT CAN WE DO?

To confront this situation, the region needs outside support in the form of cooperation for development, but also political and judicial support in a series of areas. Many actions can be done on the local and national level, while others will have to be done by regional or international coordination.

It is clear that some of these measures have to focus directly on public security and the efficiency of the judicial apparatus, but other actions that could also yield good results are related with democratization, transparency and controls, tax reform, better possibilities for young people to get jobs, and economic growth in rural zones and in marginal urban populations.

The following are basic principles to take into account when doing research or when defining the cooperation agendas:

A. Democracy is not a type of government technique, neither is holding general elections, it is something with a high political tone. It is related with the distribution of power and reflects the relationship between the different forces in society.

B. There is a need to find and support better actors, actors in favor of change that also have a long term focus.

C. An integral and sectorial perspective is usually necessary. Many reforms and institutional changes fail if they do not count with this type of perspective, and many times coordinated actions on many levels and areas are needed.

D. However, there are some occasions in which one will have to accept that a sectorial perspective is insufficient. For example, when corruption is systematic and has reached all levels. In that specific case, measures against impunity are needed, measures that will adequately result in the jailing of criminals and the observance of the established prison term in each case.

E. Independent studies show that support of democracy is so much harder than what was originally thought. The first condition for obtaining positive results is for national actors to make up the base. External contributions should only be a complementary support towards national development.

F. Indirect measures, meaning the actions taken in other fields that can contribute to modify the general conditions of society, can sometimes be the most efficient to obtain concrete results regarding the development of democracy.

