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A Stake in the System: the Evolution of Criminal Links to Politics, and how they can be mitigated

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Anxiety over the influence exerted by organised crime has rarely been as widely or acutely felt. In a number of countries that may be considered weakly governed, or undergoing erratic democratic transitions, the issue of organised criminal influence upon public affairs is so serious and entrenched that it no longer appears responsive to traditional countermeasures: law enforcement, anti-corruption campaigns, institutional purges and reform. Instead, in the cases of the Ukraine or Mexico, as well as in many of the world's more fragile states, serious organised crime has become not so much an illegal profit-making activity as a modus operandi for significant parts of the social and political system. According to one global survey, "people in Latin America, Africa, Asia and the Middle East all see crime and corruption as the greatest problems in their countries".[1]

The symptoms of this criminal presence are notorious. Extreme violence, coercive and predatory public administration, judicial impunity, economic distortions, and even a broad cultural tolerance of the coveted criminal lifestyle are among the effects seen in states suffering from this presence.[2] But familiarity with the consequences of illicit activity has not

[1] Pew Research Center, **Crime and Corruption Top Problems in Emerging and Developing Countries,** November 2014.

[2] There is a copious literature detailing these effects in different regions of the world. For example, on Latin America see Briscoe, I., Perdomo, C., and Uribe Burcher, C., **Redes Ilícitas y Política en América Latina,** ed., International IDEA, Netherlands Institute for Multiparty Democracy, and the Clingendael Institute, 2014; on West Africa, see USAID, **The development response to drug trafficking in Africa**, 2013; for an analysis of economic effects, see UNODC, **Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes**, Vienna: UN,

always translated into sustained efforts by states and international bodies to act upon the systemic nature of crime. The diverse composition of criminal activity, its linkages with the formal economy and public authorities, or its intelligent usage of the evolving nature of governance remain issues that are daunting in their scale and complexity.

Perhaps due to the overwhelming dimensions of the challenge, treating organised crime and corruption as a "cancer" or a "virus" has become the shorthand in international policy circles.[3] This paper will, however, argue that this outlook is seriously mistaken. For various reasons, illicit activity has become part of the complex living organism that forms many countries' public and business affairs. It must be treated not as a foreign body, but as an integral part of governance and economic systems, to which policy responses must necessarily be adapted.

Crime, Development and fragile States

To start with, it is essential to understand how crime has evolved even when the methods to tackle it have not. The fight against organised crime has long been the prerogative of law enforcement agencies, charged with combatting "mafias", "gangsters" or "racketeers", above all in Europe and North America. But modern organised crime has substantially changed – to the extent that the term itself is at risk of becoming obsolete, and, in so doing, forms a growing obstacle to the understanding of illicit phenomena.

Until the end of the Cold War, the relevance of organised crime to the concerns of developing, post-colonial or transitional contexts was marginal. The relative perceptions of its threat and importance, however, changed markedly from the 1990s onwards. Countries emerging from communist rule proved fertile ground for criminal protection rackets, none more so than Russia.[4] The development of new transnational trafficking networks – generating large mark-ups in value for their products, as well as sophisticated new divisions of labour – brought resources, recruits and weakly governed or fragile countries into an increasingly sophisticated criminal business chain.[5] It is this development that has been synonymous with the rise in violence in Central America, or the conversion of parts of the Sahel, such as northern Mali and Niger, into hubs for illicit activity, notably the trafficking of drugs and humans. Many of the conflicts that are now attracting high geopolitical concern feature illicit activity and organised crime at their heart.[6]

2011; for a concise account of organized crime's relations to society, see Van der Bunt, H., Siegel, D. and Zaitch, D. "The Social Embeddedness of Organized Crime", in Paoli, L. (ed), **The Oxford Handbook of Organized Crime**, Oxford: Oxford University Press, 2014.

3 See, for example, UN New Centre. 2011. **"Time to fight back against 'cancer' of corruption – UN chief."** 08/12/11. http://www.un.org/apps/news/story.asp?NewsID=40661#.VbIuQNpVQ5s

4 For example see Sukharenko, A., **'Russia's Regional Challenge: Organized Crime in Russia',** Per Concordiam, Journal of European and Defence Studies, Vol. 5 (2), 2014.

5 One way of understanding this shift is from a predominantly predatory model of organized crime (extortion and racketeering) to one anchored in market-based crime, involving the supply of illegal products. This differentiation is derived from the typology of R. T. Naylor, discussed in Picard, J., **'Can We Estimate the Global Scale and Impact of Illicit Trade,'** in: Convergence: Illicit Networks and National Security in the Age of Globalization, ed. Miklaucic, M., and Brewer, J., Center for Complex Operations, Institute for National Strategic Studies, National Defense University Press, 2013.

6 See Tabib, R., **Stealing the revolution: violence and predation in Libya,** NOREF & the Clingendael Institute, 2014; and Hallaj,

These concerns have already been noted by many governments, and across the community of development donors. Grand ambitions for peace and state-building in developing countries, particularly those entering a post-conflict phase, have been watered down as the rise of criminal activity and armed violence continues to thwart progress. Brought into the mainstream of donor thinking by the World Bank's World Development Report of 2011,[7] considerations pertaining to organised crime and the supposed means to combat it are increasingly folded into the approaches of peacekeepers, peacebuilders, development practitioners and conflict mediators.[8] Despite this increased awareness, however, the costs to life and human security caused by crime in fragile states continue to highlight a number of extremely thorny dilemmas that test the resourcefulness of both development and foreign policy. Questions as to the future of the international drug-control regime have been raised: prohibition only seems to have intensified the power of narcotrafficking cartels and the violence they use[9]. New challenges for US border control have been posed as a result of the flow of unaccompanied child migrants fleeing criminal violence in Central America[10]. And a complex new front has surfaced as regards efforts to combat Islamist terrorism due to these groups' great dependence on illicit revenues.[11]

A certain amount of progress has been made towards understanding the issues posed by crime, the ways crime is linked to other state or non-state actors, and how these problems might in principle be addressed.[12] But the hallmark of contemporary crime is the astonishing speed of its evolution, often outpacing the means adopted to tackle it, as well as the sheer diversity of its connections to other legal sectors. As a result, while efforts are underway to understand and mitigate the effect of crime in fragile states, new forms of illicit activity with an unprecedented impact on public life have emerged. This paper explores what these most recent shifts in criminal practice mean for international peace and security, and what sorts of innovative responses may be required.

In particular, this paper argues that the terms currently used to describe the phenomenon of organised crime are an increasing obstacle to more sophisticated responses, notably since they fail to explain the way illicit activities are embedded in local communities and state structures. The paper analyses how the risks and threats posed by

O. A., **The balance-sheet of conflict: criminal revenues and warlords in Syria,** NOREF & the Clingendael Institute, 2015.

7 **World Development Report 2011: Conflict, Security and Development,** The World Bank, 2011.

8 For example see International Alert, **Crime and Conflict: The New Challenge for Peacebuilding,** August 2014; Cockayne, J., **State fragility, organised crime and peacebuilding: towards a more strategic approach,** Norwegian Peacebuilding Resource Centre, NOREF Report, 2011; Whitfield, T., **Mediating criminal violence: Lessons from the gang truce in El Salvador,** Oslo Forum Papers, HD Centre, June 2013; Kavanagh, C., **Getting Smart and Scaling Up: Responding to the Impact of Organized Crime on Governance in Developing Countries,** ed., New York University, Center on International Cooperation, 2013; and Jespersen, S., **'Development engagement with organised crime: a necessary shift or further securitisation?', Conflict, Security & Development,** 15:1, 23-50, February 2015.

9 Organization of American States (OAS), **Scenarios For the Drug Problem in the Americas 2013 – 2015,** 2012, and LSE Ideas, **Ending the Drug Wars: Report of the LSE Expert Group on the Economics of Drug Policy,** London School of Economics and Political Science, May 2014.

10 UNHCR, **Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection,** Regional Office for the United States and the Caribbean, Washington D.C., July 2014.

11 Briscoe, I., **"The New Criminal Blitz: Mali, Iraq, and the Business of Asymmetry",** International Relations and Security Network, 10 July 2014.

12 For example, see **The Global Initiative Against Transnational Organized Crime, Improving Development Responses to Organized Crime,** conference report, July 2014.

criminal activity are not simply manifestations of disorder or challenges to statehood, but are instead systemic to statehood, above all in emerging democracies – where they can, as a result, be deeply destabilising. It is concluded that any new approaches must recognise the need for a revolution in strategic outlook, one that focusses as much upon the form of crime as on its content.

The Link to Governance

The seepage of organised criminal activity into the political affairs of low-income and fragile countries raises a set of issues that require urgent consideration. Until quite recently, the profit-making criminal activities carried out by other governments rarely preoccupied the international community, and were treated far more leniently that the atrocities or human rights violations carried out by states and associated militias. However, recent wars in Afghanistan and Mali, or cases of criminalised states in Guatemala and Guinea Bissau, have pointed towards a change in this approach, and a much firmer commitment to international support for law enforcement, above all when the crises involve narco-trafficking linked to the actions of state officials and non-state armed groups. Nonetheless the same dilemmas that beset foreign military interventions by developed nations continue to entrap policy-makers when it comes to crime-affected conflicts and states. In short, there is no quick and easy way to navigate the tensions between the needs of the countries themselves for broad-based, equitable development, and the demands of Western donors for swift "wins" in campaigns to bring about "stability."

However, over the past five years the threat posed by organised crime has assumed a different guise. From being a matter for law enforcement in the West, or a human security and development issue in the fragile states of the South, crime has emerged as a systemic challenge to governance and a trigger of mass public discontent in North and South.

Country-wide protests following the disappearance of 43 trainee teachers in Mexico last year appeared to express public discontent not merely with criminal violence, but with defective governance as a whole. "The present movement legitimately calls into question whether Mexico is a democracy," argued law professor John Ackerman.[13] For a number of scholars, such as Louise Shelley[14] or the Carnegie Endowment's Sarah Chayes, indignation over criminal rackets in any given state resonate far beyond stirrings of public unrest, particularly when it relates to conflict-affected states. "Acute government corruption may in fact lie at the root of some of the world's most dangerous and disruptive security challenges," argues Chayes, "among them the spread of violent extremism."[15]

[13] Ackerman, J., **'We have an opening up in history: John M. Ackerman discusses Ayotzinapa and what's next',** Latin Correspondent Blog, 17 December 2014, http://latincorrespondent.com/mexico/opening-history/

[14] For instance, Shelley argues that all mass terrorist attacks committed between 2001 and 2008 were facilitated or inspired by corruption. See Shelley, L., **Dirty Entanglements: Corruption, Crime, and Terrorism,** Cambridge University Press, July 2014, 29-52.

[15] Chayes, S., **Thieves of State: Why Corruption Threatens Global Security,** W. Norton & Company, 2015, chapter 1.

One recent example illustrates the seriousness of this issue. Ukraine's revolution of 2013-14 stands out for having been driven in large part by indignation at the corruption and illicit financial engineering practised by ex-President Viktor Yanukovych and his allies: having embraced the fight against graft in his inaugural address as President in 2010,[16] up to 100 billion dollars are thought to have been spirited out of the country under Yanukovych's rule.[17] Despite the entrenchment of fraudulent practices, notably in public procurement,[18] as well as the hardships engendered by war and economic depression, the post-revolutionary government remains under intense public pressure not to relent on its drive to eliminate these corrupt practices.

Although they bear certain similarities, these and other examples of recent public anti-crime and corruption uprisings[19] are distinct in a number of critical ways. Whereas general perceptions of predatory behaviour by rulers have undermined the legitimacy of a number of democratic governments in Latin America (and have even generated demands for a return to military rule in some cases),[20] the same collective, public discontent at high-level graft – and above all, the ostentatious excesses practised within presidential families – reinforced the demand for greater civic freedoms in Egypt and Tunisia in 2011. It is of course significant that the incident which sparked the wave of Arab uprisings involved the self-immolation of a young street vendor, Mohamed Bouazizi, who suffered repeated humiliation at the hands of local police and municipal officials demanding bribes.

In other contexts, public indignation has been directed at national governments, and generated calls for deeper international intervention in national affairs. Upon its creation in 2007, the International Commission Against Impunity in Guatemala (CICIG), a UN body, assumed certain entitlements to initiate prosecutions; its most recent investigations have led to a succession of prosecutions against senior political officials, and prompted the arrest and imprisonment of the incumbent President and Vice-President. Regular EU assessments of Bulgaria, Kosovo and Romania likewise aim to guide national progress in the battle against entrenched corruption and crime in those countries.[21]

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16 See OECD, **Anti-Corruption Reforms in Eastern Europe and Central Asia, Progress and Challenges 2009-2013,** 2014, p. 24.

17 This figure was named by Ukraine's chief prosecutor General Oleh Makhnitsky in April 2014 and Prime Minister Yatsenyuk in February 2014, see: Foulconbridge, G., **'Toppled 'mafia' president cost Ukraine up to $100 billion, prosecutor says,'** Reuters, 30 April 2014, http://www.reuters.com/article/2014/04/30/us-ukraine-crisis-yanukovich-idUSBREA3T0K820140430, and Walker, S., and Grytsenko, O., **'Ukraine's new leaders begin search for missing billions,'** The Guardian, 27 February 2014, http://www.theguardian.com/world/2014/feb/27/ukraine-search-missing-billions-yanukovych-russia

18 See Bullough, O., **'Welcome to Ukraine, the most corrupt nation in Europe',** The Guardian: The long read, 6 February 2015, http://www.theguardian.com/news/2015/feb/04/welcome-to-the-most-corrupt-nation-in-europe-ukraine

19 For an overview of all corruption-related crises, see map **'Corruption Related Security Incidents Since 2008'** in: Carnegie Endowment, **'Corruption: The Unrecognized Threat to International Security',** Working Group on Corruption and Security, June 2014, 13, http://carnegieendowment.org/files/corruption_and_security.pdf

20 Certain protesters against corruption in Brazil have called for military rule: see Pitts, B., **"Who's Protesting in Brazil and Why?",** NACLA, 9 April 2015, https://nacla.org/print/10950. One recent survey in Latin America shows that "levels of trust in political and social institutions are generally falling, with the Catholic Church and the Army the most trusted, and political parties the least. Of all institutions, trust in elections suffered the greatest decline between 2012 and 2014". See: **Americas Barometer 2014,** Latin American Public Opinion Project (LAPOP), 194-198, http://www.vanderbilt.edu/lapop/ab2014/AB2014_Comparative_Report_English_V3_revised_011315_W.pdf

21 **Mechanism for cooperation and verification for Bulgaria and Romania,** European Commission, http://ec.europa.eu/cvm/ (accessed April 2015)

On the other hand, accusations against international bodies for aiding and abetting local fraud are also well-known. The target of mass Brazilian protests in 2013 was a perceived pillage of national resources mediated by an international organisation: the World Cup organiser, FIFA. Meanwhile, in southern Europe and elsewhere, new left-wing forces, such as Podemos in Spain and Syriza in Greece, tend to regard international finance, the European Union's economic policies, and the corrupt behaviour of national governments and business as part of an indivisible continuum, not a series of contending forces.[22]

A common Thread of Perceptions

There is a vast array of suspected criminal rackets, as well as multiple manners in which public discontent with crime and corruption has been expressed, whether as a pretext for armed insurgency, or a cause for international intervention, public protest movements or a new political party. This varied canvas would suggest that no single explanation can account for such different manifestations of illicit activity, or the radically different reactions to them.

Understanding the local political economy of crime and corruption is obviously a sine qua non for knowing exactly who is involved in which illicit activity, and for what purpose. Yet although it is important to acknowledge that criminal activities have many local particularities, this should not obscure the fact that illicit phenomena have become central to the way the public perceives the actions of their governments across much of the developing world: 83 per cent regard crime as a very big problem in their countries, and 76 per cent do so for corruption.[23] Even in Europe, where personal experience of corruption is far lower, 76 per cent of people believe that corruption is widespread in their countries.[24]

Such widespread perceptions of criminalised governance, whether accurate or not, demand a robust explanation. In many cases, it would appear that democratic or quasi-democratic environments have become affected by the exacerbated contrast between political expectations and reality. Expectations of transparency, accountability and responsiveness in government, as well as equality between citizens, stand in stark contrast to politicians' unscrupulous efforts to acquire resources, their legal impunity, support from powerful vested interests and armed protection. In other words, the formal precepts of the democratic system and all the ethical values connected with it are proving fundamentally irreconcilable with the informal requirements for electoral success and the achievement of political or economic stability – the resources needed to 'win' at an

[22] For example, in a speech before the European Parliament on 1 July 2014, Podemos leader Pablo Iglesias said that "It's scandalous how easy lobbies of huge corporations move around here; how revolving doors convert public representatives into millionaire bosses of big companies… We have to acknowledge that this type of functioning undermines democracy." See Iglesias, Pablo, **Discurso de Pablo Iglesias como candidato a la Presidencia de la eurocámera,** speech, Podemos, 1 July 2014, https://www.youtube.com/watch?v=QuehOJnHZQg.

[23] Pew Research Center, op. cit..

[24] European Commission, **EU Anti-Corruption Report 2014,** European Commission, Brussels, February 2014, 6-7.

intrinsically shallow form of democracy.[25] This contradiction is visible in numerous popular uprisings, such as the recent Honduran protests against political misuse of social security funds.[26]

The near-universal discontent over political and institutional complicity with crime – whether this relationship is regarded as direct, indirect, overt, tacit or passive – can thus be understood as the expression of broader and more diverse crises of state legitimacy, such as in the cases of flawed democracies or unpopular autocracies. Protests in the Arab world (notably in Tunisia), or Mexico, Brazil and the Ukraine, are illustrative of the dissimilar, context-specific conditions that have given rise to strikingly similar outcries against state-level criminal collusion. In other cases, notably in sub-Saharan Africa, perceptions of criminal activity in the state likewise exist, yet without always entailing any collective public response due to low expectations of state performance, or to the fact that political competition tends to be dominated by the contest between ethnic factions.

However, Mali's crisis in 2012 also provided a telling case from sub-Saharan Africa, and one that is emblematic of the shift in the nature of organised crime, and its broader implications for international security. The role of criminal activity in fuelling the armed insurgency in northern Mali was emblematic of the consequences of illicit activity in poor, fragmented and weakly governed environments, of the sort that has preoccupied the development community for several years, and will likely continue to do so.[27] But it was the central government's own perceived corruption and complicity with criminal elements that prompted an eventual coup by junior military officers in Bamako, converting a separatist threat in the north of the country into an existential challenge to the nation-state.[28]

Embedded Criminality: Society

Even as the existence and perception of serious state-level crime endanger the stability of imperfect democratic regimes or failing autocracies, the means to address this predicament, be it with national resources or international support, appear more elusive than ever.

As mentioned above, the concept of organised crime – itself a contested term with multiple rival definitions – is ill-suited to capturing the mercurial, opportunistic arrangements that bring together high-level officials, private sector actors and low-level operatives in criminal endeavours.[29] On many occasions the levers through which

[25] For example, see OECD, **Financing Democracy: Framework for Support Better Public Policies and Averting Policy Capture,** 2014, 3-7.

[26] Mejia, Thelma, **'Hondurans lead unprecedented anti-corruption movement,'** Inter-Press Service, 21 July, 2015. http://www.ipsnews.net/2015/07/young-hondurans-head-unprecedented-anti-corruption-movement/

[27] See Strazzari, F., **Azawad and the rights of passage: the role of illicit trade in the logic of armed group formation in northern Mali,** NOREF & the Clingendael Institute, January 2015.

[28] Briscoe, I., **Crime after Jihad: armed groups, the state and illicit business in post-conflict Mali,** The Clingendael Institute, 2014

[29] These characteristics of contemporary "organized crime" are widely noted in recent academic and policy literature. Examples include Miklaucic, M., and Brewer, J. (eds), op. cit; Paoli, L (ed), op. cit.; Europol, **'EU Serious and Organised**

criminal activity is facilitated are legal, if not wholly legitimate. This is illustrated by the case of former Ukrainian President Yanukovych's manipulation of the judicial system in which the rotation of dissident judges and the use of disciplinary proceedings against them were common techniques.[30] An analysis of the network that enabled the disappearance of trainee teachers in Mexico last year shows a deep level of corruption, seemingly extending a degree of culpability to numerous branches of the state, as well as to two national political parties. Here, the concern is different: so prevalent is complicity in or tolerance of criminality that binary notions that oppose law-abiding officials to violent criminal actors may no longer apply. "Articulating the problem of organized crime and its entrenchment in the Tierra Caliente[31] as a matter of good people versus bad people was one of the errors of [former President] Felipe Calderón's government," the Mexican journalist Denise Marker has argued. "Seen from outside, without any knowledge of the area and its history, all the region's inhabitants might be defined as bad."[32]

Any assessment of national and international policies towards organised crime must begin by recognising the ways in which crime is deeply embedded in society and politics.[33] The process of criminal entrenchment depends greatly on time and place: the examples offered by the Colombian city of Medellín in the 1970s (source of Pablo Escobar's infamous cocaine-trafficking cartel) or by northern Mali three decades later suggest that a negative structural change in people's livelihoods enabled by pragmatic political collusion are prerequisites for a generalised shift in public attitudes to crime.[34] Escobar's huge economic influence was predicated on the collapse of the city's cotton industry. Mali's shift to illicit drugs and arms trafficking came about after substantial investments were made in coastal trade facilities across North and West Africa, starving the trans-Saharan route of conventional commercial opportunities.[35]

Once embedded in everyday social and economic practice, complicity with crime can become de facto inescapable: in the northern Honduran town of La Ceiba, named the fourth most violent city in the country in 2014[36], "many customers, who are perhaps not always involved in narco-trafficking, strike up conversations in the clinic,

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Crime Threat Assessment (SOCTA),' March 2013.

30 Other abuses of power were of course also deployed. See Bullough, Oliver, **Looting Ukraine: How East and West Teamed up to Steal a Country,** Legatum Institute, July 2014.

31 Literally Hot Land. This refers to the low-lying regions of the Michoacán, Guerrero and the State of Mexico, considered to be an epicentre of criminal activity.

32 Marker, D., as quoted in Aguilar Camin, H., **'La captura criminal del Estado',** Nexos, January 2015.

33 Van de Bunt, H. et al, op. cit.

34 See Scheele, J., **Smugglers and Saints of the Sahara. Regional connectivity in the 20th Century,** Cambridge University Press, 2012; Strazzari, F., op. cit.; Thoumi, F., **'Necessary, sufficient and contributory factors generating illegal economic activity and specially drug related activity, in Colombia,'** Iberoamericana35, 105-126, 2009; and Adams, T., Chronic **Violence and Its Reproduction: Perverse Trends in Social Relations, Citizenship and Democracy in Latin America,** Woodrow Wilson Center, 2011.

35 Reitano, Tuesday and Shaw, Mark, **Fixing a fractured state? Breaking the cycles of crime, conflict and corruption in Mali and Sahel,** Global Initiative against Transnational Organized Crime, 2014, p. 8.

36 Honduras has been in recent years the country with the highest murder rate in thr world. Vargas, Y., **'tasa de homicidios de la Ceibaes mas alta que la de paises en guerra'**, Presencia Universitaria, 13 March 2014, https://presencia.unah.edu.hn/seguridad/articulo/tasa-de-homicidios-de-la-ceiba-es-mas-alta-que-la-de-paises-en-guerra

the beauty salon, or the workshop. And the storekeeper, unable to escape… ends up loaded with secrets that he or she never asked to hear."[37] In West Africa and the Sahel, according to the lapidary analysis of one recent report based on fieldwork, "illicit trafficking and organised crime are not considered criminal behaviour in the communities interviewed: they are merely modes de vie – ways of life."[38]

This embedding of criminal practice at the community level has signalled a need to consider policy responses beyond traditional law enforcement and imprisonment. Mass incarceration, as borne out by the examples of El Salvador and Honduras, has simply led to stronger and far more violent forms of criminal activity, raising the question of whether some form of dialogue or mediation with criminal groups – however undesirable this might at first appear – could not in fact be a preferable alternative.[39]

It is not the aim of this paper to explore the issue of mediation with criminal groups in depth, nor that of the emerging policy agenda regarding the involvement of development and humanitarian actors rather than security forces in dealing with highly criminalised, violent environments. However, it is essential to note that the possibilities for innovative policy responses to criminalised communities or states – involving broader institutional reform, or even efforts at cultural change – are themselves circumscribed by the embedding of criminal influence in national elites, and particularly in central governments.

Embedded Criminality: the State

Criminal linkages to the state are far from being a novel concern. The very rise of Western states is considered by Charles Tilly and others to have depended on the establishment of larger and better resourced protection rackets.[40] More radical authors have regarded illicit activity as part of the very fibre and functioning of modern capitalism,[41] while the criminalisation of states in recent decades has received abundant attention from a number of different perspectives, encompassing analyses of almost every region in the world.[42] The influence of neo-liberal market reforms on this process, whether by dismantling state oversight bodies or encouraging the outsourcing of public works and services (and thus increasing the risk of corruption in procurement), has been widely commented.[43]

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37 López, J., **'El sombrío panorama de Honduras,'** Plaza Pública, 2012. http://www.plazapublica.com.gt/content/el-sombrio-panorama-de-honduras

38 Shaw, M., and Reitano, T., **People's perspectives of organized crime in West Africa and the Sahel,** ISS Paper 254, Institute for Security Studies, 2014.

39 Van der Borgh, C., Savenije, W.,**'De-securitising and Re-securitising Gang Policies: The Funes Government and Gangs in El Salvador,'** Journal of Latin American Studies, 2015 vol. 47 no. 1 p. 149-176; and International Alert, **Crime and Conflict: The New Challenge for Peacebuilding,** August 2014.

40 Tilly, C., **"War Making and State Making as Organised Crime",** in Evans, P., Rueschemeyer, D. and Skocpol, T. (eds), Bringing the State Back, Cambridge University Press, 1985.

41 Block, A. A. and Chambliss, **Organizing Crime,** New York: Elsevier Press, 1981.

42 See, for example, Bayart, J-F., Ellis, S. and Hibou, B., **The Criminalization of the State in Africa,** Indiana University press, 1999; Miklaucic, M. and Brewer, J., op. cit.; Karstedt, Susanne, **"Organizing Crime: The State as Agent",** in Paoli, L. (ed), op. cit.; Bridenthal, R. (ed), **The Hidden History of Crime, Corruption and States,** Berghahn Books, 2013.

43 See, for instance, Chayes, S., op. cit.

Naturally, the illicit predisposition of national political elites, most notably nowadays in Central America and West Africa,[44] points to another fundamental impediment to tackling the systemic presence of crime and corruption in governance. The current international legal and regulatory apparatus to combat serious crimes that do not break humanitarian or human rights law remains extremely weak: criminal law and prosecution is predominantly national; international police co-operation is voluntary and restricted, while the main conventions on organised criminal activity are not binding on member states in any meaningful sense. As a result, the United Nations Office on Drugs and Crime (UNODC) suffers from a number of structural weaknesses, not least in terms of its core funding.

According to anti-corruption expert Edgardo Buscaglia, out of the 108 countries to have ratified UN conventions against crime and corruption, 86 per cent are complying only in theory.[45] Moreover, the risks of non-compliance are relatively low. A 2012 assessment revealed that the most important multilateral anti-corruption agreements and agencies – the United Nations Convention Against Corruption (UNCAC), the Financial Action Task Force (FATF), the Extractive Industries Transparency Initiative (EITI), and StAR (Stolen Asset Recovery Initiative) – all have a limited impact on state compliance.[46] The main reasons behind the weakness of these instruments are the lack of any sanctions or real reputational cost when norms are violated, and the essentially voluntary nature of the transparency requirements. Meanwhile, in the case of money laundering, it has been argued that the lack of coordination between global anticorruption and anti-money laundering bodies leads to missed opportunities for effective controls in many countries.[47]

Non-binding international agreements and supervisory organisations without sanctioning power may even be counterproductive, serving as a "fig leaf" for governments to hide behind whilst continuing their illicit practices.[48] In the worst cases, nominal compliance with these agreements can even open the door to increased financial support from donors, which is then captured by predatory elites in a vicious circle of corruption and criminality. According to one recent report, "the emergence of states where organized criminal groups have overwhelming influence over political and state institutions completely undermines the very concept of international law enforcement cooperation."[49]

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44 See Briscoe, I., Perdomo, C., and Uribe Burcher, C., **Redes Illícitas y Política en América Latina,** ed., International IDEA, Netherlands Institute for Multiparty Democracy, and the Clingendael Institute, 2014; and Shaw, M, and Reitano, T., **The evolution of organised crime in Africa. Towards a new response,** Institute for Security Studies, 2013. For a deep analysis of illicit activity in the African state, see Bayart et al, op. cit.

45 Buscaglia, E., **'Judicial and Social Conditions for the Containment of Organized Crime: A Best Practice Account,'** in Schönenberg, R. (ed.), **Transnational Organized Crime: Analyses of a Global Challenge to Democracy,** Heinrich-Böll Stiftung, 2013. See also Søreide, T., Democracy's Shortcomings in Anti-Corruption, CMI Working Paper, 2012.

46 Johnsøn J., Taxell, N., Zaum, D., **Mapping evidence gaps in anti-corruption: Assessing the state of the operationally relevant evidence on donors' actions and approaches to reducing corruption,** Bergen, Chr. Mechelsen Institute, U4 Issue 7, 2012; Brunelle-Quirashi, **'Assessing the Relevancy and Efficacy of the United Nation Convention Against Corruption: A Comparative Analysis,'** Notre Dame Journal of International & Comparative Law, 2011.

47 Levi, M., **'How Well Do Anti-Money Laundering Controls Work in Developing Countries?'** in Paoli, L. (ed.), op. cit., p. 399.

48 Chayes, S., op. cit..

49 Kemp, W., and Shaw, M., **From the Margins to the Mainstream: Toward an Integrated Multilateral Response to Organized Crime,** International Peace Institute, 2014, 22.

Nonetheless, this absence of a strong international framework to tackle serious and organised crime does not mean that international responses are wholly absent. Counter-narcotic interventions and judicial extraditions have long been used by the United States in numerous countries, while robust policing and prosecution as part of UN or other peacekeeping missions (notably in Haiti under MINUSTAH, or through EULEX in Kosovo) are by now well-established features of international anti-crime policy. Likewise, active pursuit by the US government of money laundering and sanctions evasion in international high finance circles has proven critical to judicial actions taken against HSBC, BNP Paribas and the Banca Privada d'Andorra.[50] As is well known, the most recent action of this sort by the US Department of Justice has involved a fully-fledged judicial offensive against corruption in the world's football governing body, FIFA.[51]

However, these somewhat informal, and very often unilateral forms of engagement – many of them geared towards disrupting drug trafficking and now increasingly human trafficking – tend to cater primarily to the needs and concerns of powerful countries. Most importantly, in the case of many of the measures taken against drug and human trafficking, instead of effectively combatting these activities, they simply divert the trade to areas where national political authorities are even more hospitable to collusion, or where violent armed groups can ensure uninterrupted supply.[52]

The political-criminal Nexus

For the moment, the fight against organised crime would appear to be at an impasse, hemmed in by the embedded nature of illicit activity in communities and states. In order to begin sketching a more effective and comprehensive set of policies to address crime and corruption worldwide, and its impact within nations and regions, we must begin by understanding why organised criminal activity has evolved in such a way that is has become entrenched in communities and state systems, particularly in fragile and conflict-affected states; and, on this basis, explain its evolution into a recurrent feature of popular discontent with governments. In short, it is incumbent upon us all to recognise and account for the systemic presence, real and perceived, of crime and corruption in our societies and states.

At the risk of excessive brevity, the account given below focusses on three processes that complement one another, and to a great extent account for this systemic entrenchment. The first looks to the evolving nature of money in politics, above all in the developing world; the second turns to the adaptations in criminal practice; lastly, the third part considers the current global implications.

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50 Minder, R., **'US inquiry brings crackdown in Andorra,'** International Herald Tribune, April 11-12, 2015.

51 For full details of the indictments of May 2015, see http://www.justice.gov/opa/pr/nine-fifa-officials-and-five-corporate-executives-indicted-racketeering-conspiracy-and

52 Also see Briscoe, I., Dari, E., **Crime and error: why we urgently need a new approach to illicit trafficking in fragile states,** Cru Policy Brief, Clingendael Conflict Research Unit, May 2012.

Politics, Money and Crime

Official estimates suggest that the income of organised criminal groups has grown exponentially over the past two to three decades. Criminal syndicates participate in activities whose income streams have been greatly enhanced by global trade, transport and communications: these include drug trafficking, human trafficking, wildlife trade and illicit extraction of natural resources. While rarely operating at the transnational scale, extortion and kidnapping have also reportedly grown in magnitude.

According to the United Nations Office on Drugs and Crime (UNODC), in 2009 the total income of transnational organised crime amounted to $870 billion – an amount equal to 1.5 percent of global GDP.[53] Although this figure is contested by a number of experts, some of whom argue that that crime as a proportion of global GDP may in fact have fallen[54], the rise of high-value criminal activities and the diversification of markets – particularly cocaine, amphetamine-type substances and human trafficking – suggests that global criminal revenue has increased significantly, both in gross terms and as a share of the world economy. For instance, in 2014, Giovanni Brauzzi, security policy director of the Italian Ministry of Foreign Affairs, declared that, with an annual income in excess of €200 billion, the combined turnover of all the country's mafia groups had exceeded that of the entire yearly EU budget.[55]

At the same time as criminal revenues have risen, particularly in countries and regions heavily exposed to illicit trafficking, the role of private money in public life has equally assumed greater prominence across the globe. This development is driven by the increasing competitiveness of elections, on the one hand, and the weak enforcement, or lack of campaign finance rules, on the other.[56] In Latin American countries in particular, elections are more fiercely contested than ever: opposition candidates won more than half the presidential elections in 18 Latin American countries between 2000 and 2010.[57] While trying to win votes in these tight races, often without traditional party structures or partisan loyalties to rely upon, candidates are liable to spend increasing amounts of money on their campaigns. For instance, in Panama the 2009 campaign of former President Ricardo Martinelli was conducted at a cost of over US$18 million, an extraordinary amount for a country with just over two million voters.[58] Furthermore, an

[53] UNODC, **Estimating Illicit Financial Flows Resulting from Drug Trafficking and Other Transnational Organized Crimes,** Vienna, October 2011, www.unodc.org/documents/data-and-analysis/Studies/Illicit_fiancial_flws_2011_web.pdf

[54] See Picard, J., **'Can We Estimate the Global Scale and Impact of Illicit Trade,'** in Miklaucic, M., and Brewer, J. (eds.), op. cit.

[55] Day, M., **''Ndrangheta mafia family makes more money than McDonald's and Deutsche Bank combined, report claims,'** The Independent, 26 March 2014, http://www.independent.co.uk/news/world/europe/crime-does-pay-mafia-as-annual-income-surpasses-that-of-european-union-9217422.html

[56] For example see Ferguson, T., **Golden Rule: The Investment Theory of Party Competition and the Logic of Money-Driven Political Systems,** The University of Chicago Press, 1995; and Casas-Zamora, K., Dangerous Liaisons, ed., Brookings Institution Press, 2013.

[57] Casas-Zamora, K., **'Dirty Money: How to break the link between organized crime and politics,'** Americas Quarterly, Issue Trafficking and Transnational Crime, Spring 2010, http://www.americasquarterly.org/casas-zamora

[58] In comparison: in Uruguay, a country with more than 3,5 million voters, winning presidential candidate Tabaré Vázquez recently spent US$6,7 million during the 2015 election campaign. See: 'Partidos Gastaron US$9 en la campaña electoral,' El Pais Uruguay, 15 April 2015, http://www.elpais.com.uy/informacion/partidos-politicos-gastaron-campana-electoral.html.

inspection of political finance legislation in Latin American countries shows that, due to weak checks and balances, campaign and party finance rules are rarely enforced.[59]

It is important to note, however, that the influence of private money in politics is not merely a feature of developing countries. In fact, the United States is currently one of the countries with the fewest restrictions on private donations to political parties or candidates.[60] A recent report by the intergovernmental organisation International IDEA (International Institute for Democracy and Electoral Assistance) found that most of the world's countries set no quantitative limits upon private donations to political actors whatsoever.[61] In these settings, the risk that both corporate and criminal revenues may find their way into political life is considerable – above all in a fragile state. According to one recent multi-country study, investing in politics is a logical step for a criminal industry that, to thrive economically and take advantage of global trade and finance facilities, requires pliable law enforcement and a measure of selective control over public institutions.[62]

Lastly, while criminal revenues and private influence over politics have simultaneously grown, traditional structures of political and social authority have undergone a sustained loss in legitimacy. The mass public protests of recent years reflect precisely this uncertainty as to the nature of state legitimacy and authentic democratic representation in an era marked by financial crisis, subsequent austerity measures, the evident failures of the neoliberal model in numerous countries and a rise in global inequality.

At the same time, the revolution in technology and rise of social media have generated increased transparency in public affairs, and a public constituency that is far better informed as to elite wrongdoing, and to the possibilities for creating horizontal networks of protest and activism in response.[63] These circumstances have generated far greater possibilities for collective action at a point in time where economic reality dictates that prospects for a more prosperous, mobile future are grim (especially for unemployed youth in the Global South).[64] The combination has contributed to a general erosion of public trust in traditional institutions.

On Martinelli case see: Rodríguez, I., **'Gasto en campañas similar al costo de las elecciones,'** PanamaAmerica, 19 March 2014, http://www.panamaamerica.com.pa/content/gasto-en-campa%C3%B1a-es-similar-al-costo-de-las-elecciones

59 Perdomo, C., **'Análisis regional comparado sobre la legislación contra el crimen organizado y su relación con la política,'** in Briscoe, I., Perdomo, C., and Uribe Burcher, C (eds), op. cit. See also Casas-Zamora, K., Dangerous Liaisons, ed., Brookings Institution Press, 2013.

60 In the late 1970s, the Supreme Court upheld contribution limits and ruled that "corruption is inherent in a system permitting unlimited financial contributions". However, this approach was overruled in 2010 when the Court decided to abolish caps on individual contributions to independent Political Action Committees (PACs), while at the same time ruling that companies and unions should be treated the same as individual donors. See: Wertheimer, F., **'Democracy drowning in sea of dark money,'** Reuters, 28 January 2015, http://blogs.reuters.com/great-debate/2015/01/16/democracy-is-drowning-in-a-sea-of-dark-money/

61 Ohman, M., **Political Financial Regulations Around the World: An Overview of the International IDEA Database,** International Institute for Democracy and Electoral Assistance (IDEA), Stockholm, 2012, http://www.idea.int/publications/political-finance-regulations/loader.cfm?csModule=security/getfile&pageid=52121

62 Casas-Zamora, K. (ed), 2013, op. cit.. See also Buscaglia, E,. and van Dijk, J. **'Controlling Organized Crime and Corruption in the Public Sector,'** Forum on Crime and Society, Vol. 3:1 & 2, December 2003, 3 – 34.

63 See Mason, P., **Why it's Kicking Off Everywhere: The New Global Revolutions,** Verso Books, 2012; and Mason, P., **'Why it's still kicking off everywhere: are we witnessing a global revolt against neoliberalism?',** New Left Project, 26 April 2013, http://www.newleftproject.org/index.php/site/article_comments/why_its_still_kicking_off_everywhere

64 For example see: **'Youth Unemployment: Generation jobless,'** The Economist, 27 April 2013, http://www.economist.com/news/international/21576657-around-world-almost-300m-15-24-year-olds-are-not-working-what-has-caused

These various dynamics have had two contrasting yet complementary effects on criminal activities connected to state. On the one side, criminal organisations have come to occupy the interstices between state structures and policies, which, due to acute institutional fragmentation and high levels of social exclusion, are largely bereft of popular consent. This appears to have been the case in countries as diverse as Guinea-Bissau, Guatemala and post-conflict Libya. On the other hand, and above all in middle income democracies, the widespread perception of criminal collusion with state actors has become a very effective, highly tangible means to account for and mobilise against the perceived exploitative use of public authority by private actors. Even in Europe, one recent survey shows that citizens have low levels of trust in government, and even lower levels of trust in political parties; they fear that some parties and candidates, once in office, will use corruption to place the interests of particular groups of donors before that of the public.[65] According to the analyst Moisés Naím, the threat to the old "mega powers" by smaller groups of disaffected and alienated social actors risks leading to a generalised breakdown of state authority.[66]

In short, whilst illicit activity is playing a greater role in shaping political life by taking advantage of the weak controls upon private financing of politics, or by stepping into the gaps and vacuums generated by institutional fragmentation and in weak state environments, this criminal presence further destabilises the state by serving as a source of collective discontent and mass mobilisation. Whilst such mobilisation could bring about far-reaching benefits as regards the probity and integrity of public life, as may occur in Latin America[67], it is also able to endanger basic political stability; or, in the case of the Ukraine or Mali, international security as a whole.[68]

Evolution of criminal Practice

Not only has the income of organised crime undergone a major boost over the past two decades; the make-up of criminal organisation has also been transformed. Organised crime is no longer a sphere of nationally-confined mafias and gangs. The post-1990 boom of transnational trafficking networks has instead led to an expansion of criminal networks across borders, and to a mutation in criminal practice.

Corruption has been the necessary condition for the expansion of criminal networks within states and across state borders, ensuring a permissive or even cooperative response from law enforcement, judicial and political actors to illicit activity. Blocs of corrupt elites are especially powerful in many developing countries because, as Mushtaq Khan has argued,

65 Key factors cited to explain distrust were "wrong incentives driving policies" and "corruption/fraud". See **OECD, Financing Democracy: Framework for Support Better Public Policies and Averting Policy Capture**, 2014.

66 Naím, M., **The End of Power: From Boardrooms to Battlefields and Churches to States, Why Being In Charge Isn't What It Used to Be**, Basic Books, 2014.

67 See **'Corruption in Latin America: Democracy to the Rescue?'**, The Economist, 14 March 2015, http://www.economist.com/news/americas/21646272-despite-epidemic-scandal-region-making-progress-against-plague-democracy

68 A recent report likewise states that "highly corrupt states are more likely to be fragile states, and, over the long term, it appears popular perceptions of high level corruption are likely to exacerbate conflict dynamics." See Department for International Development, Why corruption matters: understanding causes, effects and how to address them. Evidence paper on corruption, January 2015, p. 52.

processes of economic transformation involve the creation and entrenchment of new elite groups. As the state often plays an important role in the economy in such countries, it will tend to support this process of elite-creation and assuage the prospective losers with the distribution of rents and material privileges.[69] Because corruption is seen as a means of "smoothing" political and economic transitions in fragile political orders, some authors argue that it can actually be an instrument to ensure peaceful economic growth.[70]

Yet the human costs of such arrangements in an era of advanced globalisation may outweigh the apparent benefits of what is, in fact, a very fragile peace.[71] For instance, earlier this year the UN Secretary-General underlined the negative effects of corruption on development such as misuse of public funds, reduction in public trust, and the weakening of the rule of law.[72] Furthermore, corruption has become the main portal through which organised criminal groups have associated with an array of state and security officials in the construction of illicit networks. By engaging numerous different sectors and officials on a case-by-case opportunistic basis, these networks tend to avoid the sort of exposure to law enforcement that permanent, organised criminal activity entails. As a result, they have become the primary vehicle for criminal activity attached to the state, ready to emerge or dissolve as circumstances dictate.

The range of officials that can be involved, as well as the manifold public powers which they may cede or sell for illicit purposes, offers huge possibilities for criminal organisations to innovate, expand, and diversify, while simultaneously reducing the risk that the entire criminal enterprise be dismantled. "Starting at the lower levels, police exchange their powers against bribes, and low-level bureaucrats offer services only in exchange for payment and favors," argues Susanne Karstedt. "At the highest level, government officials abuse their positions of power in issuing government contracts, and they are in a position to influence prosecutions and courts thus curbing the independence of the judiciary".[73]

Fragile and conflict-affected states are places where the variable geometries of illicit networks flourish. In Libya, alliances between armed groups, backed by political coalitions and criminal networks are undermining efforts to establish a national unity government.[74] Likewise, in Guinea Bissau, state and military officials have become

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69 Department for International Development, op. cit., p. 20.

70 See: Johnston, M., **Syndromes of Corruption: Wealth, Power and Democracy,** Cambridge University Press, 2006; North, D., Wallis, J., Webb, S., Weingast, B., **'Limited Access Orders: An Introduction to the Conceptual Framework,'** In The Shadow Of Violence: Politics, Economics, and the Problems of Development, ed., Cambridge University Press, 2013; and Kang, D., **Crony Capitalism: Corruption and Development in South Korea and the Philippines,** Cambridge University Press, 2002.

71 Department for International Development, op. cit., 51-52.

72 **'State of crime and criminal justice worldwide. Report of the Secretary General,'** Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, Item 3 of the provisional agenda, A/CONF.222/4, 19 January 2015, 8-9.

73 Karstedt, S., op. cit., p. 313. According to the same author "states that rank highest in the Failed States Index equally top the rankings of organized crime." See Karstedt, S., **'Organised Crime, Democracy and Democratization: How Vulnerable are Democracies?'** in Robertson-von-Trotha, C., Organised Crime. Dark Side of Globalization, ed., Baden: Nomos, 2012, 102-104.

74 See El Kamouni-Janssen, F., Abdo, I., **'Understanding Instability in Libya: will peace talks end the chaos?,'** Clingendael Conflict Research Unit, 17 March 2015, http://www.clingendael.nl/publication/understanding-instability-libya-will-peace-talks-end-chaos

heavily involved in corrupt and criminal activities.[75] While conflict-affected states are usually connected to the global economy in multiple ways, their governments and institutions are often too weak to fully control their national territory or institutions, including security forces. Due to the limited openings for legitimate commercial activities, "criminal groups can make use of these opportunities to make money… usually those who already have money and power and who are in a good position to spot the opportunities."[76] In this context, it is not simply that organised crime "infiltrates" or "infects" politics, but rather that corrupt private sector and political actors are themselves willing accomplices in the facilitation of illicit activity for profit-making.

To understand how such illicit networks now operate and have expanded, it is instructive to take the example of Paulo Maluf, a Brazilian congressman and former governor and mayor of São Paolo. Maluf is a key political figure in the country, and has the dubious honour of having a verb named after him: malufar, meaning "to steal public money." He gained his reputation by inflating the price of construction contracts, thereby making a fortune in bribes and kickbacks. In one notorious case, a motorway went over budget by US$400 million, of which US$11.6 million was reportedly garnered by Maluf according to documents published by the World Bank and the United Nations Office on Drugs and Crime.[77]

By way of a shadow intermediary, Maluf was able to open and control a bank account in New York,, which processed US$140 million dollars in two years. The cash moved from Manhattan's 5th Avenue to the British Channel Island of Jersey while registered under secret shell companies owned by Maluf and his son. Some of this money was then repatriated back to Brazil through the black market to fund Maluf's political campaigns.[78] Extraordinarily, even though Interpol has issued an international warrant for his arrest[79], he continues to serve in Congress. The recent indictment of 22 members from his Partida Progresista (PP) party[80] in the Petrobras scandal – the biggest corruption scandal in Brazilian history[81] – indicates that Maluf's criminal behaviour is a mere illustration of a widespread practice of graft.

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75 For example see Strazzari, F., **'Captured or Capturing? Narcotics and Political Instability along the "African route" to Europe,'** European Review of Organized Crime 1(2), 2014, 5-34.

76 Shaw, M., and Kemp, W., **Spotting the Spoilers: A Guide to Analyzing Organized Crime in Fragile States,** 2012, International Peace Institute, 4.

77 See Stolen Asset Recovery Initiatives Database, 'Paolo Maluf', The World Bank – UNODC http://star.worldbank.org/corruption-cases/node/18559 (accessed March 2015).

78 Hartocollis, A, and Rohter, L., **'Brazilian Politician Indicted in New York in Kickback Scheme,'** The New York Times, 9 March 2007 http://www.nytimes.com/2007/03/09/world/americas/09indict.html?_r=2&

79 Interpol Red Notice, 'Maluf, Paulo', http://www.interpol.int/notice/search/wanted/2009-13608

80 Maluf's Partida Progresista had by far the biggest share of a total of 54 indicted politicians. For full list see: Aranda, G., **'El Supremo brasileño divulga la lista política del caso Petrobras',** El Mundo, 7 March 2015, http://www.elmundo.es/internacional/2015/03/07/54fa4370268e3e42558b4582.html

81 For more information on details of this scandal see for example: **'The Big Oily: The Petrobras scandal explained,'** The Economist, 3 January 2015, http://www.economist.com/news/americas/21637437-petrobras-scandal-explained-big-oily; and Millard, P., **'Web Comic: Brazil's Petrobras Corruption Scandal,'** Bloomberg Business, 29 January 2015, http://www.bloomberg.com/news/articles/2015-01-29/brazil-s-petrobras-corruption-scandal-a-web-comic

A new Era of transnational Crime

The case of Maluf also sheds light on the way criminal practice has evolved to the detriment of legitimate public governance. Many recent cases of mass public discontent have hinged not on everyday corruption and bribery, but on high-level or "new corruption"[82], involving both legal and illegal actors. Crime in these cases manifests itself as a fusion of state and private actors in complex, opaque financial arrangements, where the apparatus of law and state power both disguises and facilitates a criminal enterprise. Moreover, when these arrangements are linked to a global financial system characterised by secrecy and complexity, illicit transnational networks emerge, in which it is hard to distinguish the legal from the illegal in a host of cross-border operations.

Shadow intermediaries or brokers play a pivotal role in forging these national and international partnerships, and are reputed to have become the best remunerated and most important players in much of organised criminal activity.[83] Lawyers, for instance, often play a lead role as intermediaries between criminal and legal entities. According to one comprehensive Dutch analysis of recent trends in organised crime, other key shadow facilitators include financial specialists, notaries, airport personnel, and corrupt civil servants.[84] The 2014 OECD Foreign Bribery Report shows that three out of four foreign bribery cases involve payments made through such – technically legal – actors.[85] Transnational illicit networks involving a range of brokers, financiers and front companies can also play a significant part in the direct funding of armed conflicts. For instance, traders, border officials, refiners, and transport companies in Iraq and its neighbouring countries, conjoined in a pre-existing network of informal oil refining and trafficking, have made it possible for the Islamic State to earn millions of dollars from captured oilfields.[86]

Global Financial Integrity reports that US$991.2 billion flowed illicitly out of developing countries in 2012, a sum greater than the combined total of foreign direct investment (FDI) and net official development assistance (ODA) received by those economies in the same year.[87] China, Russia, Mexico and India top the list of countries with the highest annual illicit outflows in 2012, although it should be noted that fragile or conflict-affected states such as Iraq, Syria, and Nigeria were also heavily exposed to these financial movements.[88]

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82 See Wedel, J., **'Beyond Bribery'**, Foreign Policy, 17 February 2015, http://foreignpolicy.com/2015/02/17/beyond-bribery-corruption/

83 Paoli, L (ed), op. cit., p. 297.

84 Kruisbergen, E., vand de Bunt, H., Kleemans, E., **Georganiseerde criminaliteit in Nederland: Vierde rapportage op basis van de Monitor Georganiseerde Criminaliteit, Wetenschappelijk Onderzoek- en Documentatiecentrum (WODC),** Erasmus Universiteit Rotterdam, Boom Lemma Uitgevers, O&B 306, 2012, 93-105.

85 OECD, **OECD Foreign Bribery Report: An Analysis of the Crime of Bribery of Foreign Public Officials,** OECD Publishing, December 2014, http://www.oecd.org/corruption/oecd-foreign-bribery-report-9789264226616-en.htm

86 Hawramy, F., Shalaw, M., Harding, L., **'Inside Islamic State's oil empire: how captured oilfields fuel Isis insurgency,'** The Guardian, 19 November 2014, http://www.theguardian.com/world/2014/nov/19/-sp-islamic-state-oil-empire-iraq-isis

87 Global Illicit Financial Flows Report 2014, **Global Financial Integrity, December 2014,** http://www.gfintegrity.org/report/2014-global-report-illicit-financial-flows-from-developing-countries-2003-2012/

88 In 2012, an estimated $14,649 million flowed out of Iraq; $8,641 million out of Syria; and $7,922 million out of Nigeria. See: **Global Illicit Financial Flows Report 2014,** Global Financial Integrity, December 2014.

The international policy debate on corruption, driven by organisations such as the World Bank, Transparency International and the OECD, has tended to focus mostly on petty corruption, or what some scholars refer to as "need corruption", referring to the everyday corruption that citizens have to deal with when trying to access basic goods and public services. In their foreign policy designs for developing countries, donor governments are also inclined to focus mostly on how to address corruption in the public sector.[89]

However, whether the origins of money are legitimate, corrupt, or criminal, and whether the sources of the latter are tax evasion, stolen public funds, or money laundering from drug trafficking, global money now tends to flow through the same international financial institutions, blurring the lines between licit and illicit.[90] Often they pass through so-called "tax havens" and secrecy jurisdictions such as Panama or the British Virgin Islands, but also Switzerland, Luxembourg, Germany, the USA, Hong Kong, Japan, and Singapore.[91] According to the Tax Justice Network, "a global industry has developed involving the world's biggest banks, law practices and accounting firms which not only provide secretive offshore structures to their tax- and law-dodging clients, but aggressively market them".[92]

An illustration of these trends can be found in the recent leak of HSBC files, which revealed that the Swiss subsidiary of this bank concealed large sums of money for people facing serious allegations of illegal activity, including cocaine smuggling, blood diamond trading, money laundering and corruption. Much of this money originated in countries severely affected by armed conflict or criminal violence, including Nigeria, Angola, the Ukraine and Mexico; in the case of the latter, the bank has admitted wrongdoing in laundering $881 million in money for Mexican drug cartels.[93] This kind of facilitation has been made possible by bank secrecy norms, and the fact that financial institutions can claim to be unaware of the illicit origin of their funds since most money enters through semi-legitimising intermediaries working beyond the borders of the original crime.

Banking laws and secrecy jurisdictions have recently come under increased scrutiny as a result of such scandals. In response to such criticism, the G-20 summit in late 2014 gave fresh political impetus to this issue by backing a transparency drive aimed at curbing the use of anonymous shell companies and trusts.[94] However, it remains the case that the global financial system is porous to flows of money whose illicit origins often go undetected, whether by omission or design.

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89 For example see report **'Eerlijk zaken doen, zonder corruptie: praktische tips voor ondernemen in het buitenland,' Netherlands Ministry of Foreign Affairs,** October 2012, http://www.rijksoverheid.nl/documenten-en-publicaties/brochures/2012/10/02/eerlijk-zakendoen-zonder-corruptie.html

90 Also see Baker, R., **Capitalism's Achilles Heel: Dirty Money and How to Renew the Global Illicit Financial Flows Report 2014,** Global Financial Integrity, December 2014, Free-Market System, John Wiley & Sons, 2005.

91 For full list of secrecy jurisdictions see: **Tax Justice Network,** Financial Secrecy Index 2013, http://www.financialsecrecyindex.com/introduction/fsi-2013-results

92 Tax Justice Network, **Financial Secrecy Index,** Introduction, http://www.financialsecrecyindex.com/ (accessed April 2015).

93 Leigh, D., Ball, J., Garside, J, and Pegg, D., **'HSBC files: Swiss bank hid money for suspected criminals,'** The Guardian, 12 February 2015, http://www.theguardian.com/news/2015/feb/12/hsbc-files-swiss-bank-hid-money-for-suspected-criminals

94 Smyth, J., Parker, G., Houlder, V., **'G20 leaders back drive to unmask shell companies,'** Financial Times, 16 November 2014, http://www.ft.com/intl/cms/s/0/25ae632e-6d60-11e4-8f96-00144feabdc0.html#axzz3W99sNhkn

Furthermore, a number of cases and incidents suggest that similar practices may have spread to actors and organisations operating as informal institutions of global governance, often serving as intermediaries between states, individual government officials and private business interests. As mentioned earlier, FIFA has gained notoriety as an example of a global governing body whose informal regulations and multiple stakeholders have made it allegedly complicit in corrupt activities. The lawyer who was in charge of investigating corruption during the bidding process for the 2018 and 2022 World Cups, Michael Garcia, quit citing a "lack of leadership" within FIFA to become more transparent in its behaviour.[95] Given the existing illicit connections to the financial system, it is a matter of some concern that opaque and informal political-business linkages operating on a transnational scale run the risk of facilitating ever more complex corruption networks.

Conclusions

For the reasons cited earlier – most notably the embedding of crime in certain societies and states (particularly fragile or conflict-affected states); the paucity and weakness of international instruments of control and regulation; and the counter-productive nature of certain interventions against transnational trafficking – public policies have so far made little progress in reducing the power and wealth of illicit transnational networks. As a result, the regulations in place have failed to address the ways in which ever more complex and business-like criminal networks are making use of the global financial and political system.

The overarching focus of much international law enforcement on the content of criminal activity (e.g. the flow of drugs, arms, money or clandestine migrants) has distracted policy makers from what now needs to be at the centre of attention, namely the form of crime: the structures and networks facilitating, deepening and extending criminal activity, above all through links to business and state structures. Tackling these networks will not be easy. It requires new and creative policies and, above all, political will. However, the mass worldwide citizen calls and protests for transparency provide some political momentum for reform, as do initiatives undertaken by the United Nations, the OECD and the G-20 leaders.

Political engagement of civil society, stronger and better-enforced regulation of political campaign and general financing, efforts to improve judicial systems, and a genuine attempt to improve transparency in international finance all stand out as measures that would address the forms through which criminality has evolved and extended its influence. Knowing that the risks associated to criminalised states are now some of the world's most pressing security dilemmas is surely impetus enough to move forward along these paths of reform.

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[95] Garcia also said that "No independent governance committee, investigator or arbitration panel can change the culture of an organization," cited in: Longman, J., 'FIFA Investigator Michael J. Garcia quits in Dispute over Report', **The New York Times,** 17 December 2014, http://www.nytimes.com/2014/12/18/sports/soccer/michael-j-garcia-resigns-as-fifa-prosecutor-in-protest.html